

# Alaska State Legislature Task Force on Therapeutic Courts



## Evaluations & Recommendations Final Report

January 18, 2021

**Members of the 31st Alaska State Legislature's Task Force on Therapeutic Courts**



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# **Final Report of the Legislative Task Force on Therapeutic Courts**

## **January 18, 2021**

### **Overview**

During the 2020 legislative session the Alaska State Legislature passed a resolution, Senate Concurrent Resolution 9 (SCR 9), establishing a task force to examine the therapeutic court model of criminal offender treatment and to provide recommendations for improvements and expansion of existing programs and accessibility within the state. See Appendix A for Senate Concurrent Resolution 9, Legislative Resolve No. 23 (2020).

Alaska has already realized numerous success stories from this alternative justice model for offenders whose alcohol or other substance abuse or mental health disorders played a significant factor in their contact with the criminal justice system. The legislature believed these successes could be replicated and broadened and held a strong interest in improving on the positive impacts the therapeutic courts have had on our state toward reducing recidivism and upon community restoration, and on the possibility of reducing costs to our systems of criminal justice and public health.

SCR 9 created the Legislative Task Force on Therapeutic Courts, a ten-member group of individuals whose various professional and personal experiences would focus the Task Force's meeting discussions and help shape its recommendations to the legislature. In accordance with SCR 9, the Task Force was comprised of one state senator and one state representative of the Alaska Legislature, as well as a state judge, one member of the administrative staff of the Alaska Court System, a state prosecutor from the Department of Law, a defense attorney of the Public Defender Agency, a member of the Department of Health and Social Services, a member of the Department of Corrections, a member of the Alaska Mental Health Trust Authority, and one member of the state therapeutic court programs' alumni community. The individuals were all selected and designated as Task Force members for their extensive experience with, and insights into, the state therapeutic courts.

Alaska Therapeutic Courts are a part of the Alaska Court System. The Anchorage Coordinated Resources Project, a mental health court, and the Anchorage Wellness Court were the first state therapeutic courts, established in 1998. Today, the statewide therapeutic court system has grown to fourteen courts in Anchorage, Bethel, Juneau, Kenai, and Palmer, with plans for expansion into Fairbanks and Sitka. See Appendix B for the Alaska Court System's summary of existing and planned therapeutic courts in Alaska.

Under SCR 9, the legislature requested the Task Force to examine and make recommendations for several topics related to the state's therapeutic courts system with a goal of identifying problem areas and suggesting improvements. This report provides a summary of the Task Force's discussions and reasoning toward those SCR 9 subjects and its and recommendations for each.



## **Task Force Evaluations & Recommendations Under SCR 9**

- A. SCR 9 charged the Task Force with examining ways to enhance the effectiveness of the current therapeutic courts system, which was to include recommendations for providing attorneys with information about the principles and practices of the therapeutic courts.

### **General Recommendation A.1: Assigned Supervisory Attorneys at the Public Defender Agency & the Department of Law**

The members of the Task Force expressed strong interest in the creation of therapeutic courts supervising attorney positions within both the Alaska Public Defender Agency and the Criminal Division of the Department of Law. Currently, while an attorney within each agency statewide tends to default into an advisory role within the respective agencies due to interest in the models of restorative justice, and is the most knowledgeable and proficient in the state's therapeutic courts' programs and procedures, there is not a formally assigned position responsible for such oversight. This results in these attorneys' inability to devote the necessary time to therapeutic courts cases or individualized offender suitability assessments across the state, or provide the time and effort needed to ensure that the programs are offered fairly and consistently.

If a formally assigned oversight attorney existed whose work time was not overly divided amongst other cases and professional responsibilities, the attorney could focus efforts toward ensuring more consistent, informed practices are applied; that fairness is made central to offering participation; and that a goal of providing better planning, guidance, and continuity in training to attorneys within the agency is achieved.

It is necessary to note that in establishing such supervisory attorney positions dedicated specifically to therapeutic court cases, the legislature must recognize that these positions may require additional funding for additional personnel. For example, as the attorneys at the Public Defender Agency are already heavily overburdened with their caseloads, the agency would be unable to assign a current staff member to this new role; the legislature must appropriate adequate funding for the new supervisory position.

### **General Recommendation A.2: Consistent, Formal Training of Attorneys, Judges, & Treatment Providers**

The Task Force observed a correlated issue to the lack of supervisory oversight attorneys is the deficiency in consistent, thorough attorney training on the therapeutic courts alternative. There is no present statewide plan to ensure adequate training of attorneys practicing in the therapeutic courts system.

As presently structured, the therapeutic courts rely on both defense attorneys and prosecutors to agree to the suitability of participants. It was observed that attorneys are not identifying appropriate individuals for participation; defense attorneys sometimes refer inappropriate defendants, while at times prosecutors screen out appropriate cases.

Defense attorneys need training to advise defendants on the merits and drawbacks of this model and provide proficient representation in the process to their clients. State prosecutors who are inexperienced with therapeutic courts may decline a defendant's participation because the programs are perceived as too lenient compared to familiar, traditional modes of punitive justice.

The members agreed that initiating annual statewide training could be the best means of ensuring adequacy of education in the processes, principles, and practices of the therapeutic courts. For cost-effectiveness, the training should be held in-state. Ideally the training experts brought to Alaska would include national experts in the fields of problem-solving courts from other states.

There has been significant turnover among the state's attorneys in recent years, frequently among the junior attorneys assigned to the cases that are candidates for therapeutic court. Members observed various factors likely contributing to lack of retention at both the Department of Law and the Public Defender Agency, including lagging compensation, the 2006 shift from the state's defined benefits system to defined contribution, and better economic conditions in other states. The failure of attorney retention has clearly impacted attorney experience in therapeutic courts negatively. Given this retention problem, establishing training on an annual basis would also help mitigate attorney inexperience working in the courts.

Currently, the various judicial districts and individual courts rely much on their own implemented practices to run their courts. This proposed statewide training would further provide for sharing of experiences between the state judicial districts, likely resulting in more uniform practices across the state.

Several members noted the necessity of consistent training implemented for judges as well as non-attorney community professionals, such as the treatment providers. Treatment team members should be included in the same annual training that defense and prosecuting attorneys attend, for cross-training and improving understanding of the principals and practices of the processes. Further, training must include training of entire teams together; this would promote cooperation and understanding of every team member's role and responsibilities.

