

**As of July 1, 2019**

**§ 9-23-1. Short Title**

This chapter shall be known and may be cited as the “Alyce Griffin Clarke Intervention Court Act.”

HISTORY: SOURCES: Laws, 2003, Ch. 515, § 1, eff. July 1, 2003. Amended by Laws 2019, H.B. No. 1352, § 2, eff. July 1, 2019.

**§ 9-23-3. Purpose**

(1) The Legislature of Mississippi recognizes the critical need for judicial intervention to reduce the incidence of alcohol and drug use, alcohol and drug addiction, and crimes committed as a result of alcohol and drug use and alcohol and drug addiction. It is the intent of the Legislature to facilitate local intervention court alternative orders adaptable to chancery, circuit, county, youth, municipal and justice courts.

(2) The goals of the intervention courts under this chapter include the following:

- (a) To reduce alcoholism and other drug dependencies among adult and juvenile offenders and defendants and among respondents in juvenile petitions for abuse, neglect or both;
- (b) To reduce criminal and delinquent recidivism and the incidence of child abuse and neglect;
- (c) To reduce the alcohol-related and other drug-related court workload;
- (d) To increase personal, familial and societal accountability of adult and juvenile offenders and defendants and respondents in juvenile petitions for abuse, neglect or both;
- (e) To promote effective interaction and use of resources among criminal and juvenile justice personnel, child protective services personnel and community agencies; and
- (f) To use corrections resources more effectively by redirecting prison-bound offenders whose criminal conduct is driven in part by drug and alcohol dependence to intensive supervision and clinical treatment available in the intervention court.

HISTORY: SOURCES: Laws 2003, Ch. 515, § 2, eff. July 1, 2003. Amended by Laws 2014, Ch. 457 (H.B. No. 585), § 1, eff. July 1, 2014; Amended by Laws 2019, H.B. No. 1352, § 3, eff. July 1, 2019.

### **§ 9-23-5. Definitions**

For the purposes of this chapter, the following words and phrases shall have the meanings ascribed unless the context clearly requires otherwise:

(a) "Chemical" tests means the analysis of an individual's: (i) blood, (ii) breath, (iii) hair, (iv) sweat, (v) saliva, (vi) urine, or (vii) other bodily substance to determine the presence of alcohol or a controlled substance.

(b) "Crime of violence" means an offense listed in Section 97-3-2.

(c) "Intervention court" means a drug court, mental health court, veterans court or problem-solving court that utilizes an immediate and highly structured intervention process for eligible defendants or juveniles that brings together mental health professionals, substance abuse professionals, local social programs and intensive judicial monitoring.

(d) "Evidence-based practices" means supervision policies, procedures and practices that scientific research demonstrates reduce recidivism.

(e) "Risk and needs assessment" means the use of an actuarial assessment tool validated on a Mississippi corrections population to determine a person's risk to reoffend and the characteristics that, if addressed, reduce the risk to reoffend.

HISTORY: SOURCES: Laws 2003, Ch. 515, § 3, eff. July 1, 2003. Amended by Laws 2014, Ch. 457 (H.B. No. 585), § 2, eff. July 1, 2014; Amended by Laws 2019, H.B. No. 1352, § 4, eff. July 1, 2019.

### **§ 9-23-7. Administrative Office of Courts to Certify and Monitor intervention courts**

The Administrative Office of Courts shall be responsible for certification and monitoring of local intervention courts according to standards promulgated by the State Intervention Courts Advisory Committee.

HISTORY: SOURCES: Laws 2003, Ch. 515, § 4, eff. July 1, 2003. Amended by Laws 2019, H.B. No. 1352, § 5, eff. July 1, 2019.

### **§ 9-23-9. State Intervention Courts Advisory Committee**

(1) The State Intervention Courts Advisory Committee is established to develop and periodically update proposed statewide evaluation plans and models for monitoring all critical aspects of intervention courts. The committee must provide the proposed evaluation plans to the Chief Justice and the Administrative Office of Courts. The committee shall be chaired by the Director

of the Administrative Office of Courts or a designee of the director and shall consist of eleven (11) members all of whom shall be appointed by the Supreme Court. The members shall be broadly representative of the courts, mental health, veterans affairs, law enforcement, corrections, criminal defense bar, prosecutors association, juvenile justice, child protective services and substance abuse treatment communities.

