

Regular Session, 2013

SENATE BILL NO. 71

BY SENATOR BROOME

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MENTAL HEALTH. Authorizes and provides for mental health courts. (8/1/13)

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AN ACT

To enact Chapter 33-A of Title 13 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 13:5351 through 5358, relative to mental health court treatment; to provide for a short title; to provide findings; to provide definitions; to provide authority for a mental health court treatment program; to provide for eligibility and procedure; to provide for collaboration with established substance abuse treatment programs; to provide for violation, sanctions, dismissal, and discharge of criminal charges; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 33-A of Title 13 of the Louisiana Revised Statutes of 1950, comprised of R.S. 13:5351 through 5358, is hereby enacted to read as follows:

CHAPTER 33-A. MENTAL HEALTH COURT

TREATMENT PROGRAMS

§5351. Short title

This chapter shall be known and may be cited as the "Mental Health Court Treatment Act".

§5352. Legislative findings

1 **A. The Legislature of Louisiana recognizes that a significant percentage**
2 **of criminal defendants have a diagnosable mental illness.**

3 **B. The legislature further recognizes that such mental illnesses tend to**
4 **have a negative effect on the criminal justice system in the state of Louisiana.**

5 **C. The legislature further recognizes that mental illness and substance**
6 **abuse issues co-occur in a substantial percentage of criminal defendants.**

7 **D. The legislature further recognizes the critical need for a program**
8 **within the criminal justice system designed to reduce the number of defendants**
9 **with either mental illness issues or co-occurring mental illness and substance**
10 **abuse issues.**

11 **E. Such programs would also seek to address recidivism percentages**
12 **among criminal defendants dealing with both mental illness and co-occurring**
13 **mental illness and substance abuse issues thus reducing the incidence of crimes**
14 **committed as a result of mental illness and co-occurring mental illness and**
15 **substance abuse issues.**

16 **F. It is therefore the intent of the Legislature of Louisiana to provide for**
17 **the creation of specialized mental health courts with the necessary flexibility to**
18 **address the issues of criminal defendants with either mental illness or co-**
19 **occurring mental illness and substance abuse difficulties.**

20 **§5353. Definitions**

21 **For the purposes of this Chapter, the following terms shall have the**
22 **following meanings, unless the context clearly indicates otherwise:**

23 **(1) "Mental health court" or "mental health court program" means a**
24 **structured judicial intervention process for mental health treatment of eligible**
25 **criminal defendants that includes mental health court professionals, local social**
26 **programs, and intensive judicial monitoring in support of such defendants.**

27 **(2) "Mental health court professional" means a member of the mental**
28 **health court team, including but not limited to a judge, prosecutor, defense**
29 **attorney, probation officer, coordinator, treatment provider, or behavioral**

1 health advocate.

2 (3) "Pre-adjudicatory mental health court program" means a program
3 that allows a criminal defendant, with the consent of the prosecution, to
4 expedite the defendant's criminal case before conviction or before the filing of
5 criminal charges which requires successful completion of the mental health
6 court program as a part of a pretrial agreement.

7 (4) "Post-adjudicatory mental health court program" means a program
8 in which the defendant has admitted guilt or has been found guilty in a trial,
9 and the defendant then agrees, with consent of the prosecution, to enter a
10 mental health court program as part of the defendant's criminal sentence.

11 (5) "Combination mental health court program" means a program that
12 includes both pre-adjudicatory and post-adjudicatory components.

13 (6) "Co-occurring mental health and substance abuse court program"
14 means a program that, through the participation of professionals with training
15 and experience in treating persons with mental illness issues and co-occurring
16 mental illness and substance abuse issues, addresses the needs of criminal
17 defendants with either mental illness or co-occurring mental health and
18 substance abuse issues.

19 §5354. Authorization

20 The chief judge of each judicial district within the state of Louisiana may
21 establish a mental health court treatment program in accordance with the
22 provisions of this Chapter. The judicial district is authorized to provide
23 funding for any expenses related to the administration and operation of such a
24 mental health court treatment program.

