

AMENDED IN SENATE MARCH 10, 2025

SENATE BILL

No. 28

Introduced by Senator Umberg
(Principal coauthor: Assembly Member Krell)

December 2, 2024

An act to amend Section 11972 of the Health and Safety Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 28, as amended, Umberg. Treatment court program standards.

Existing law, the Drug Court Programs Act, authorizes counties to implement a drug court program, that, if implemented, requires a county alcohol and drug program administrator and the presiding judge in the county to develop a plan that includes, among other things, drug courts for juvenile offenders and drug courts for parents of children in certain family law cases. Existing law requires counties and courts that opt to have treatment court programs to design and operate the programs in accordance with state and national guidelines. Existing law requires the Judicial Council to, by no later than January 1, 2026, revise the standards of judicial administration to reflect state and nationally recognized best practices and guidelines for collaborative programs including those described in these provisions.

Existing law, the Treatment-Mandated Felony Act, an initiative measure enacted by the voters as Proposition 36 at the November 5, 2024, statewide general election, authorizes certain defendants convicted of specified felonies or misdemeanors to participate in a treatment program, upon court approval, in lieu of a jail or prison sentence, or grant of probation with jail as a condition of probation, if specified

criteria are met. The Legislature may amend this initiative by a statute passed in each house by a rollcall vote entered in the journal, $\frac{2}{3}$ of the membership concurring, or by a statute that becomes effective only when approved by the voters.

This bill would instead require that treatment court programs be available to all eligible California defendants. *The bill would include a new standard that, as part of the treatment court program, a drug addiction expert, as defined, conducts a substance abuse and mental health evaluation of the defendant, and submits the report to the court and the parties.* The bill would remove the requirement that the Judicial Council revise the standards of judicial administration. The bill would require that a treatment program that complies with existing judicial standards be offered to a person that is eligible for treatment pursuant to the Treatment-Mandated Felony Act. By requiring the court to implement a treatment program that complies with existing judicial standards, the bill would amend that initiative statute.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11972 of the Health and Safety Code is
2 amended to read:
3 11972. (a) Treatment court programs shall be available to all
4 eligible California defendants. Courts shall ensure the programs
5 are designed and operated in accordance with state and national
6 guidelines incorporating the “Adult Treatment Court Best Practice
7 Standards” and “Family Treatment Court Best Practice Standards”
8 developed by All Rise (founded as the National Association of
9 Drug Court Professionals), with consideration for the distinct court
10 system within which the program operates. It is the intent of the
11 Legislature that key components of the criminal adult treatment
12 court programs include:
13 (1) Integration by treatment courts of behavioral health treatment
14 services with justice system case processing.
15 (2) Promotion of public safety, while protecting participants’
16 due process rights, by prosecution and defense counsel using a
17 nonadversarial approach.

1 (3) Early identification of eligible participants from the
2 appropriate high-risk and high-need target population and prompt
3 placement in the treatment court program.

4 (4) Access provided by treatment courts to a continuum of
5 substance use and other behavioral health treatment and social
6 services that are evidence based and meet the specific needs of the
7 participant.

8 (5) Frequent alcohol and other drug testing to monitor
9 abstinence.

10 (6) A system of incentives, sanctions, and service adjustments
11 to achieve participant success.

12 (7) Ongoing judicial interaction with each treatment court
13 participant at the needed frequency to meet the needs of the
14 participant.

15 (8) Monitoring and evaluation to measure the achievement of
16 program goals and gauge effectiveness.

17 (9) Continuing interdisciplinary education to promote effective
18 treatment court planning, implementation, and operations.

19 (10) Forging partnerships among treatment courts, public
20 agencies, and community-based organizations to generate local
21 support and enhance treatment court program effectiveness and to
22 coordinate access to needed complementary services outside the
23 program.

24 (11) Working to ensure equitable access, services, and outcomes
25 for all sociodemographic and sociocultural groups.

26 (12) *Including a drug addiction expert to conduct a substance*
27 *abuse and mental health evaluation of the defendant. The expert*
28 *shall submit a report of the evaluation to the court and the parties.*
29 *For the purposes of this paragraph, “expert” includes, but is not*
30 *limited to, a psychiatrist, psychologist, a person as described in*
31 *Section 5751.2 of the Welfare and Institutions Code, or a person*
32 *whose knowledge, skill, experience, training, or education qualifies*
33 *them as an expert.*

34 (b) A treatment court program that complies with these standards
35 shall be available and offered to a person that is eligible for
36 treatment pursuant to Section 11395.

37 (c) Treatment court programs in this section shall be used to
38 satisfy the requirements in Section 11395.

39 SEC. 2. This act is an urgency statute necessary for the
40 immediate preservation of the public peace, health, or safety within

1 the meaning of Article IV of the California Constitution and shall
2 go into immediate effect. The facts constituting the necessity are:
3 In order to facilitate the implementation of Proposition 36, an
4 initiative measure enacted at the November 5, 2024, statewide
5 general election, this act must take effect immediately so that
6 treatment courts have a program available for defendants who
7 choose to participate.