(2) The State Intervention Courts Advisory Committee may also make recommendations to the Chief Justice, the Director of the Administrative Office of Courts and state officials concerning improvements to intervention court policies and procedures including the intervention court certification process. The committee may make suggestions as to the criteria for eligibility, and other procedural and substantive guidelines for intervention court operation.

(3) The State Intervention Courts Advisory Committee shall act as arbiter of disputes arising out of the operation of intervention courts established under this chapter and make recommendations to improve the intervention courts; it shall also make recommendations to the Supreme Court necessary and incident to compliance with established rules.

(4) The State Intervention Courts Advisory Committee shall establish through rules and regulations a viable and fiscally responsible plan to expand the number of adult and juvenile intervention court programs operating in Mississippi. These rules and regulations shall include plans to increase participation in existing and future programs while maintaining their voluntary nature.

(5) The State Intervention Courts Advisory Committee shall receive and review the monthly reports submitted to the Administrative Office of Courts by each certified intervention court and provide comments and make recommendations, as necessary, to the Chief Justice and the Director of the Administrative Office of Courts.

HISTORY: SOURCES: Laws 2003, Ch. 515, § 5, eff. July 1, 2003. Amended by Laws 2008, Ch. 390, § 1, eff. July 1, 2008; Laws 2014, Ch. 457 (H.B. No. 585), § 3, eff. July 1, 2014; Amended by Laws 2019, H.B. No. 1352, § 6, eff. July 1, 2019.

### **§ 9-23-11. Alcohol and Drug Intervention Component; Requirements; Rules and Special Orders; Appointment of Employees; Participation Costs**

(1) The Administrative Office of Courts shall establish, implement and operate a uniform certification process for all intervention courts and other problem-solving courts including juvenile courts, veterans courts or any other court designed to adjudicate criminal actions involving an identified classification of criminal defendant to ensure funding for intervention courts supports effective and proven practices that reduce recidivism and substance dependency among their participants.

(2) The Administrative Office of Courts shall establish a certification process that ensures any new or existing intervention court meets minimum standards for intervention court operation.

(a) These standards shall include, but are not limited to:

(i) The use of evidence-based practices including, but not limited to, the use of a valid and reliable risk and needs assessment tool to identify participants and deliver appropriate interventions;

(ii) Targeting medium to high-risk offenders for participation;

(iii) The use of current, evidence-based interventions proven to reduce dependency on drugs or alcohol, or both;

(iv) Frequent testing for alcohol or drugs;

(v) Coordinated strategy between all intervention court program personnel involving the use of graduated clinical interventions;

(vi) Ongoing judicial interaction with each participant; and

(vii) Monitoring and evaluation of intervention court program implementation and outcomes through data collection and reporting.

(b) Intervention court certification applications shall include:

(i) A description of the need for the intervention court;

(ii) The targeted population for the intervention court;

(iii) The eligibility criteria for intervention court participants;

(iv) A description of the process for identifying appropriate participants including the use of a risk and needs assessment and a clinical assessment;

(v) A description of the intervention court intervention components, including anticipated budget and implementation plan;

(vi) The data collection plan which shall include collecting the following data:

1. Total number of participants;

2. Total number of successful participants;

3. Total number of unsuccessful participants and the reason why each participant did not complete the program;

4. Total number of participants who were arrested for a new criminal offense while in the intervention court program;

5. Total number of participants who were convicted of a new felony or misdemeanor offense while in the intervention court program;
6. Total number of participants who committed at least one (1) violation while in the intervention court program and the resulting sanction(s);
7. Results of the initial risk and needs assessment or other clinical assessment conducted on each participant; and
8. Total number of applications for screening by race, gender, offenses charged, indigence and, if not accepted, the reason for nonacceptance; and
9. Any other data or information as required by the Administrative Office of Courts.

