

O.C.G.A. § 15-1-15

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*** Current Through the 2015 Regular Session ***

TITLE 15. COURTS
CHAPTER 1. GENERAL PROVISIONS

O.C.G.A. § 15-1-15 (2015)

§ 15-1-15. Drug court divisions

(a) (1) Any court that has jurisdiction over any criminal case which arises from the use, sale, possession, delivery, distribution, purchase, or manufacture of a controlled substance, noncontrolled substance, dangerous drug, or other drug may establish a drug court division to provide an alternative to the traditional judicial system for disposition of such cases.

(2) In any case which arises from the use, addiction, dependency, sale, possession, delivery, distribution, purchase, or manufacture of a controlled substance, noncontrolled substance, dangerous drug, or other drug or is ancillary to such conduct and the defendant meets the eligibility criteria for the drug court division, the court may assign the case to the drug court division:

(A) Prior to the entry of the sentence, if the prosecuting attorney consents;

(B) As part of a sentence in a case; or

(C) Upon consideration of a petition to revoke probation.

(3) Each drug court division shall establish a planning group to develop a work plan. The planning group shall include the judges, prosecuting attorneys, public defenders, community supervision officers, and persons having expertise in the field of substance abuse. The work plan shall address the operational, coordination, resource, information management, and evaluation needs of the drug court division. The work plan shall include drug court division policies and practices related to implementing the standards and practices developed pursuant to paragraph (4) of this subsection. The work plan shall ensure a risk and needs assessment is used to identify the likelihood of recidivating and identify the needs that, when met, reduce recidivism. The work plan shall ensure that drug court division eligibility shall be focused on moderate-risk and high-risk offenders as determined by a risk and needs assessment. The drug court division shall combine judicial supervision, treatment of drug court division participants, and drug testing.

(4) (A) The Council of Accountability Court Judges of Georgia shall establish standards and

practices for drug court divisions taking into consideration guidelines and principles based on current research and findings published by the National Drug Court Institute and the Substance Abuse and Mental Health Services Administration, relating to practices shown to reduce recidivism of offenders with drug abuse problems. Standards and practices shall include, but shall not be limited to, the use of a risk and needs assessment to identify the likelihood of recidivating and identify the needs that, when met, reduce recidivism. The Council of Accountability Court Judges of Georgia shall update its standards and practices to incorporate research, findings, and developments in the drug court field. Each drug court division shall adopt policies and practices that are consistent with the standards and practices published by the Council of Accountability Court Judges of Georgia.

(B) The Council of Accountability Court Judges of Georgia shall provide technical assistance to drug court divisions to assist them with the implementation of policies and practices, including, but not limited to, guidance on the implementation of risk and needs assessments in drug court divisions.

(C) The Council of Accountability Court Judges of Georgia shall create and manage a certification and peer review process to ensure drug court divisions are adhering to the Council of Accountability Court Judges of Georgia's standards and practices and shall create a waiver process for drug court divisions to seek an exception to the Council of Accountability Court Judges of Georgia's standards and practices. In order to receive state appropriated funds, any drug court division established on and after July 1, 2013, shall be certified pursuant to this subparagraph or, for good cause shown to the Council of Accountability Court Judges of Georgia, shall receive a waiver from the Council of Accountability Court Judges of Georgia.

(D) On and after July 1, 2013, the award of any state funds for a drug court division shall be conditioned upon a drug court division attaining certification or a waiver by the Council of Accountability Court Judges of Georgia. On or before September 1, the Council of Accountability Court Judges of Georgia shall publish an annual report listing certified drug court divisions.

(E) The Council of Accountability Court Judges of Georgia and the Georgia Council on Criminal Justice Reform shall develop and manage an electronic information system for performance measurement and accept submission of performance data in a consistent format from all drug court divisions. The Council of Accountability Court Judges of Georgia shall identify elements necessary for performance measurement, including, but not limited to, recidivism, the number of moderate-risk and high-risk participants in a drug court division, drug testing results, drug testing failures, participant employment, the number of participants who successfully complete the program, and the number of participants who fail to complete the program.

(F) On or before July 1, 2015, and every three years thereafter, the Council of Accountability Court Judges of Georgia shall conduct a performance peer review of the drug court divisions for the purpose of improving drug court division policies and practices and the certification and recertification process.

(5) The court instituting the drug court division may request the prosecuting attorney for the jurisdiction to designate one or more prosecuting attorneys to serve in the drug court division and may request the public defender, if any, to designate one or more assistant public defenders to serve in the drug court division.

(6) The clerk of the court instituting the drug court division or such clerk's designee shall serve as the clerk of the drug court division.

(7) The court instituting the drug court division may request community supervision officers and other employees of the court to perform duties for the drug court division. Such employees shall perform duties as directed by the judges of the drug court division.

(8) The court instituting the drug court division may enter into agreements with other courts and agencies for the assignment of personnel from other courts and agencies to the drug court division.

(9) Expenses for salaries, equipment, services, and supplies incurred in implementing this Code section may be paid from state funds, funds of the county or political subdivision implementing such drug court division, federal grant funds, and funds from private donations.

(10) As used in this Code section, the term "risk and needs assessment" means an actuarial tool, approved by the Council of Accountability Court Judges of Georgia and validated on a targeted population, scientifically proven to determine a person's risk to recidivate and to identify criminal risk factors that, when properly addressed, can reduce that person's likelihood of committing future criminal behavior.

(b) (1) Each drug court division shall establish criteria which define the successful completion of the drug court division program.

(2) If the drug court division participant successfully completes the drug court division program prior to the entry of judgment, the case against the drug court division participant may be dismissed by the prosecuting attorney.

(3) If the drug court division participant successfully completes the drug court division program as part of a sentence imposed by the court, the sentence of the drug court division participant may be reduced or modified.

(4) Any plea of guilty or nolo contendere entered pursuant to this Code section may not be withdrawn without the consent of the court.

(c) Any statement made by a drug court division participant as part of participation in such court, or any report made by the staff of the court or program connected to the court, regarding a participant's substance usage shall not be admissible as evidence against the participant in any legal proceeding or prosecution; provided, however, if the participant violates the conditions of his or her participation in the program or is terminated from the drug court division, the reasons for the violation or termination may be considered in sanctioning, sentencing, or otherwise

disposing of the participant's case.

(d) Nothing contained in this Code section shall be construed to permit a judge to impose, modify, or reduce a sentence below the minimum sentence required by law.

(e) Notwithstanding any provision of law to the contrary, drug court division staff shall be provided, upon request, with access to all records relevant to the treatment of the drug court division participant from any state or local government agency. All such records and the contents thereof shall be treated as confidential, shall not be disclosed to any person outside of the drug court division, and shall not be subject to Article 4 of Chapter 18 of Title 50, relating to open records, or subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding. Such records and the contents thereof shall be maintained by the drug court division and originating court in a confidential file not available to the public.

(f) Any fees received by a drug court division from a drug court division participant as payment for substance abuse treatment and services shall not be considered as court costs or a fine.

(g) The court may have the authority to accept grants and donations and other proceeds from outside sources for the purpose of supporting the drug court division. Any such grants, donations, or proceeds shall be retained by the drug court division for expenses.

HISTORY: Code 1981, § 15-1-15, enacted by Ga. L. 2005, p. 1505, § 2/HB 254; Ga. L. 2012, p. 899, § 2-1/HB 1176; Ga. L. 2015, p. 422, § 5-2/HB 310; Ga. L. 2015, p. 519, § 5-1/HB 328.