

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 61

(By Senator Foster)

[Originating in the Committee on Finance;
reported February 11, 2011.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-5-2b; and to amend and reenact §62-15-4 of said code, all relating generally to juvenile drug courts; appointment of hearing officers for juvenile drug courts; and authorizing additional juvenile drug courts.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §49-5-2b; and that §62-15-4 of said code be amended and reenacted, all to read as follows:

ARTICLE 5. JUVENILE PROCEEDINGS.

§49-5-2b. Juvenile drug courts.

1 Juvenile drug courts shall be designed and operated
2 consistent with the developmental and rehabilitative needs
3 of juveniles as defined in this article. The Supreme Court
4 shall provide uniform referral, procedure and order forms
5 that shall be used in juvenile drug courts. The Supreme
6 Court is further authorized to appoint appropriate hearing
7 officers in those jurisdictions which choose to operate a
8 juvenile drug court. Hearing officers for juvenile drug courts
9 shall be limited to current or senior status circuit court
10 judges of family court judges.

**ARTICLE 15. DRUG OFFENDER ACCOUNTABILITY AND TREAT-
MENT ACT.**

§62-15-4. Court authorization and structure.

1 (a) Each judicial circuit or two or more adjoining judicial
2 circuits may establish a drug court or regional drug court
3 program under which drug offenders will be processed to
4 address appropriately, the identified substance abuse
5 problem as a condition of pretrial release, probation,
6 incarceration, parole or other release from a correctional
7 facility.

8 (b) The structure, method, and operation of each drug court
9 program may differ and should be based upon the specific
10 needs of and resources available to the judicial circuit or
11 circuits where the drug court program is located.

12 (c) A drug court program may be preadjudication or
13 post-adjudication for an adult offender.

14 (d) Participation in drug court, with the consent of the
15 prosecution and the court, shall be pursuant to a written
16 agreement.

17 (e) A drug court may grant reasonable incentives under the
18 written agreement if it finds that the drug offender:

19 (1) Is performing satisfactorily in drug court;

20 (2) Is benefitting from education, treatment and rehabilita-
21 tion;

22 (3) Has not engaged in criminal conduct; or

23 (4) Has not violated the terms and conditions of the
24 agreement.

25 (f) A drug court may impose reasonable sanctions on the
26 drug offender, including incarceration for the underlying
27 offense or expulsion from the program, pursuant to the
28 written agreement, if it finds that the drug offender:

29 (1) Is not performing satisfactorily in drug court;

30 (2) Is not benefitting from education, treatment or rehabili-
31 tation;

32 (3) Has engaged in conduct rendering him or her unsuitable
33 for the program;

34 (4) Has otherwise violated the terms and conditions of the
35 agreement; or

36 (5) Is for any reason unable to participate.

37 (g) Upon successful completion of drug court, a drug
38 offender's case shall be disposed of by the judge in the
39 manner prescribed by the agreement and by the applicable
40 policies and procedures adopted by the drug court. This may
41 include, but is not limited to, withholding criminal charges,
42 dismissal of charges, probation, deferred sentencing, sus-
43 pended sentencing, split sentencing, or a reduced period of
44 incarceration.

45 (h) Drug court shall include the Ten Key Components and
46 the drug court team shall act to ensure compliance with
47 them.

48 (i) Nothing contained in this article confers a right or an
49 expectation of a right to participate in a drug court nor does
50 it obligate a drug court to accept every drug offender.

51 (j) Neither the establishment of a drug court nor anything
52 herein may be construed as limiting the discretion of the
53 jurisdiction's prosecutor to act on any criminal case which he
54 or she deems advisable to prosecute.

55 (k) Each drug court judge may establish rules and may
56 make special orders as necessary that do not conflict with
57 rules and orders promulgated by the Supreme Court of
58 Appeals which has administrative authority over the courts.
59 The Supreme Court of Appeals shall provide uniform
60 referral, procedure and order forms that shall be used in all
61 drug courts in this state.

62 ~~(l) In addition to the number of juvenile drug courts~~
63 ~~operating on the effective date of this section, up to five~~
64 ~~additional juvenile drug courts or regional juvenile drug~~
65 ~~court programs may be established by January 1, 2012, as~~
66 ~~determined by the Supreme Court of Appeals.~~