25 §5355. Eligibility and exclusion

26 A. A criminal defendant may be admitted to a mental health court
27 program once all of the following criteria are met:

28 (1) A diagnosis by a qualified mental health professional of mental
29 illness or co-occurring mental illness and substance abuse.

1 (2) Agreement of the prosecutor and the court assigned to the criminal
2 defendant's case.

3 (3) Agreement of the defendant.

4 B. A criminal defendant may be excluded from a mental health court
5 program if any of the following occurs:

6 (1) The defendant fails to demonstrate a willingness to participate in a
7 recommended mental health court program.

8 (2) The criminal defendant has, within the past ten years not including
9 incarceration time, been convicted of any one of the following enumerated
10 crimes:

11 (a) First or second degree murder.

12 (b) Aggravated or criminal sexual assault, including sexual assault of a
13 child.

14 (c) Armed robbery.

15 (d) Arson.

16 (e) Stalking.

17 (f) Any crimes of violence involving the discharge of a firearm.

18 §5356. Procedure; screening and assessment

19 A.(1) The court shall require an eligibility screening and an assessment
20 of the defendant.

21 (2) If a valid assessment related to the present charge pending against
22 the defendant has been completed within the past sixty days, the eligibility and
23 assessment need not be ordered.

24 B. The judge shall inform the defendant that if the defendant fails to
25 meet the requirements of the mental health court treatment program, eligibility
26 to participate in the program may be revoked. Such revocation would result in
27 the defendant being sentenced or the prosecution proceeding to trial on the
28 existing criminal charges.

29 C. The defendant shall execute a written document which shall contain

1 **all of the following criteria:**

2 **(1) An agreement to participate in the mental health court treatment**
3 **program.**

4 **(2) An agreement to all terms and conditions of the program, including**
5 **but not limited to the possibility of sanctions or incarceration for failing to abide**
6 **by or comply with the terms of the program.**

7 **D.(1) The court may order a defendant enrolled in a program authorized**
8 **by this Chapter to complete mental health or substance abuse treatment in an**
9 **outpatient, inpatient, residential, or jail-based custodial treatment program.**

10 **(2) Any period of time a defendant shall serve in a jail-based treatment**
11 **program may not be reduced by the accumulation of good time or other credits.**

12 **E. The mental health court program may include a regimen of graduated**
13 **requirements and rewards and sanctions, including but not limited to the**
14 **following:**

15 **(1) Fines.**

16 **(2) Fees.**

17 **(3) Costs.**

18 **(4) Restitution.**

19 **(5) Incarceration of not more than one hundred eighty days.**

20 **(6) Individual and group therapy.**

21 **(7) Medication.**

22 **(8) Supervision of progress.**

23 **(9) Educational or vocational counseling, as appropriate.**

24 **(10) Any other reasonable requirements necessary to complete the**
25 **mental health court program.**

26 **§5357. Mental health and substance abuse treatment**

27 **A. The mental health court program may maintain or collaborate with**
28 **a network of mental health treatment programs and, if the defendant has co-**
29 **occurring mental illness and substance abuse issues, a network of treatment**

1 programs dealing with co-occurring mental illness and substance abuse
2 treatment programs, representing a continuum of treatment options
3 commensurate with the needs of defendants and in accordance with available
4 resources. The mental health court program may designate a court liaison to
5 monitor the progress of defendants in their assigned treatment programs on
6 behalf of the court.

7 B. Any mental illness or substance abuse treatment to which defendants
8 are referred shall be licensed by the state and shall be in compliance with all
9 rules governing such programs operating within the state of Louisiana.

10 C. The mental health court program may, at its discretion, employ
11 additional services or interventions, as it deems necessary on a case by case
12 basis.

13 §5358. Violation; sanctions; dismissal; discharge of criminal charges

14 A. Violations by the defendant. (1) If a court finds, from the evidence
15 presented, including but not limited to the reports or proffers of proof from the
16 mental health court professionals that any of the conditions set forth in
17 Paragraph (2) of this Subsection are met, sanctions may be imposed.

