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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 4138

03/04/2020 Authored by Cantrell The bill was read for the first time and referred to the Judiciary Finance and Civil Law Division

1.1 A bill for an act
1.2 relating to judiciary; establishing requirements for certain treatment courts;
1.3 proposing coding for new law in Minnesota Statutes, chapter 480.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. 480.40 TREATMENT COURTS.

1.6 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
1.7 the meanings given.

1.8 (b) "Serious offense" means a crime of violence as defined in section 624.712, subdivision
1.9 5, other than a violation of chapter 152, or a violation of or an attempt or conspiracy to
1.10 violate any of the following laws of this state or any similar laws of the United States or
1.11 any other state: section 609.23; 609.231; 609.2325; 609.2661; 609.2662; 609.2663; 609.2664;
1.12 609.2665; 609.267; 609.2671; 609.2672; 609.54; 609.714; 617.23 that is punishable by a
1.13 felony penalty; or 617.246.

1.14 (c) "Treatment court" means a multiphased, team-oriented program operated within one
1.15 or more district courts and presided over by a district court judge acting within that person's
1.16 official capacity that uses evidence-based practices and qualified and trained staff to tailor
1.17 appropriate services to support individuals in the judicial system who are addicted to alcohol
1.18 or other drugs, suffering from mental health issues, or both. For purposes of this section,
1.19 treatment court does not include family dependency treatment court.

1.20 Subd. 2. Eligibility for funding. (a) A treatment court is eligible for funding from the
1.21 state if it complies with this section and any rules or policies adopted by the judicial branch
1.22 that do not conflict with this section.

2.1 (b) Nothing in this section prohibits any treatment court from requesting, applying for,  
2.2 or receiving funding from any other source.

2.3 Subd. 3. **Treatment court goals.** Every treatment court has the following goals for  
2.4 participants and the community:

2.5 (1) engage individuals in treatment long enough for participants to experience the benefits  
2.6 of treatment;

2.7 (2) successfully intervene in addiction;

2.8 (3) establish a network of support;

2.9 (4) reduce recidivism;

2.10 (5) enhance public safety;

2.11 (6) ensure participant accountability;

2.12 (7) reduce costs to society related to criminal activity and physical and mental health;

2.13 and

2.14 (8) appropriately reward participation in, and successful completion of, treatment court.

2.15 Subd. 4. **Participant eligibility.** (a) Participants must meet the diagnostic criteria for a  
2.16 mental health disorder, a moderate or severe substance use disorder, or a co-occurring  
2.17 substance use and mental health disorder.

2.18 (b) Participants must be charged with or under supervision for a misdemeanor, gross  
2.19 misdemeanor, or felony offense.

2.20 (c) A person who presents a substantial risk for reoffending or is unlikely to succeed  
2.21 under traditional supervision as determined through the use of a validated risk tool may  
2.22 participate in treatment court if that person meets the other eligibility requirements. A person  
2.23 who does not meet the criteria in this paragraph may be admitted on an alternative track  
2.24 that is separate from high-risk participants and provides services modified to meet the risk  
2.25 and need levels of those participants consistent with evidence-based practices.

2.26 (d) A person who committed an offense and resides in a county that provides an  
2.27 appropriate treatment court or that has an agreement with another county that provides an  
2.28 appropriate treatment court may participate in treatment court.

2.29 (e) A person charged with a serious offense, or who has been convicted of or adjudicated  
2.30 delinquent for a serious offense, may be excluded from participation if the presiding judge,

3.1 in consultation with the treatment court team, determines that the person cannot be managed  
3.2 safely or effectively in treatment court.

3.3 (f) A person who participated successfully or unsuccessfully in treatment court on a  
3.4 prior occasion may be excluded from participation if the presiding judge, in consultation  
3.5 with the treatment court team, determines that the person cannot be managed safely or  
3.6 effectively in treatment court.