(c) Every intervention court shall be certified under the following schedule:

(i) An intervention court application submitted after July 1, 2014, shall require certification of the intervention court based on the proposed drug court plan.

(ii) An intervention court initially established and certified after July 1, 2014, shall be recertified after its second year of funded operation on a time frame consistent with the other certified courts of its type.

(iii) A certified adult felony intervention court in existence on December 31, 2018, must submit a recertification petition by July 1, 2019, and be recertified under the requirements of this section on or before December 31, 2019; after the recertification, all certified adult felony intervention courts must submit a recertification petition every two (2) years to the Administrative Office of Courts. The recertification process must be completed by December 31st of every odd calendar year.

(iv) A certified youth, family, misdemeanor or chancery intervention court in existence on December 31, 2018, must submit a recertification petition by July 31, 2020, and be recertified under the requirements of this section by December 31, 2020. After the recertification, all certified youth, family, misdemeanor and chancery intervention courts must submit a recertification petition every two (2) years to the Administrative Office of Courts. The recertification process must be completed by December 31st of every even calendar year.

(3) All certified intervention courts shall measure successful completion of the drug court based on those participants who complete the program without a new criminal conviction.

(4)(a) All certified drug courts must collect and submit to the Administrative Office of Courts each month, the following data:

(i) Total number of participants at the beginning of the month;

(ii) Total number of participants at the end of the month;

- (iii) Total number of participants who began the program in the month;
  - (iv) Total number of participants who successfully completed the intervention court in the month;
  - (v) Total number of participants who left the program in the month;
  - (vi) Total number of participants who were arrested for a new criminal offense while in the intervention court program in the month;
  - (vii) Total number of participants who were convicted for a new criminal arrest while in the intervention court program in the month; and
  - (viii) Total number of participants who committed at least one (1) violation while in the intervention court program and any resulting sanction(s).
- (b) By August 1, 2015, and each year thereafter, the Administrative Office of Courts shall report to the PEER Committee the information in subsection (4)(a) of this section in a sortable, electronic format.
- (5) All certified intervention courts may individually establish rules and may make special orders and rules as necessary that do not conflict with the rules promulgated by the Supreme Court or the Administrative Office of Courts.
- (6) A certified intervention court may appoint the full- or part-time employees it deems necessary for the work of the intervention court and shall fix the compensation of those employees. Such employees shall serve at the will and pleasure of the judge or the judge's designee.
- (7) The Administrative Office of Courts shall promulgate rules and regulations to carry out the certification and re-certification process and make any other policies not inconsistent with this section to carry out this process.
- (8) A certified intervention court established under this chapter is subject to the regulatory powers of the Administrative Office of Courts as set forth in Section 9-23-17.

HISTORY: SOURCES: Laws 2003, Ch. 515, § 6, eff. July 1, 2003. Amended by Laws 2014, Ch. 457 (H.B. No. 585), § 4, eff. July 1, 2014; Laws 2019, S.B. No. 2491, § 1, eff. from and after passage (approved March 28, 2019); Laws 2019, H.B. No. 1352, § 7, eff. July 1, 2019.

### **§ 9-23-13. Court Intervention Services**

- (1) An intervention court's alcohol and drug intervention component shall provide for eligible individuals, either directly or through referrals, a range of necessary court intervention services, including, but not limited to, the following:

- (a) Screening using a valid and reliable assessment tool effective for identifying alcohol and drug dependent persons for eligibility and appropriate services;
- (b) Clinical assessment; for a DUI offense, if the person has two (2) or more DUI convictions, the court shall order the person to undergo an assessment that uses a standardized evidence-based instrument performed by a physician to determine whether the person has a diagnosis for alcohol and/or drug dependence and would likely benefit from a court-approved medication-assisted treatment indicated and approved for the treatment of alcohol and/or drug dependence by the United States Food and Drug Administration, as specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association. Upon considering the results of the assessment, the court may refer the person to a rehabilitative program that offers one or more forms of court-approved medications that are approved for the treatment of alcohol and/or drug dependence by the United States Food and Drug Administration;
- (c) Education;
- (d) Referral;
- (e) Service coordination and case management; and
- (f) Counseling and rehabilitative care.