18 (2)(a) The defendant is not performing satisfactorily in the assigned
19 program.

20 (b) The defendant is not benefitting from education, treatment, or
21 rehabilitation.

22 (c) The defendant has engaged in criminal conduct rendering the
23 defendant unsuitable for continuing participation in the program.

24 (d) The defendant has otherwise violated the terms and conditions of the
25 program or of the defendant's sentence.

26 (e) The defendant is for any reason unable to continue participation in
27 the program.

28 B. Sanctions. (1) The court may impose reasonable sanctions under
29 prior written agreement of the defendant, including but not limited to

1 imprisonment or dismissal of the defendant from participation in the program.

2 (2) The court may reinstate criminal proceedings against the defendant.

3 C. Dismissal from the program. (1) No defendant may be dismissed
4 from the program unless the defendant is informed in writing of all of the
5 following:

6 (a) The specific reason or reasons for dismissal from the program.

7 (b) The evidentiary basis supporting the reason or reasons for dismissal
8 from the program.

9 (2) Following a hearing on the matter and based upon the evidence
10 presented at such a hearing, the court shall determine whether the defendant
11 has violated the conditions of the program such that dismissal from
12 participation in the program is in the best interest of the defendant and the
13 public.

14 D. Discharge from criminal charges.

15 Upon successful completion of the terms and conditions of the program,
16 the court may do any of the following:

17 (1) The court may dismiss the original criminal charges against the
18 defendant.

19 (2) The court may successfully terminate the original sentence of the
20 defendant.

21 (3) The court may otherwise discharge the defendant from the program
22 or from any further proceedings against the defendant as may be pending in the
23 original criminal matter.

The original instrument was prepared by Mary Dozier O'Brien. The following digest, which does not constitute a part of the legislative instrument, was prepared by Nancy Vicknair.

DIGEST

Broome (SB 71)

Proposed law authorizes mental health court treatment programs in Louisiana. Provides findings relative to the impact of mental illness and substance abuse issues on the criminal justice system.

Proposed law provides definitions for terms related to mental health court treatment programs, including mental health court program, mental health court professional, both pre- and post-adjudicatory mental health court programs, combination programs, and co-occurring mental illness and substance abuse issues.

Proposed law provides relative to authorization for creation and funding of mental health court treatment programs. Further provides for eligibility for mental health court programs.

Proposed law provides criteria for exclusion from mental health court programs, including enumerated crimes which require such exclusion:

- (1) First or second degree murder.
- (2) Aggravated or criminal sexual assault (including sexual assault of a child).
- (3) Armed robbery.
- (4) Arson.
- (5) Stalking.
- (6) Any crime of violence involving discharge of a firearm.

Proposed law provides procedures to be utilized in operating a mental health court treatment program, including a regimen of graduated requirements, rewards, and sanctions.

Proposed law provides for mental health court treatment programs to maintain or collaborate with a network of programs which deal with mental illness and co-occurring mental illness and substance abuse issues. Further provides that the mental health court program may designate a court liaison to monitor the progress of defendants in their assigned treatment programs on behalf of the court.

Effective August 1, 2013.

(Adds R.S. 13:5351-5358)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the engrossed bill

1. Authorizes judicial districts to provide funding for any expenses related to the administration and operation of such a mental health court treatment program.
2. Removes the 120-day maximum time limit on the court-ordered treatment program.
3. Provides that the mental health court program may designate a court liaison to monitor the progress of defendants in their assigned treatment programs on behalf of the court.

Senate Floor Amendments to engrossed bill

1. Make technical changes.

2. Remove the requirement that a mental health professional be "licensed" and requires that such mental health professional be "qualified" when admitting a criminal defendant to a mental health court program.
3. Delete provisions authorizing a defendant's right to a hearing and the right to present evidence supporting his continued participation in the program at such hearing if that defendant has been dismissed from the program.