In addition, training resources must be readily provided to attorneys, judges, and treatment providers working with the courts. Where materials are available online, establishing a centralized online repository of best practice resources for team members may be beneficial.

### **General Recommendation A.3: Ensuring Consistency in Negotiated Plea Arrangements & Providing Plea Offerings that Do Not Deter Participation or Result in Unreasonably Harsh Consequences for Program Non-Completion**

Task Force members cited problems with the pre-arranged plea agreement stage of the therapeutic court process. Two common issues arise. First, defendants charged with similar offenses may be negotiated differing sentencing outcomes for successful completion of the therapeutic court programs, implicating inequitable disparities. Second, sometimes the negotiated arrangement would exact a very severe punishment, even relative to traditional sentencing, upon a participant who attempts the program but subsequently fails somewhere along the way—which

may be an unreasonable consequence and could deter a defendant from electing participation in the first place.

The Task Force is very concerned with ensuring these issues are mitigated. It is important for the defense and prosecuting attorneys as well as the judges involved in the therapeutic courts to remain aware of these problems and vigilant in combatting them. The Task Force's recommendations regarding installation of supervisory attorneys and improved training for the court team are expected to help in addressing these issues.

The Task Force additionally encourages the Alaska Therapeutic Courts to begin, to the extent not already doing so, documenting the plea agreements offered to potential participants for their respective offenses and whether these offers were accepted, along with whether program completion was successful—and if not, at what point in the process did non-success occur and what penalty was otherwise imposed. These data points should help identify discrepancies among plea offerings and the significance of severity of plea outcomes. As the Alaska Justice Information Center (AJiC) at the University of Alaska Anchorage provides technical and research-related support to the Alaska Legislature, the Alaska Court System should expect readily available access to AJiC for examining, distilling, and concluding on this information as needed for the Court System's own use and if necessary to present to policymakers potentially assessing legislative solutions to these problems in the future.

#### **General Recommendation A.4: Establishment of a Statewide Peer Support Coordinator & Other Enhancements to Peer Support**

The Task Force recommends improvements to peer support services to help program participants succeed during treatment and beyond. Participants in mental health and addiction treatment and upon program graduation experience challenges related to sustaining their recovery, which can lead to the resumption of alcohol or drug use. A peer support worker with the lived experience of recovery from a mental health condition, substance use disorder, or both can provide support to others experiencing similar challenges. Peer support workers can provide non-clinical, strength-based support and are “experientially credentialed” by their own recovery journey.

Compared to other professional relationships, peer support workers offer a level of acceptance, understanding, and validation through their lived experiences. Like many active therapeutic court participants, peer support workers have lived through the experience of addiction, mental health, incarceration, and relapse, and they have established sober, healthy, constructive lives in recovery. Most of all, they understand the daily struggle of maintaining their sobriety and mental health stability.

For example, the Alaska Therapeutic Court Alumni (AKTCA) group has provided peer support services to participants of the Anchorage Wellness Court, to the Alaska Veterans Court, the Child in Need of Assistance Court, the Coordinated Resources Projects (Mental Health Courts), the Juneau Therapeutic Court, the Palmer Wellness Court, the Bethel Therapeutic Court, the Kenai Tribal/State Joint Jurisdiction Court, and the Fairbanks Wellness Court. AKTCA members volunteer to provide ongoing programs and support for participants in the courts as well as offer continued support to graduates of the courts if desired. In combination with training

and supervision, peer support can bring the lived experience of recovery to assist others in initiating and maintaining their own recovery, helping to enhance the quality of personal and family life toward sustained, long term recovery.

The Task Force agrees that state funding for a permanent position of statewide therapeutic court peer support coordinator staffed by a therapeutic court program graduate would (1) complement and improve upon the ongoing programs and treatment offered by the Alaska Therapeutic Courts and (2) benefit therapeutic participants in their path to recovery and wellness.

The Task Force members noted that the peer mentors, support personnel, and volunteers would likely need to maintain participant privacy for the duration of a participant's treatment program and as necessary beyond treatment. The Task Force's graduate member explained that participant confidentiality has so far not been breached, and the members did not see this need as an insurmountable concern.

### **General Recommendation A.5: A Formal Move toward Reliance on National Standards**

While the state's therapeutic court teams may use national standards, they are not currently required to do so. Based on member discussions, the Task Force recommends incorporating by reference national standards of best practices to inform the court team members and provide better consistency between and among the programs.

Upon the request of the members, the Statewide Therapeutic Courts Coordinator provided the Task Force with the most-current best sources of these national standards. Below is a list of those sources along with weblinks to the documents:

1. National Association of Drug Court Professionals, *Volume I: Adult Drug Court Best Practice Standards*, Alexandria, VA (Text Revision 2018): <https://www.nadcp.org/wp-content/uploads/2018/12/Adult-Drug-Court-Best-Practice-Standards-Volume-I-Text-Revision-December-2018-1.pdf>
2. National Association of Drug Court Professionals, *Volume II: Adult Drug Court Best Practice Standards* (Text Revision 2018): <https://www.nadcp.org/wp-content/uploads/2018/12/Adult-Drug-Court-Best-Practice-Standards-Volume-2-Text-Revision-December-2018-1.pdf>
3. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance & The National Association of Drug Court Professionals, *Defining Drug Courts: The Key Components* (Reprinted October 2004): <https://www.ncjrs.gov/pdffiles1/bja/205621.pdf>
4. The National Association for DWI Courts, *The Ten Guiding Principles for DWI Courts* (Publication Date Unknown): [https://www.dwicourts.org/wp-content/uploads/Guiding\\_Principles\\_of\\_DWI\\_Court\\_0.pdf](https://www.dwicourts.org/wp-content/uploads/Guiding_Principles_of_DWI_Court_0.pdf)

5. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance & The Council of State Governments Justice Center, *Improving Responses to People with Mental Illness: The Essential Elements of a Mental Health Court* (2007): [https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/MHC\\_Essential\\_Elements.pdf](https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/MHC_Essential_Elements.pdf)
6. Justice for Vets, *The Ten Key Components of Veterans Treatment Courts* (Publication Date Unknown): <https://justiceforvets.org/wp-content/uploads/2017/02/The-Ten-Key-Components-of-Veterans-Treatment-Courts.pdf>

**B.** The Task Force considered the prospect of employing full-time therapeutic court attorneys.

In general, member experience suggested that the possibility of employing full-time therapeutic court attorneys was unnecessary at the present juncture, because—with the exception of Anchorage—the volume of need has not been proven. Therefore, the prospect of employing full-time therapeutic court attorneys in Anchorage specifically may provide an improvement to the current system. But statewide, except for the formal establishment of supervisory attorneys discussed above, the need does not yet appear to justify full-time defense attorneys and prosecutors.

