

**HB 1665-FN – FINAL VERSION**

7Mar2012... 0197h

05/02/12 1893s

2012 SESSION

12-2749

09/04

**HOUSE BILL 1665-FN**

AN ACT enabling a superior court or circuit court to implement one or more drug courts.

SPONSORS: Rep. Harding, Graf 11; Rep. Shurtleff, Merr 10; Rep. Tholl, Coos 2; Rep. Welch, Rock 8; Rep. Pantelakos, Rock 16; Rep. Rosenwald, Hills 22; Rep. Swinford, Belk 5; Sen. Houde, Dist 5; Sen. Odell, Dist 8; Sen. Larsen, Dist 15; Sen. Kelly, Dist 10

COMMITTEE: Judiciary

**AMENDED ANALYSIS**

This bill enables a superior court or circuit court to implement one or more drug courts.

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Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears (in brackets and struckthrough.)

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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**STATE OF NEW HAMPSHIRE**

*In the Year of Our Lord Two Thousand Twelve*

AN ACT enabling a superior court or circuit court to implement one or more drug courts.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

218:1 New Chapter; Drug Courts. Amend RSA by inserting after chapter 490-F the following new chapter:

## CHAPTER 490-G

### DRUG COURTS

#### 490-G:1 Purpose; Policy and Goals.

I. The legislature recognizes that a critical need exists in this state for the criminal justice system to reduce the incidence of substance abuse and the crimes resulting from it. For the criminal justice system to maintain credibility, all drug offenders must be held accountable for their actions. A growing body of research demonstrates the impact of substance abuse on public safety, personal health and health care costs, the spread of communicable disease, educational performance and attainment, work force reliability and productivity, family safety, and financial stability. Requiring that accountability and rehabilitating treatment, in addition to or in place of, conventional and expensive incarceration, will promote public safety, the welfare of the individuals involved, reduce the burden upon the public treasury and benefit the common welfare of this state. The goals of this chapter shall include:

- (a) To enhance community safety and quality of life for citizens;
- (b) To reduce recidivism;
- (c) To reduce substance abuse;
- (d) To increase the personal, familial, and societal accountability of drug offenders;
- (e) To restore drug offenders to productive, law-abiding, and taxpaying citizens;
- (f) To promote effective interaction and use of resources among criminal justice and community agencies;
- (g) To reduce the costs of incarceration; and
- (h) To improve the efficiency of the criminal justice system by enacting an effective methodology.

II. While working in drug court reshapes the traditional roles of judges and lawyers, ethical duties do not significantly differ from those in traditional courtrooms. Drug court judges and lawyers must adhere to the standards set forth in the Model Code of Judicial Conduct, the Model Rules of Professional Conduct, the American Bar Association Standards of Criminal Justice, and the Model Drug Offender Accountability and Treatment Act. The proper exercise of the roles of judge or lawyer in the drug court need not conflict with the professionals' ethical obligations and can enable judges and attorneys to fulfill the highest aspirations of their professional ethics while embarking on an innovative way to break the cycle of substance abuse and crime. Drug court judges and attorneys must remain continually cognizant of the due process rights guaranteed to all citizens and the state's substantial interest in maintaining effective and efficient judicial and penal systems.

#### 490-G:2 Implementation of Drug Courts.

I.(a) Each superior or circuit court may establish one or more drug courts under which drug offenders may be processed to address appropriately an identified substance abuse problem. "Drug court" means a judicial intervention process that incorporates and substantially complies with the Ten Key Components listed in subparagraph (b) and may include:

(1) "Pre-adjudication" where a drug offender is ordered to participate in drug court before charges are filed or before conviction;

(2) "Post-adjudication" where a drug offender is ordered to participate in drug court after entering a plea of guilty or nolo contendere or having been found guilty;

(3) "Reentry" where a drug offender is ordered to participate in drug court upon release from a sentence of incarceration; or

(4) "Combination program" which may include pre-adjudication, post-adjudication, and/or reentry.

(b) "Ten Key Components" as outlined in the Model Drug Offender Accountability and Treatment Act and as defined by the United States Department of Justice, are:

(1) Drug courts integrate alcohol and other drug treatment services with justice system case processing;

(2) Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' (drug offenders') due process rights;

(3) Eligible participants (drug offenders) are identified early and promptly placed in the drug court program;

(4) Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services;

(5) Abstinence is monitored by frequent alcohol and other drug testing;

(6) A coordinated strategy governs drug court responses to participants' (drug offenders') compliance;

(7) Ongoing judicial interaction with each drug court participant (drug offender) is essential;

(8) Monitoring and evaluation measure the achievement of program (drug court) goals and gauge effectiveness;

(9) Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations; and

(10) Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court effectiveness.

II. Upon successful completion of a program recommended by the drug court, a drug offender's case may be disposed of by the judge in the manner prescribed by the agreement and by the applicable policies and procedures adopted by the drug court. This may include, but is not limited to, withholding criminal charges, dismissal of charges, probation, deferred sentencing, suspended sentencing, split sentencing, or a reduced period of incarceration.

III. A person sentenced by a drug court may, at least one year after successful completion of all programs and conditions imposed by the drug court, petition for annulment of the charges, arrest, conviction, and sentence that relate to such person's entry into the drug court.

IV. The drug court may convene a local steering committee made up of community leaders who can provide support for the drug court.

218:2 Effective Date. This act shall take effect January 1, 2013.

Approved: June 13, 2012

Effective Date: January 1, 2013