3.7 Subd. 5. **Program requirements.** (a) Treatment courts shall be available to individuals  
3.8 who meet the requirements under subdivision 4.

3.9 (b) Treatment courts shall minimize the time between arrest or probation violation and  
3.10 entrance into treatment court, and the time between treatment court entry and the first  
3.11 treatment episode.

3.12 (c) Treatment courts shall incentivize productive behaviors and include incentives related  
3.13 to participant sentences, as described in subdivisions 6 and 7, for completion of the program.

3.14 (d) Treatment courts shall follow best practice standards.

3.15 (e) Treatment courts shall include multiple program phases and require a minimum of  
3.16 12 months of participation for participants charged with a felony or gross misdemeanor  
3.17 offense.

3.18 (f) Treatment court participants shall appear before the treatment court judge at least  
3.19 twice monthly during the initial phase of the court.

3.20 (g) The presiding judge shall be patient, dignified, and courteous to participants and  
3.21 shall require similar conduct of treatment court staff.

3.22 (h) The presiding judge shall make the final decisions concerning the imposition of  
3.23 incentives or sanctions that affect a participant's legal status or liberty, after taking into  
3.24 consideration the input of the other team members and discussing the matter in court with  
3.25 the participant or the participant's legal representative. The judge shall rely on the expert  
3.26 input of trained treatment professionals when imposing treatment-related conditions.

3.27 (i) Treatment courts shall strive to have participants appear before the same presiding  
3.28 judge throughout the participant's enrollment period. The length of term for treatment court  
3.29 judges shall be a minimum of two years. The presiding judge shall spend sufficient time  
3.30 during status hearings reviewing each participant's progress in the program.

3.31 (j) Treatment courts shall incorporate a nonadversarial approach that recognizes the  
3.32 distinct roles of the prosecution and defense counsel and preserves due process.

4.1 (k) Before admission into treatment court, defense counsel shall inform potential  
4.2 participants of their basic due process rights; describe the expectations treatment courts  
4.3 have of participants, including but not limited to regular appearances in court, drug and  
4.4 alcohol testing, and participation in treatment; and review the potential sanctions and  
4.5 incentives related to treatment court.

4.6 (l) Treatment courts shall have written policies and procedures for drug and alcohol  
4.7 testing related to sample collection, sample analysis, and result reporting. Participants shall  
4.8 receive a clear and comprehensive explanation of their rights and responsibilities related to  
4.9 drug and alcohol testing, and all testing shall be random, frequent, and observed.

4.10 (m) Treatment courts shall provide prompt access to a continuum of approved substance  
4.11 abuse and mental health services based on a standardized assessment of each participant's  
4.12 treatment needs. Treatment plans shall be individualized for each participant based on the  
4.13 results of the initial assessment and ongoing assessments. Progression by participants through  
4.14 the treatment court shall be based upon the individual's progress with the treatment plan  
4.15 and compliance with court requirements. Adjustments to the level of care shall be predicated  
4.16 on each participant's response to treatment and shall not be tied to the programmatic phase  
4.17 structure.

4.18 (n) Treatment courts shall provide or refer participants for treatment and social services  
4.19 to address conditions that are likely to interfere with their response to substance abuse or  
4.20 mental health treatment, increase criminal recidivism, or diminish long-term treatment gains.

4.21 (o) Immediate, graduated, and individualized sanctions shall govern the responses of  
4.22 the treatment court to each participant's noncompliance.

4.23 (p) Unless a participant poses an immediate risk to public safety, jail sanctions shall be  
4.24 administered after less severe consequences have been ineffective at deterring infractions.  
4.25 Jail sanctions shall be definite in duration and shall typically last no more than three to five  
4.26 days. Participants shall be given access to counsel and a fair hearing if a jail sanction might  
4.27 be imposed.

4.28 (q) A treatment court in a county other than one in which a person committed an offense  
4.29 shall accept the person as a treatment court participant if the county provides an appropriate  
4.30 treatment court and either of the following conditions apply:

4.31 (1) the person resides in the county; or

4.32 (2) the treatment court has an agreement to provide services to the county in which the  
4.33 person committed an offense or resides.