Especially as the Task Force’s overarching goal of achieving higher utilization of the courts becomes realized, the members agreed that employing full-time-devoted therapeutic court attorneys would provide an enhancement to the system.

Yet from a success standpoint, it is obvious that specialized attorneys have provided the most successful outcomes for participants and communities in the system. And because the therapeutic court operations function differently than typical court proceedings, specialized attorneys could help break down many of the barriers associated with these target populations. Consistency of attorneys is not only vital among the attorneys, but also to the consistency of the team.

**C.** The legislature asked the Task Force to examine the possibility of providing culturally appropriate treatment resources, including certified or licensed Alaska Native treatment providers.

The members’ professional experiences with the therapeutic courts system provided insight into the need to incorporate culturally competent treatment providers. The Task Force was advised that the therapeutic courts do presently work with Alaska Native treatment providers and provide other culturally appropriate treatment, when and where possible.

It was observed that the therapeutic courts require a team approach, which is already a different model than most treatment providers are used to. An undertaking to add specialized treatment providers would not only demand further financial and training resources but any added team



members would have to participate in all team discussions. Increasing the team size could therefore result in reduced efficiency and hinder potential success outcomes.

The members agreed that the therapeutic courts and the associated treatment services do need to be conducted with appropriate cultural understanding, and that evidence-based interventions should incorporate such treatment approaches. However, there was a sense that, at this time and with the current caseload, such specific treatment approaches could not be fully utilized. The members therefore felt that it is critical that all of the systems' present providers be appropriately trained to provide culturally relevant treatment when necessary. A means of achieving this could be to include cultural competence as an aspect of the vetting process for partnering with providers, requiring such proficiency throughout the partnering agency's workforce.

Yet as the therapeutic courts expand into other reaches of the state, such as into rural areas with greater Alaskan Native populations, ensuring that specialized culturally relevant treatment is implemented or supplied by Alaskan Native treatment providers will of course be important to the successes of participants.

**D. The Task Force assessed the prospect of moving to standardized screening and referral criteria.**

The current screening procedure for admittance into the therapeutic courts depends on the public defender's submission of a candidate for a program, while the prosecutor holds ultimate discretion through a right of refusal of admission. The potential for inconsistency in offerings to participants is clear: the public defender may miss identifying an appropriate candidate, while the prosecutor may reject an appropriate candidate. The members observed that the current procedures likely rely too much on the personalities and experiences of the persons involved in such decision-making.

Standardization of screening, assessment, and referral criteria is also essential to ensuring equity and inclusion for all individuals who could benefit from participation in therapeutic courts. In addition, standardizing the processes would address the problem of the state therapeutic courts' current inconsistent application of criteria that results in variability statewide, and would help alleviate consistency issues arising due to staff changes and turnover.

The members therefore believe that, along with the addition of supervisory attorneys and improved training previously discussed, a more standardized screening and referral process should be employed.

One possible enhancement to standardization could see the Department of Corrections or the Alcohol Safety Action Program (ASAP) tasked with initial identification of all eligible defendants prior to arraignments.

As the state moves toward standardizing screening, one Task Force member observed that national best practice standards by the National Association of Drug Court Professionals and Bureau of Justice would anticipate a process where:

- Eligibility and exclusion criteria are based on empirical evidence indicating which types of offenders can be treated safely and effectively within therapeutic courts;
- Participants should be evaluated for admission using evidence-based assessment tools and procedures; and
- Equity and inclusion should always be taken into account to ensure individuals who have historically experienced sustained discrimination or reduced social opportunities because of their race, ethnicity, gender, sexual orientation, sexual identity, physical or mental disability, religion, or socioeconomic status receive the same opportunities as other individuals to participate and succeed in the therapeutic courts.

In addition, a thorough review of current admissions could provide insight into the types of cases admitted and not admitted to the courts and the reasons for the variances between the different locations. The Task Force recommends that the Alaska Court System conduct such a review to assist in the development of a standard screening, assessment, and referral process.

- E. The Task Force discussed establishing and formalizing links between local treatment providers and state and local alcohol and drug agencies.

Members recognized that ensuring relationships between treatment providers and relevant state agencies can have a significant impact on participant success and reduction of recidivism. The Task Force was advised that at present, the therapeutic courts already have formal links in place with both the state Division of Behavioral Health (DBH) and the many local treatment agencies with whom DBH and the Alaska Court System works with through memorandums of agreements, contracts, and grants. For those participants in the therapeutic court programs who are not deemed a priority population by DBH, it is a fairly routine practice for the courts to enter into separate agreements to ensure those participants have ready access to assessment and treatment services.

However, challenges do arise when treatment providers struggle to meet service demands within their communities. Where resources are scarce, and to provide enhanced funding as permissible and appropriate, the therapeutic courts could use assistance from DBH to determine how to leverage Medicaid funds—much of which are federally provided—to offset service expenses associated with the programs.

On this topic, the Task Force recommends continuation of existing relationships and encouraging further development in and among the courts where needed.

- F. The Task Force examined whether and how to expand the capacity of current therapeutic court programs.

The Task Force is highly supportive of enabling maximum utilization of the current therapeutic courts system. The Alaska Court System presented data demonstrating that the courts are presently underutilized, significantly in most instances. Increasing participation not only results in increased number of individual successes—and reduced recidivism rates—but also efficiency of resource use for the state.

The Task Force believes that its previously discussed recommendations for assigning supervisory attorneys an oversight role, improvements to training, appropriate plea arrangements that do not deter participation, and standardization of screening procedures would lead to increased participation rates. Such enhancements would also help address the problem of failure to intercept and include good candidates who were uninformed or unaware of the existence of the courts, or who were simply unable to make placement in a program in a timely manner, which is usually critical for a successful start.

