

SENATE BILL NO. 71

BY SENATOR BROOME AND REPRESENTATIVES BARROW, BILLIOT, WESLEY BISHOP, BROSSETT, BURRELL, COX, DIXON, HUNTER, MORENO AND SMITH

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

1 AN ACT

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

10 Be it enacted by the Legislature of Louisiana:

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

13 **CHAPTER 33-A. MENTAL HEALTH COURT**

14 **TREATMENT PROGRAMS**

15 **§5351. Short title**

16 **This Chapter shall be known and may be cited as the "Mental Health**  
17 **Court Treatment Act".**

18 **§5352. Legislative findings**

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

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

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

1           D. The legislature further recognizes the critical need for a program  
2           within the criminal justice system designed to reduce the number of defendants  
3           with either mental illness issues or co-occurring mental illness and substance  
4           abuse issues.

5           E. Such programs would also seek to address recidivism percentages  
6           among criminal defendants dealing with both mental illness and co-occurring  
7           mental illness and substance abuse issues thus reducing the incidence of crimes  
8           committed as a result of mental illness and co-occurring mental illness and  
9           substance abuse issues.

10           F. It is therefore the intent of the Legislature of Louisiana to provide for  
11           the creation of specialized mental health courts with the necessary flexibility to  
12           address the issues of criminal defendants with either mental illness or co-  
13           occurring mental illness and substance abuse issues.

14           §5353. Definitions

15           For the purposes of this Chapter, the following terms shall have the  
16           following meanings, unless the context clearly indicates otherwise:

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

21           (2) "Mental health court professional" means a member of the mental  
22           health court team, including but not limited to a judge, prosecutor, defense  
23           attorney, probation officer, coordinator, treatment provider, behavioral health  
24           advocate, or case manager.

25           (3) "Post-adjudicatory mental health court program" means a program  
26           in which the defendant has pled guilty or has been convicted and the defendant  
27           then agrees, with consent of the prosecution, to enter a mental health court  
28           program as part of the defendant's criminal sentence.

29           (4) "Co-occurring mental health and substance abuse court program"  
30           means a program that, through the participation of professionals with training

1 and experience in treating persons with mental illness issues and co-occurring  
2 mental illness and substance abuse issues, addresses the needs of criminal  
3 defendants with either mental illness or co-occurring mental health and  
4 substance abuse issues.

5 §5354. Authorization

6 Each district court by rule may designate one or more divisions to  
7 preside over a mental health treatment court program to which alcohol or drug  
8 related offenses are assigned, and may establish a program to be administered  
9 by the presiding judge or judges thereof or by an employee designated by the  
10 court. The judicial district is authorized to provide funding for any expenses  
11 related to the administration and operation of such a mental health court  
12 treatment program.

13 §5355. Eligibility and exclusion

14 A. A criminal defendant may be admitted to a mental health court  
15 program if all of the following criteria are met:

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

18 (2) Consent of the prosecutor and the court assigned to the criminal  
19 defendant's case.

20 (3) Consent of the defendant.

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

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

25 (2) The criminal defendant has, within the previous ten years not  
26 including incarceration time, been convicted of any one of the following  
27 enumerated crimes:

28 (a) First or second degree murder.

29 (b) Aggravated or criminal sexual assault, including sexual assault of a  
30 child.

1           (c) Armed robbery.

2           (d) Arson.

3           (e) Stalking.

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

5           §5356. Procedure; screening and assessment

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

8           (2) If a valid assessment related to the present charge pending against  
9           the defendant has been completed within the previous sixty days, the eligibility  
10           and assessment need not be ordered.

11           B. When appropriate, the imposition of execution of sentence shall be  
12           postponed while the defendant is enrolled in the treatment program. As long  
13           as the defendant complies with the conditions of his agreement, he shall remain  
14           on probation. At the conclusion of the period of probation, the district attorney,  
15           on advice of the person providing the probationer's treatment and the probation  
16           officer, may recommend that the mental health division take one of the  
17           following courses of action:

18           (1) That the probationer's probation be revoked and the probationer be  
19           sentenced if the probationer has not successfully completed the treatment or has  
20           violated one or more of the conditions of his probation; or, if already sentenced,  
21           that the probation be revoked and the probationer be remanded to the  
22           appropriate custodian for service of that sentence.

23           (2) That the period of probation be extended so that the probationer  
24           may continue the program.

25           (3) That the probationer's conviction be set aside and the prosecution  
26           dismissed if the probationer has successfully completed all the conditions of his  
27           probation and his treatment agreement. The district attorney shall make the  
28           final determination as to whether to request revocation, extension or dismissal.

29           C. The judge shall inform the defendant that if the defendant fails to  
30           meet the requirements of the mental health court treatment program, eligibility

1 to participate in the program may be revoked. Such revocation would result in  
2 the defendant being sentenced.

3 D. The defendant shall execute a written document which shall contain  
4 all of the following criteria:

5 (1) An agreement to participate in the mental health court treatment  
6 program.

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

10 E.(1) The court may order a defendant enrolled in a program authorized  
11 by this Chapter to complete mental health or substance abuse treatment in an  
12 outpatient, inpatient, residential, or jail-based custodial treatment program.

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

15 F. The mental health court program may include a regimen of graduated  
16 requirements and rewards and sanctions, including but not limited to the  
17 following:

18 (1) Fines.

19 (2) Fees.

20 (3) Costs.

21 (4) Restitution.

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

23 (6) Individual and group therapy.

24 (7) Medication.

25 (8) Supervision of progress.

26 (9) Educational or vocational counseling, as appropriate.

27 (10) Any other reasonable requirements necessary to complete the  
28 mental health court program.

29 §5357. Mental health and substance abuse treatment

30 A. The mental health court program may maintain or collaborate with

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

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

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

15 §5358. Violation; sanctions; dismissal; discharge of criminal charges

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

20 (2)(a) The defendant is not performing satisfactorily in the assigned  
21 program.

22 (b) The defendant is not benefitting from education, treatment, or  
23 rehabilitation.

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

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

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

30 B. Sanctions. The court may impose reasonable sanctions under prior

1 written agreement of the defendant, including but not limited to imprisonment  
2 or dismissal of the defendant from participation in the program.

3 C.(1) Dismissal from the program. If an individual who has enrolled in  
4 a mental health court program violates any of the conditions of his probation  
5 or his treatment agreement or appears to be performing unsatisfactorily in the  
6 assigned program, or if it appears that the probationer is not benefitting from  
7 education, treatment, or rehabilitation, the treatment supervisor, probation  
8 officer, or the district attorney may move the court to dismiss the individual  
9 from the mental health court program.

10 (2) If the court dismisses the defendant from the mental health court  
11 program, the defendant shall be provided with the specific reasons for his  
12 dismissal from the program.

13 D. Discharge from criminal charges.

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

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

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

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

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_