5.1 With the consent of the person, a court shall transfer jurisdiction over an offender to a county  
5.2 that accepts the person as a treatment court participant.

5.3 (r) The judicial branch may adopt additional treatment court requirements that do not  
5.4 conflict with the provisions in this subdivision.

5.5 Subd. 6. **Incentives; participants accepted after August 1, 2020.** (a) In addition to  
5.6 any incentives that do not directly affect a person's sentence, participants entering treatment  
5.7 court on or after August 1, 2020, shall be entitled to the appropriate incentives identified in  
5.8 this subdivision.

5.9 (b) Notwithstanding section 609.095, paragraph (b), for a person charged with a nonfelony  
5.10 violation, the court shall, without entering a judgment of guilty, defer further prosecution  
5.11 and place the person on probation upon such reasonable conditions as it may require,  
5.12 including but not limited to participation in treatment court. Upon violation of a condition  
5.13 of the probation, the court may enter an adjudication of guilt and proceed as otherwise  
5.14 provided. If during the period of probation the person does not violate any of the conditions  
5.15 of the probation, then upon expiration of the period the court shall discharge the person and  
5.16 dismiss the proceedings against that person. Discharge and dismissal under this subdivision  
5.17 shall be without court adjudication of guilt, but a not public record shall be retained by the  
5.18 Bureau of Criminal Apprehension for use by the courts in determining the merits of  
5.19 subsequent proceedings against the person. The not public record may also be opened only  
5.20 upon court order for purposes of a criminal investigation, prosecution, or sentencing. Upon  
5.21 request by law enforcement, prosecution, or corrections authorities, the bureau shall notify  
5.22 the requesting party of the existence of the not public record and the right to seek a court  
5.23 order to open it pursuant to this section. The court shall forward a record of any discharge  
5.24 and dismissal under this subdivision to the bureau, which shall make and maintain the not  
5.25 public record of it as provided under this subdivision. The discharge or dismissal shall not  
5.26 be deemed a conviction for purposes of disqualifications or disabilities imposed by law  
5.27 upon conviction of a crime or for any other purpose.

5.28 (c) Notwithstanding any law to the contrary, for a person charged with a felony violation  
5.29 other than a serious offense, the court may either proceed pursuant to paragraph (a) or stay  
5.30 imposition of the sentence.

5.31 (d) Notwithstanding any law to the contrary, for a person charged with a serious offense,  
5.32 the court may either stay imposition or execution of the sentence.

6.1 (e) Upon a participant's successful completion of treatment court, the court shall discharge  
6.2 the person from probation before the expiration of the maximum period prescribed for the  
6.3 person's probation.

6.4 Subd. 7. **Incentives; participants accepted before August 1, 2020.** In addition to any  
6.5 incentives that do not directly affect a person's sentence, participants who entered but did  
6.6 not complete treatment court before August 1, 2020, shall be discharged from probation  
6.7 before the expiration of the maximum period prescribed for the person's probation upon  
6.8 successful completion of treatment court.

6.9 Subd. 8. **Termination.** Participants may be terminated from treatment court if they can  
6.10 no longer be managed safely in the community or if they repeatedly fail to comply with  
6.11 treatment or supervision requirements. Termination shall not occur for continued substance  
6.12 use unless it is in conjunction with noncompliance in treatment, supervision, or both, or the  
6.13 presiding judge, in consultation with the treatment court team, determines that the participant  
6.14 is no longer amenable to treatment.

6.15 Subd. 9. **Report.** Treatment courts shall report outcome and other data as required by  
6.16 the State Court Administrator's Office, including information to assess compliance with the  
6.17 standards. A copy of any reports shall be made available to the chairs and ranking minority  
6.18 members of the senate and house of representatives committees and divisions having  
6.19 jurisdiction over public safety finance.