The Task Force is very cognizant that there is currently a deficiency in program funding. The deficiency means less availability of the resources needed to expand participation. The Task Force noted that all aspects of the therapeutic courts need more funding in order to increase capacity. For example, the therapeutic courts need more courtroom and judge time, more probation officers for supervision, more attorney time, more funding for drug testing supplies and staff to administer the testing, more and improved access to treatment, and more availability of residential facilities.

A major obstacle to increased utilization of the programs is a lack of housing for participants. The members observed that many individuals making contact with the criminal justice system are often homeless, due to struggles with mental illness, addiction, or a combination of both. To ensure successes, it is also generally important to provide immediate safe and sober housing to those participants who do not otherwise have it so that they do not fall back into usual substance abuse routines.

The treatment resource need is intensive and includes the need to provide ready access to residential treatment or medically assisted detoxification treatment that the therapeutic courts are currently unable to accommodate, especially in the less-populated court locations.

The Task Force believes it is imperative that in order to address the multi-factor problems that have led to reduced capacity in the current therapeutic courts, the state must devote much more in the way of financial resources toward alleviating these issues. However, while more funding could be put toward the therapeutic court system, it is assumed that fiscal resources will continue to be scarce for the foreseeable future. With that in mind, the Task Force recommends that the Alaska Court System conduct a review to demonstrate the likely program needs of a community compared to a court's capacity as well as a review of the resources needed by the target populations to enable their successes, such as for housing, treatment, supervision, and testing. Such a review will help the Alaska Court System develop a plan on how to apply additional resources as they become available.

**G.** The Task Force was directed to assess the topic of addressing policy and statutory changes to improve the state therapeutic court system.

As far as policy improvements, the Task Force would support all proposed recommendations as discussed within this report. Their implementation need not be statutory, so long as there is consistency in their application. Where the programs may struggle to provide uniformity amongst and within the courts—for instance, with negotiated plea arrangements or in the screening and referral procedures and outcomes—it may be necessary to commit the policies to

statutory law in the future. The Task Force recommends that for the sake of ensuring uniformity, the attorneys and the Alaska Court System remain cognizant of whether imposed policy improvements are practiced with consistency. If their consistent application is not achieved, the possibility of statutory solutions should be revisited.

The legislature demonstrates much of its support for projects and programs through funding its priorities as enacted in the state's annual budget. Adding funding to the capital budget or into the Judiciary's operating budget specifically for the Alaska Therapeutic Courts for programs and projects that support the courts is another action the legislature could take to help the courts achieve successes. For example, the legislature could appropriate funding for the therapeutic courts' alumni and peer groups to provide social gatherings and other events that promote shared experiences and networking support. Funding could also be considered to assist the therapeutic courts toward increasing treatment and access to housing and transportation in specific locations where there is not ready access or adequate services. For instance, in Anchorage and Fairbanks, there are waitlists for mental health services. In Anchorage, Palmer, and Juneau, therapeutic courts struggle to find safe, affordable housing for participants. In Palmer, transportation is a major issue because participants are accepted from a wide-ranging area within the vicinity; public transportation is not available in many of the rural locations where participants live. Each of these obstacles to treatment successes could be mitigated with annual financial support from the State.

Alaska's statewide therapeutic court system is not a creature of statute. The therapeutic courts in the state began in 1998 with the Anchorage Coordinated Resources Project (Mental Health Court) and the Anchorage Wellness Court and expanded with the funding of pilot programs in Anchorage and Bethel under the Alaska Legislature's 2001 enactment, HB 172 (Chapter 64, SLA 2001). The Alaska Court System has overseen creation and expansion of the programs through the years by its own initiative and through seeking and receiving legislative funding and other grants toward their implementation and continuation. While this has clearly worked to establish a well-developed system of therapeutic courts in multiple communities within the state, if any specific statutory considerations are ever meaningfully considered, the Task Force recommends proposing establishing Alaska's therapeutic courts in Alaska law to demonstrate the legislature's support for these programs. Such statutory provisions could include the legislature's purposes and findings for the therapeutic courts and its intent behind their creation and rationales for their continued preservation.

Individuals with significant treatments needs who are also at high risk of reoffending are an intended target population of therapeutic courts because successful interventions can result in a two-fold reduction in recidivism. As the Task Force aims to capture more of this intended group for the state's therapeutic courts, other suggestions for statutory proposals that could fall within the purview of the legislature's lawmaking powers included the following:

- The legislature could establish that upon request of the defense attorney, a sentencing court could make a referral to a therapeutic court for certain offenses without the State's consent. In lieu of a plea agreement between the defendant and the State, the sentencing court could defer imposition of sentence until

completion. Upon satisfactory program completion, the sentencing court could have the discretion to mitigate a sentence or set aside a conviction. For example, if the defendant were subject to a presumptive range of 3-5 years imprisonment, the sentence could be mitigated to all suspended time upon successful completion of the program.

- A legislative enactment could create a path toward expungement of a felony conviction after completion of a therapeutic court program. The collateral consequences of conviction frequently impede rehabilitation and reintegration into the community and often lead indirectly to recidivism. It might be beneficial to Alaska's communities to enable a path forward for first-time felony offenders. There is currently no expungement provision under Alaska statute, but such could provide valuable incentive for compliance as well as allow for the admittance of more types of cases into the courts, such as in instances where there is otherwise discomfort in a sentencing reduction or dismissal. For example, a first-time felony conviction could be expunged after successful completion of a therapeutic court program plus a certain number of years without recidivism.
- Legislation could be considered to broaden the application of the AS 12.55.155(d)(17) "court ordered treatment" sentencing mitigator. Currently, felony driving under the influence or alcohol importation defendants who have completed 18 months of "court ordered treatment" (as defined under AS 25.35.028) are eligible for the mitigator which allows the court to eliminate or suspend both the defendant's mandatory and presumptive punishment for the offense committed. The legislature could consider broadening the categories of defendants eligible for this mitigator upon successful completion of a therapeutic court program, which may lead to increased referrals into the courts.
- The legislature could consider reducing the amount of time required in a court-ordered therapeutic court program. While some defendants need 18 months or more in a program to stabilize and get their lives on track, many do not; for those who need less of a commitment, requiring 18 months unnecessarily ties up valuable court resources and availability of programs to others.

