

HOUSE BILL NO. 92

INTRODUCED BY A. CURTIS

BY REQUEST OF THE PUBLIC DEFENDER COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE TERM "PUBLIC DEFENDER" FROM THE LIST OF MEMBERS OF THE DRUG TREATMENT COURT TEAM AND THE MENTAL HEALTH TREATMENT COURT TEAM; AND AMENDING SECTIONS 46-1-1103 AND 46-1-1203, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 46-1-1103, MCA, is amended to read:

**"46-1-1103. Definitions.** As used in this part, the following definitions apply:

(1) "Assessment" means a diagnostic evaluation to determine whether and to what extent a person is a drug offender under this part and would benefit from the provisions of this part.

(2) "Continuum of care" means a seamless and coordinated course of substance abuse education and treatment designed to meet the needs of drug offenders as they move through the criminal justice system and beyond, maximizing self-sufficiency.

(3) "Drug" includes:

(a) a controlled substance, which is a drug or other substance for which a medical prescription or other legal authorization is required for purchase or possession;

(b) an illegal drug, which is a drug whose manufacture, sale, use, or possession is forbidden by law; or

(c) a harmful substance, which is a misused substance otherwise legal to possess, including alcohol.

(4) "Drug offender" means a person charged with a drug-related offense or an offense in which substance abuse is determined to have been a significant factor in the commission of an offense.

(5) "Drug treatment court" means a court established by a court pursuant to this part implementing a program of incentives and sanctions intended to assist a participant to end the participant's addiction to drugs and to cease criminal behavior associated with drug use and addiction.

(6) "Drug treatment court coordinator" means an individual who, under the direction of the drug treatment court judge, is responsible for coordinating the establishment, staffing, operation, evaluation, and integrity of the drug treatment court.



1 (7) "Drug treatment court team" means a group of individuals appointed by the drug treatment court that  
2 may consist of the following members:

- 3 (a) the judge, which may include a magistrate or other hearing officer;  
4 (b) the prosecutor;  
5 (c) the ~~public defender~~ or defense attorney;  
6 (d) a law enforcement officer;  
7 (e) the drug treatment court coordinator;  
8 (f) a probation and parole officer;  
9 (g) substance abuse treatment providers;  
10 (h) a representative from the department of public health and human services; and  
11 (i) any other person selected by the drug treatment court.

12 (8) "Memorandum of understanding" means a written document setting forth an agreed-upon procedure.

13 (9) "Recidivism" means any arrest for a serious offense that results in the filing of a charge and can carry  
14 a sentence of 1 or more years.

15 (10) "Staff meeting" means the meeting before a drug offender's appearance in drug treatment court in  
16 which the drug treatment court team discusses a coordinated response to the drug offender's behavior.

17 (11) "Substance abuse" means the illegal or improper consumption of a drug as defined in this section.

18 (12) "Substance abuse treatment" means a program designed to provide prevention, education, and  
19 therapy directed toward ending substance abuse and preventing a return to substance use."  
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21 **Section 2.** Section 46-1-1203, MCA, is amended to read:

22 **"46-1-1203. Definitions.** As used in this part, the following definitions apply:

23 (1) "Assessment" means a diagnostic evaluation to determine whether and to what extent a person is  
24 an offender with a mental disorder under this part and would benefit from the provisions of this part.

25 (2) "Continuum of care" means a seamless and coordinated course of mental health counseling and  
26 treatment designed to meet the needs of participants as they move through the criminal justice system and  
27 beyond, maximizing self-sufficiency.

28 (3) "Drug" has the meaning provided in 46-1-1103.

29 (4) "Memorandum of understanding" means a written document setting forth an agreed-upon procedure.

30 (5) "Mental health treatment court" means a court established by a court pursuant to this part

1 implementing a program of incentives and sanctions intended to assist a participant, whose conduct has resulted  
2 in a criminal violation, in receiving the needed treatment and life skills to prevent further criminal behavior  
3 associated with a mental disorder.

4 (6) "Mental health treatment court coordinator" means an individual who, under the direction of the  
5 mental health treatment court judge, is responsible for coordinating the establishment, staffing, operation,  
6 evaluation, and integrity of the mental health treatment court.

7 (7) "Mental health treatment court team" means a group of individuals appointed by the mental health  
8 treatment court that:

9 (a) must include the following members:

10 (i) the judge, which may include a magistrate or other hearing officer;

11 (ii) the prosecutor;

12 (iii) the ~~public defender~~ or defense attorney;

13 (iv) the participant; and

14 (v) the mental health treatment court coordinator; and

15 (b) may include the following additional members:

16 (i) a law enforcement officer;

17 (ii) a probation and parole officer;

18 (iii) a mental health professional;

19 (iv) a substance abuse treatment provider;

20 (v) a representative from the department of public health and human services;

21 (vi) a mental health advocate; and

22 (vii) any other person selected by the mental health treatment court.

23 (8) "Mental health treatment program" means a program designed by the mental health treatment court  
24 team to provide prevention, education, and therapy directed toward ending criminal behavior and preventing a  
25 return to a condition leading to criminal behavior. Mental health treatment programs may consist of but are not  
26 limited to housing assistance, job training, mental health counseling, and psychiatric treatment.

27 (9) "Participant" means a person charged with a criminal offense or an offense in which a mental  
28 disorder, as defined in 53-21-102, is determined to have been a significant factor in the commission of the  
29 offense.

30 (10) "Staff meeting" means the meeting before a participant's appearance in mental health treatment

1 court in which the mental health treatment court team discusses a coordinated response to the participant's  
2 behavior.

3 (11) "Substance abuse" means the illegal or improper consumption of a drug, but does not include  
4 inadvertent error in the use of medication.

5 (12) "Substance abuse treatment" means a program designed to provide prevention, education, and  
6 therapy directed toward ending substance abuse and preventing a return to substance use."

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