(2) Any inpatient treatment or inpatient detoxification program ordered by the court shall be certified by the Department of Mental Health, other appropriate state agency or the equivalent agency of another state.

(3) All intervention courts shall make available the option for participants to use court-approved medication-assisted treatment while participating in the programs of the court in accordance with the recommendations of the National Drug Court Institute.

HISTORY: SOURCES: Laws 2003, Ch. 515, § 7, eff. July 1, 2003. Amended by Laws 2014, Ch. 457 (H.B. No. 585), § 5, eff. July 1, 2014; Amended by Laws 2019, H.B. No. 1352, § 8, eff. July 1, 2019.

### **§ 9-23-15. Alternative Sentencing Eligibility Criteria and Conditions**

(1) In order to be eligible for alternative sentencing through a local intervention court, the participant must satisfy each of the following criteria:

- (a) The participant cannot have any felony convictions for any offenses that are crimes of violence as defined in Section 97-3-2 within the previous ten (10) years.
- (b) The crime before the court cannot be a crime of violence as defined in Section 97-3-2.

(c) Other criminal proceedings alleging commission of a crime of violence cannot be pending against the participant.

(d) The participant cannot be charged with burglary of a dwelling under Section 97-17-23(2) or 97-17-37.

(e) The crime before the court cannot be a charge of driving under the influence of alcohol or any other drug or drugs that resulted in the death of a person.

(f) The crime charged cannot be one of trafficking in controlled substances under Section 41-29-139(f), nor can the participant have a prior conviction for same.

(2) Participation in the services of an alcohol and drug intervention component shall be open only to the individuals over whom the court has jurisdiction, except that the court may agree to provide the services for individuals referred from another intervention court. In cases transferred from another jurisdiction, the receiving judge shall act as a special master and make recommendations to the sentencing judge.

(3)(a) As a condition of participation in an intervention court, a participant may be required to undergo a chemical test or a series of chemical tests as specified by the intervention court. A participant is liable for the costs of all chemical tests required under this section, regardless of whether the costs are paid to the intervention court or the laboratory; however, if testing is available from other sources or the program itself, the judge may waive any fees for testing. The judge may waive all fees if the applicant is determined to be indigent.

(b) A laboratory that performs a chemical test under this section shall report the results of the test to the intervention court.

(4) A person does not have a right to participate in intervention court under this chapter. The court having jurisdiction over a person for a matter before the court shall have the final determination about whether the person may participate in intervention court under this chapter. However, any person meeting the eligibility criteria in subsection (1) of this section shall, upon request, be screened for admission to intervention court.

HISTORY: SOURCES: Laws 2003, Ch. 515, § 8, eff. July 1, 2003. Amended by Laws 2011, Ch. 366, § 1, eff. July 1, 2011; Laws 2014, Ch. 457 (H.B. No. 585), § 6, eff. July 1, 2014; Amended by Laws 2019, H.B. No. 1352, § 9, eff. July 1, 2019.

### **§ 9-23-17. Powers of Administrative Office of Courts**

With regard to any intervention court, the Administrative Office of Courts shall do the following:



(a) Certify and re-certify intervention court applications that meet standards established by the Administrative Office of Courts in accordance with this chapter.

(b) Ensure that the structure of the intervention component complies with rules adopted under this section and applicable federal regulations.

(c) Revoke the authorization of a program upon a determination that the program does not comply with rules adopted under this section and applicable federal regulations.

(d) Make agreements and contracts to effectuate the purposes of this chapter with:

(i) Another department, authority or agency of the state;

(ii) Another state;

(iii) The federal government;

(iv) A state-supported or private university; or

(v) A public or private agency, foundation, corporation or individual.

(e) Directly, or by contract, approve and certify any intervention component established under this chapter.

(f) Require, as a condition of operation, that each intervention court created or funded under this chapter be certified by the Administrative Office of Courts.

(g) Collect monthly data reports submitted by all certified intervention courts, provide those reports to the State Intervention Courts Advisory Committee, compile an annual report summarizing the data collected and the outcomes achieved by all certified intervention courts and submit the annual report to the Oversight Task Force.