Finally, Appendix C provides a report on *Statutory Therapeutic Courts* published by the Alaska Legislature's Legislative Research Division at the request of the Task Force. The research report contains information on the enabling statutes for therapeutic courts found in other jurisdictions. Should the legislature pursue statutory actions on the state's therapeutic courts in the future, these other states' laws should be examined to provide insight into potentially relevant and valuable legislative solutions to improve Alaska's therapeutic courts.

- H.** The Task Force discussed implementation of data collection procedures for the state therapeutic courts, including for:



- (1) data regarding the number of individuals to whom a program is offered in the state and the number of individuals who opt in to a program;
- (2) program completion rates;
- (3) criminal charges of the individuals to whom a program is offered;
- (4) program attendance rates;
- (5) post-program recidivism rates;
- (6) noncompletion rates and reasons for noncompletion;
- (7) costs to the criminal justice system; and
- (8) costs to emergency rooms.

The Alaska Court System advised the Task Force that the majority of these data items listed in SCR 9 are already collected and distilled by the statewide therapeutic courts. Data is collected by therapeutic court staff and treatment providers throughout participant contact with the therapeutic courts and entered into the Alaska Division of Behavioral Health's case management system. Alaska Court System clerical staff also enter information into Courtview, the courts' case management system. The therapeutic courts compile the data for each program and report it annually to the Alaska Court System in separate written publications. The Task Force recommends ensuring these reports are also made readily available to lawmakers for future policymaking decisions concerning the therapeutic courts.

Of the items listed above, item (7), costs to the criminal justice system, and item (8), costs to emergency rooms, are not data items collected by the therapeutic courts. Because these items may require technical analysis, the Task Force recommends that the Alaska Court System is given open and ready access to the Alaska Justice Information Center at the University of Alaska Anchorage for further study into such costs and other analytical inquiries that may assist the therapeutic courts in endeavors to demonstrate the effectiveness of the courts as well as potential research areas to target for improvements.

**I. The Task Force addressed expansion of the therapeutic courts into the rural communities of Alaska.**

The Task Force expressed strong desire to expand therapeutic courts into Alaska's rural communities. Fundamental fairness necessitates offering restorative justice options to defendants of rural communities committing the same offenses to those who are offered program participation in the state's more urbanized areas.

While the Covid-19 pandemic has forced limitations on in-person contact, it has also enabled the occasion to explore new means of providing and improving remote service delivery. In the context of therapeutic courts then, this could mean breakthroughs in expanding participation to rural areas throughout Alaska's vast land mass.

Further, as treatment providers and community providers are now readily engaged in telehealth services and tele-behavioral health services using online interactive technology throughout Alaska, the Task Force perceived the timing as ripe to begin utilizing these services to the advantage of rural expansion of the therapeutic court programs for outpatient participants.

The Task Force noted that while in-person participation in the courts may be considered the most optimal approach, and community supervision may be challenging, that these concerns should not hinder the prospect of permitting rural defendants' participation in these rehabilitative programs that would also lend to safer, healthier Alaskan communities. One possible approach could include providing some level of in-person contact with itinerant probation officers and case managers.

The Task Force therefore recommends that plans and dedication of resources for expanding the courts include a component for expansion into rural communities through online and telephonic participation. Telehealth and tele-behavioral health services must be considered, as well as the potential for traveling probation officers and case managers.

## **Conclusion**

The Task Force on Therapeutic Courts respectfully submits this final report on its discussions and recommendations to the Alaska Legislature for use in understanding relevant issues and concerns, shaping future policy, and taking other legislative actions to improve the state therapeutic courts system.

**Appendix A**  
**Senate Concurrent Resolution 9**  
**31<sup>st</sup> Alaska Legislature Resolve No. 23**

**STATE OF ALASKA  
THE LEGISLATURE**

**2020**

**Source**  
SCR 9

**Legislative  
Resolve No.**  
23



Establishing the Task Force on Therapeutic Courts.

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**BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

**WHEREAS**, according to a 2000 report by the Alaska Criminal Justice Assessment Commission, alcohol was a primary or contributing factor in 80 to 95 percent of all criminal offenses in the state; and

**WHEREAS**, according to a 2004 report by the Alaska Judicial Council, almost 70 percent of convicted offenders in the state who had been charged with a felony offense had an alcohol abuse disorder; and

**WHEREAS** therapeutic courts are highly effective in treating offenders with substance abuse or mental health disorders through a combination of substance abuse and mental health treatment, cognitive-behavioral therapy, peer support, recovery meetings, employment and finance workshops, case management, community supervision, drug testing, and judicial supervision; and

**WHEREAS** studies show that the use of therapeutic courts reduces recidivism, reduces costs to the criminal justice and public health systems, and improves community restoration; and

**WHEREAS** the therapeutic court model has been successful in some communities in the state and may be replicable in additional communities in the state, and the criminal justice system in the state could benefit from following therapeutic court principles and practices;

**BE IT RESOLVED** by the Alaska State Legislature that the Task Force on Therapeutic Courts is created in the legislative branch and shall consist of 10 members as follows:

- (1) one senator appointed by the President of the Senate;
  - (2) one representative appointed by the Speaker of the House of Representatives;
  - (3) one current or retired judge selected by the chief justice of the Alaska Supreme Court;
  - (4) one member of the administrative staff of the Alaska Court System selected by the administrative director of the Alaska Court System;
  - (5) one prosecutor from the Department of Law selected by the attorney general;
  - (6) one defense attorney from the Public Defender Agency selected by the head of the Public Defender Agency;
  - (7) one member from the Department of Health and Social Services selected by the commissioner of health and social services;
  - (8) one member from the Department of Corrections selected by the commissioner of corrections;
  - (9) one member from the Alaska Mental Health Trust Authority; and
  - (10) one member who has completed a therapeutic court program in the state;
- and be it

**FURTHER RESOLVED** that a vacancy on the task force shall be filled in the manner of the original appointment; and be it

**FURTHER RESOLVED** that the legislators on the task force shall select a chair from among themselves, and the chair may assign legislative staff to provide support to the task force; and be it

**FURTHER RESOLVED** that the task force shall

- (1) examine matters relating to



(A) the therapeutic court model, including current rates of substance abuse related to criminal offenses in the state;

(B) the ways in which substance abuse-related criminal offenses and recidivism affect and cost the criminal justice system in the state;

(C) the effectiveness of prior criminal justice policies regarding the costs to the criminal justice system and recidivism;

(D) the effects of implementing therapeutic courts in this and other states; and

(E) challenges that therapeutic courts in the state currently face;

(2) evaluate and make recommendations for

(A) enhancing the effectiveness and scope of current therapeutic courts in the state, including recommendations relating to providing attorneys in the state with information about therapeutic court principles and practices;

(B) employing full-time therapeutic court attorneys;

(C) providing culturally appropriate treatment resources, including certified or licensed Alaska Native treatment providers;

(D) establishing standardized screening and referral criteria;

(E) establishing and formalizing links between local treatment providers and state and local alcohol and drug agencies;

(F) expanding the capacity of current therapeutic court programs;

(G) making policy or statutory changes;

(H) implementing data collection procedures for therapeutic courts in the state, including for

(i) data regarding the number of individuals to whom a program is offered in the state and the number of individuals who opt in to a program;

(ii) program completion rates;

(iii) criminal charges of the individuals to whom a program is offered;

(iv) program attendance rates;

(v) post-program recidivism rates;

- (vi) noncompletion rates and reasons for noncompletion;
- (vii) costs to the criminal justice system; and
- (viii) costs to emergency rooms; and

(I) expanding therapeutic courts to rural communities in the state; and

be it

**FURTHER RESOLVED** that the task force shall begin meeting in July 2020 and meet as necessary, including during the interim, to produce the required recommendations; and be it

**FURTHER RESOLVED** that the task force is terminated on January 18, 2021; and be it

**FURTHER RESOLVED** that the task force shall submit a final report summarizing the task force's findings and recommendations to the legislature.

**Appendix B**  
**Summary of Current & Planned Therapeutic Courts**

## Alaska Court System

### Summary of Existing Therapeutic Courts

Location	Name of Court	Assigned Judge	Capacity	Target Population	Month/Year Court Began	Project Coordinator
Anchorage	Anchorage Coordinated Resources Project	Washington/ Franciosi	50	Misdemeanor and felony offenders with mental illness, co-occurring disorders, developmental disabilities & other related disorders	July 1998	Kate Sumey <a href="mailto:ksumey@akcourts.us">ksumey@akcourts.us</a> (907)264-0886
Anchorage	Municipal Wellness Court	Wallace/ Logue	30	People convicted of DUI and alcohol related Municipal misdemeanor offenses	August 1999	Jennifer Fredericks <a href="mailto:jfredericks@akcourts.us">jfredericks@akcourts.us</a> 907-264-0892
Anchorage	Felony Drug Court	Easter/ Morse	20	People convicted of non-violent drug and drug related felony offenses	June 2001	Jennifer Fredericks <a href="mailto:jfredericks@akcourts.us">jfredericks@akcourts.us</a> 907-264-0892
Anchorage	Felony DUI Court	Easter/ Morse	40	People convicted of felony DUI offenses	December 2001	Jennifer Fredericks <a href="mailto:jfredericks@akcourts.us">jfredericks@akcourts.us</a> 907-264-0892
Anchorage	CINA Therapeutic Court	Guidi/ Gandhir	20	Parents with CINA cases with alcohol related substance abuse problems	July 2014	Rachel Varela <a href="mailto:rvarela@akcourts.us">rvarela@akcourts.us</a> (907)264-0580
Anchorage	Veterans Court	Wallace	25	Veterans with State and Municipal misdemeanor and felony alcohol/drug related cases	July 2004	Desiree Sang <a href="mailto:dsang@akcourts.us">dsang@akcourts.us</a> (907)264-0466
Bethel (not currently accepting referrals)	Therapeutic Court	Haas	20	People convicted of DUI and alcohol related misdemeanor and felony offenses	June 2002	
Fairbanks	Wellness Court	Bennett/ Seekins	30	People convicted of DUI and alcohol-related misdemeanor and felony offenses	August 2007	Amy Bollaert <a href="mailto:abollaert@akcourts.us">abollaert@akcourts.us</a> (907)452-9307

Juneau	Therapeutic Court	Swanson	15	People convicted of DUI and alcohol related misdemeanor and felony offenses	June 2005	Michelle Delkettie <a href="mailto:mdelkettie@akcourts.us">mdelkettie@akcourts.us</a> (907)463-4756
Juneau	Juneau Coordinated Resources Project	Swanson	15	Misdemeanor offenders with mental illness, co-occurring disorders, developmental disabilities & other related disorders	May 2012	Michelle Delkettie <a href="mailto:mdelkettie@akcourts.us">mdelkettie@akcourts.us</a> (907)463-4756
Kenai	Henu' Community Wellness Court	Wells/ Huf	20	People convicted of drug and alcohol-related misdemeanor and felony offenses	December 2016	Shera Burg <a href="mailto:sburg@akcourts.us">sburg@akcourts.us</a> (907)283-8552
Palmer	Palmer Coordinated Resources Project	Cagle/ Estelle	25	Misdemeanor offenders with mental illness, co-occurring disorders, developmental disabilities & other related disorders	March 2005	Kristin Hull <a href="mailto:khull@akcourts.us">khull@akcourts.us</a> (907)746-8142
Palmer	Families with Infants & Toddlers	Woodman/ Zwink	12 Families	Parents with CINA cases with children ages 0-3	December 2017	Jessica Clarkson <a href="mailto:jclarkson@akcourts.us">jclarkson@akcourts.us</a> (907)746-8183
Palmer	Wellness Court	Kristiansen/ Zwink	30	People convicted of drug and alcohol-related felony offenses and PACE referrals	March 2017	Kristin Hull <a href="mailto:khull@akcourts.us">khull@akcourts.us</a> (907)746-8142

\*Courts highlighted in blue began as separate courts, but were combined and are now collectively referred to as the Anchorage Wellness Court.