(h) Every three (3) years contract with an external evaluator to conduct an evaluation of the effectiveness of the intervention court program, both statewide and individual intervention court programs, in complying with the key components of the intervention courts adopted by the National Association of Drug Court Professionals.

(i) Adopt rules to implement this chapter.

HISTORY: SOURCES: Laws 2003, Ch. 515, § 9, eff. July 1, 2003. Amended by Laws 2014, Ch. 457 (H.B. No. 585), § 7, eff. July 1, 2014; Amended by Laws 2019, H.B. No. 1352, § 10, eff. July 1, 2019.

### **§ 9-23-19. Special Fund; Gifts, Grants, and Other Funding Sources**

(1) All monies received from any source by the intervention court shall be accumulated in a fund to be used only for intervention court purposes. Any funds remaining in this fund at the

end of a fiscal year shall not lapse into any general fund, but shall be retained in the Intervention Court Fund for the funding of further activities by the intervention court.

(2) An intervention court may apply for and receive the following:

(a) Gifts, bequests and donations from private sources.

(b) Grant and contract money from governmental sources.

(c) Other forms of financial assistance approved by the court to supplement the budget of the intervention court.

(3) The costs of participation in an alcohol and drug intervention program required by the certified intervention court may be paid by the participant or out of user fees or such other state, federal or private funds that may, from time to time, be made available.

(4) The court may assess such reasonable and appropriate fees to be paid to the local Intervention Court Fund for participation in an alcohol or drug intervention program; however, all fees may be waived if the applicant is determined to be indigent.

HISTORY: SOURCES: Laws 2003, Ch. 515, § 10, eff. July 1, 2003. Amended by Laws 2014, Ch. 457 (H.B. No. 585), § 8, eff. July 1, 2014; Amended by Laws 2019, H.B. No. 1352, § 11, eff. July 1, 2019.

### **§ 9-23-21. Immunity**

The director and members of the professional and administrative staff of the intervention court who perform duties in good faith under this chapter are immune from civil liability for:

(a) Acts or omissions in providing services under this chapter; and

(b) The reasonable exercise of discretion in determining eligibility to participate in the intervention court.

HISTORY: SOURCES: Laws 2003, Ch. 515, § 11, eff. July 1, 2003. Amended by Laws 2019, H.B. No. 1352, § 12, eff. July 1, 2019.

### **§ 9-23-23. Completion of Program; Expunction of Record**

If the participant completes all requirements imposed upon him by the intervention court, including the payment of fines and fees assessed and not waived by the court, the charge and prosecution shall be dismissed. If the defendant or participant was sentenced at the time of entry of plea of guilty, the successful completion of the intervention court order and other requirements of probation or suspension of sentence will result in the record of the criminal

conviction or adjudication being expunged. However, no expunction of any implied consent violation shall be allowed.

HISTORY: SOURCES: Laws 2003, Ch. 515, § 12, eff. July 1, 2003. Amended by Laws 2019, H.B. No. 1352, § 13, eff. July 1, 2019.

### **§ 9-23-51. Drug Court Fund**

There is created in the State Treasury a special interest-bearing fund to be known as the Drug Court Fund. The purpose of the fund shall be to provide supplemental funding to all drug courts in the state. Monies from the funds derived from assessments under Section 99-19-73 shall be distributed by the State Treasurer upon warrants issued by the Administrative Office of Courts, pursuant to procedures set by the State Drug Courts Advisory Committee to assist both juvenile drug courts and adult drug courts. Funds from other sources shall be distributed to the drug courts in the state based on a formula set by the State Drug Courts Advisory Committee. The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of: (a) monies appropriated by the Legislature for the purposes of funding drug courts; (b) the interest accruing to the fund; (c) monies received under the provisions of Section 99-19-73; (d) monies received from the federal government; and (e) monies received from such other sources as may be provided by law.

HISTORY: SOURCES: Laws 2004, Ch. 543, § 1, eff. July 1, 2004. Amended by Laws 2005, 2nd Ex. Sess., Ch. 1, § 5, eff. from and after passage (approved May 24, 2005).