## Alaska Court System

### Summary of Therapeutic Courts in Planning Process

Location	Type of Court	Assigned Judge	Projected Capacity	Target Population	Projected Opening Date
Fairbanks	Veterans Court	Temple	20	Veterans with misdemeanor and felony alcohol/drug or mental health related cases	October 2021 (Seeking federal grant funds for planning and implementation)
Sitka	Tribal/State Collaborative Healing to Wellness Court	Pate/ Esquiro	unknown	People convicted of drug and alcohol-related misdemeanor and felony offenses	February 2021

**Appendix C**  
**Statutory Therapeutic Courts**  
**Legislative Research Report**

# LEGISLATIVE RESEARCH SERVICES

31<sup>st</sup> Alaska Legislature  
LRS Report 21.003  
July 31, 2020



(907) 465-3991  
[research@akleg.gov](mailto:research@akleg.gov)

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## Statutory Therapeutic Courts

Tim Spengler, Legislative Analyst

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***You asked about therapeutic courts in the United States. Specifically, you are interested in information on such courts that were established through enactments.***

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There are over 3,000 therapeutic courts (also called problem-solving courts, drug courts, mental health courts, specialty courts, veteran’s courts, etc.) currently operating in the United States. Some states have legislation spelling out, to some degree, the parameters of therapeutic courts and specifying components of the programs. However, many states (including Alaska) have not enacted legislation specifying how such courts are to operate; in such states it is typically left up to individual courts to develop and administer such programs. We identified only one state, New Jersey, which mandates that therapeutic courts (in this case drug courts) be in operation in each county in the state. Information on New Jersey’s law can be viewed [here](#). Most statutes simply say that such courts “may,” “could,” or “can” be established.

Given resource limitations, we only looked for relevant state examples pertaining to your query. There are likely a number of therapeutic courts in counties or municipalities that have been enacted through local ordinances.

In our review, we reached out to numerous entities including the National Association of Drug Court Professionals (NADCP), the Council on State Governments (CSG), the National Conference of State Legislatures (NCSL), and the National Center for State Courts (NCSC). Before we highlight some of the relevant legislation we identified in our review, we share feedback from a few therapeutic court experts to provide some background/context.

The following was provided (largely verbatim) by Ayesha Delany-Brumsey, PhD., who oversees CSG’s Behavioral Health Division.

As states consider therapeutic court legislation, there are a couple of things worth keeping in mind based on experiences in other states:

It is worth noting that therapeutic courts are generally only part of a comprehensive approach to safely reducing the number of people with behavioral health needs within the criminal justice system. At the state level, there are important opportunities from crisis services, through contact with law enforcement, diversion, and reentry, in addition to therapeutic courts.

Legislation on problem-solving courts should aim to strike a balance between centralized quality control at the state level and flexibility for local adaptation based on local resources and constraints.

- For example, in a state as geographically diverse as Alaska with such large rural areas and a significant population of Native peoples, we would expect variation in the availability of community-based treatment, as well as considerations around how people access services that are far away.
- There is also a question about what role the state plans to play. Will the state be allocating funding to local programs and providing training and oversight, as is the case in Georgia [see below], for example? Or simply creating statutory authority for the programs to exist?
- It is worth noting that, of course, a lot of different programmatic models and target populations can be served by problem-solving courts, and that these sub-populations have distinct needs. Research indicates that the traditional drug court model is a poor fit for people with serious mental illnesses or co-occurring mental health and substance use disorders, so care should be taken in legislative authority to create enough room for different models of problem-solving courts.
- It is also worth noting that many states follow statutory authority with a subsequent project to develop “standards” or “certification” that get into more programmatic specifics. Usually these are developed by a task force/committee including policymakers, practitioners, and researchers from diverse parts of the state. For example, Georgia’s statutory authority on Accountability Courts was followed by collaborative work to develop standards, as was the case in other states such as Florida and Illinois.

As indicated above, Dr. Delany-Brumsey lauds Georgia’s therapeutic court model. She relates:

We think Georgia is a good example of a state with a thorough process in place to oversee therapeutic courts. In 2012 Georgia passed legislation [codified at O.C.G.A. 15-1-15 et. seq.] allowing for the creation of the *Georgia Accountability Program*<sup>1</sup> that oversees the work of the specialty court programs throughout the state through the *Council of Accountability Court Judges*.<sup>2</sup> This program provides

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<sup>1</sup> <https://cjcc.georgia.gov/accountability-court-program>.

<sup>2</sup> <https://cacj.georgia.gov/>.

funding and administrative oversight through a certification process and standards for the various types of specialty court programs throughout the state.

Dr. Delany-Brumsey welcomes questions from lawmakers considering therapeutic courts. She can be reached at [adelanybrumsey@csg.org](mailto:adelanybrumsey@csg.org) or (212) 482-2320.

Another expert in the therapeutic court field with whom we spoke with is Carolyn Hardin, Chief of Training and Research at the National Association of Drug Court Professionals. While Ms. Hardin did not cite any particular state laws, she strongly encourages legislators considering drug court legislation to contact her for assistance, as she and her team have experience helping lawmakers craft effective measures. Ms. Hardin can be reached at [chardin@nadcp.org](mailto:chardin@nadcp.org) or 703-575-9400.

Tonya Voelker, NADCP's director of legislative affairs, informs us that state legislation and appropriation statutes for treatment courts are normally tracked through a U.S. Department of Justice, Bureau of Justice Assistance grant to collect and disseminate national figures. That grant is currently with the University of North Carolina Wilmington, which is currently conducting the latest survey. Results from this survey are expected to be published in early 2021. Ms. Voelker shared that the latest survey results were printed in the 2016 *Painting the Current Picture*.<sup>3</sup> This 82-page report includes a review of the scientific literature on a host of different types of therapeutic courts, drug court costs, and authorization and appropriation legislation.

In the table below, we list nine other states that have therapeutic court programs that are, according to CSG's Delany-Brumsey, similar to Georgia in that they spell out programs with some specificity. We provide links to the relevant statutes or other program information. This should be viewed as a sampling of states with statutory provisions that may interest you and not as a definitive list.

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<sup>3</sup> <https://www.ndci.org/wp-content/uploads/2016/05/Painting-the-Current-Picture-2016.pdf>.



Information on Selected States with Therapeutic Court Legislation		
State	Statute or Program Resources	Links
Florida	FS 397.334	<a href="http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0300-0399/0397/Sections/0397.334.html">http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0300-0399/0397/Sections/0397.334.html</a>
Illinois	730 ILCS 166/	<a href="https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2014&amp;ChapterID=55">https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2014&amp;ChapterID=55</a>
Kansas	KS Drug Court Feasibility Study	<a href="https://ncsc.contentdm.oclc.org/digital/collection/spcts/id/224/">https://ncsc.contentdm.oclc.org/digital/collection/spcts/id/224/</a>
Pennsylvania	PA Drug Court website	<a href="http://www.pacourts.us/judicial-administration/court-programs/drug-courts">http://www.pacourts.us/judicial-administration/court-programs/drug-courts</a>
Michigan	Developing and Implementing a Drug Treatment Court in Michigan	<a href="http://www.wellnesscourts.org/files/Developing%20and%20Implementing%20a%20Drug%20Treatment%20Court%20in%20Michigan.pdf">http://www.wellnesscourts.org/files/Developing%20and%20Implementing%20a%20Drug%20Treatment%20Court%20in%20Michigan.pdf</a>
Missouri	MRS 478.001, et. seq.	<a href="https://revisor.mo.gov/main/OneChapter.aspx?chapter=478">https://revisor.mo.gov/main/OneChapter.aspx?chapter=478</a>
Nebraska	Nebraska Problem-Solving Courts	<a href="https://supremecourt.nebraska.gov/sites/default/files/Nebraska_Problem_Solving_Courts_.pdf">https://supremecourt.nebraska.gov/sites/default/files/Nebraska_Problem_Solving_Courts_.pdf</a>
Tennessee	TCA 16-22-101, et. seq.	<a href="https://www.dropbox.com/s/dlupbk9opy61p39/TN%20Drug%20Court%20Treatment%20Act.pdf?dl=0">https://www.dropbox.com/s/dlupbk9opy61p39/TN%20Drug%20Court%20Treatment%20Act.pdf?dl=0</a>
Virginia	Behavioral Health Act	<a href="https://www.dropbox.com/sh/58k22v7bjh2kw29/AAB_wgUNImk7WIt5bREImx6pa?dl=0&amp;preview=VA+Bx+Hlth+Docket+Act+with+highlights.docx">https://www.dropbox.com/sh/58k22v7bjh2kw29/AAB_wgUNImk7WIt5bREImx6pa?dl=0&amp;preview=VA+Bx+Hlth+Docket+Act+with+highlights.docx</a>
Washington	RCW 2.30.030	<a href="https://app.leg.wa.gov/RCW/default.aspx?cite=2.30.030">https://app.leg.wa.gov/RCW/default.aspx?cite=2.30.030</a>
West Virginia	WV Drug Court	<a href="http://www.courtswv.gov/lower-courts/adult-drug-courts/adult-drug-courts.html">http://www.courtswv.gov/lower-courts/adult-drug-courts/adult-drug-courts.html</a>
<p><b>Source:</b> State examples suggested by therapeutic court experts at the Council on State Governments. Ayesha Delany-Brumsey, PhD., who oversees the CSG's Behavioral Health Division, can be reached at <a href="mailto:adelanybrumsey@csg.org">adelanybrumsey@csg.org</a> or (212) 482-2320.</p>		

Below we list a number of resources regarding therapeutic courts that you may find useful. Again, should you desire expert assistance considering therapeutic court legislation, we encourage you to contact Dr. Delany-Brumsey at CSG and/or Ms. Hardin at NADCP.

## Therapeutic Court Resources

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- **National Conference of State Legislatures**, 50-State table with therapeutic court statutory citations, [https://www.ncsl.org/documents/cj/pretrial/Population\\_Specific\\_Diversion\\_Chart.pdf](https://www.ncsl.org/documents/cj/pretrial/Population_Specific_Diversion_Chart.pdf);
- **National Association of Drug Court Professionals**, Best Practice Standards, <https://www.nadcp.org/standards/>;
- **National Center for State Courts**, Mental Health Court Resource Guide, <https://www.ncsc.org/Topics/Alternative-Dockets/Problem-Solving-Courts/Mental-Health-Courts/Resource-Guide.aspx>;
- **National Center for State Courts**, State Standards: Building Better Mental Health Courts, <https://ncsc.contentdm.oclc.org/digital/collection/spcts/id/228/>;
- **Nicole L. Waters**, Responding to the Need for Accountability in Mental Health Courts, <https://ncsc.contentdm.oclc.org/digital/collection/spcts/id/228/>;
- **Council of State Governments Justice Center**, Developing a Mental Health Court: An Interdisciplinary Curriculum, <http://learning.csgjusticecenter.org/>;
- **Bureau of Justice Assistance**, A Guide to Mental Health Court Design and Implementation, <https://www.bja.gov/Programs/Guide-MHC-Design.pdf>;
- **National Center for State Courts**, Mental Health Court Performance Measures, <https://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Problem-solving-courts/Mental-Health-Court-Performance-Measures.aspx>;
- **SAMHSA's**, *Treatment Court Locators*, <https://www.samhsa.gov/gains-center/treatment-court-locators>;
- **National Drug Court Institute**, Model State Drug Court Legislation, 2004, <https://www.ndci.org/wp-content/uploads/Mono5.ModelLegislation.pdf>;
- **Uniform Law Commission**, Veterans Treatment Court Act, <https://www.uniformlaws.org/committees/community-home?CommunityKey=3c91a212-1d3d-4768-9adf-ce809a43f66b>;
- **Bureau of Justice Assistance**, Defining Drug Courts: The Key Components, 2004, <https://www.ncjrs.gov/pdffiles1/bja/205621.pdf>;
- **Council of State Governments Justice Center**, State Standards: Building Better Mental Health Courts, <https://csgjusticecenter.org/state-standards-building-better-mental-health-courts/>;
- **National Drug Court Institute**, Model State Drug Court Legislation, <https://www.ndci.org/resources/model-state-drug-court-legislation/>;
- **U.S. Department of Justice**, Drug Courts, <https://www.ncjrs.gov/pdffiles1/nij/238527.pdf>.

We hope this is helpful. If you have questions or need additional information, please let us know.