

Senate Bill No. 62

(By Senators Cookman, Laird and Plymale)

[Introduced January 8, 2014; referred to the Committee on the
Judiciary; and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §62-15-7 of the Code of West Virginia,
1931, as amended, relating to authorizing drug courts to refer
drug court participants who may have co-occurring addiction
and mental illness conditions to properly licensed, certified
mental health professionals for purposes of diagnosis and
treatment; and directing the Department of Health and Human
Resources to pay for the services using the Medicaid fee
schedule if the participant is without insurance and unable to
pay.

Be it enacted by the Legislature of West Virginia:

That §62-15-7 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 15. DRUG OFFENDER ACCOUNTABILITY AND TREATMENT ACT.

§62-15-7. Treatment and support services.

1 (a) As part of any diagnostic assessments, the individual
2 assessment ~~should~~ shall make specific recommendations to the drug
3 court team regarding the type of treatment program and duration
4 necessary so that a drug offender's individualized needs can be
5 addressed. These assessments and resulting recommendations ~~should~~
6 must be based upon objective medical diagnostic criteria. Treatment
7 recommendations accepted by the court, pursuant to the provisions
8 of this article, ~~shall be deemed~~ are considered to be reasonable
9 and necessary.

10 (b) A drug court making a referral for substance abuse
11 treatment shall refer the drug offender to a program that is
12 licensed, certified or approved by the court.

13 (c) The court shall determine which treatment programs are
14 authorized to provide the recommended treatment to drug offenders.
15 The relationship between the treatment program and the court ~~should~~
16 shall be governed by a memorandum of understanding, which ~~should~~
17 shall include the timely reporting of the drug offender's progress
18 or lack ~~thereof~~ of progress to the drug court.

19 (d) It is essential to provide offenders with adequate support
20 services and aftercare.

21 (e) Recognizing that drug offenders are frequently dually
22 diagnosed, appropriate services should be made available, where
23 practicable.

24 (f) Recognizing that the longer a drug offender stays in

1 treatment, the better the outcome, the length of stay in treatment
2 ~~should~~ shall be determined by the drug court team based on
3 individual needs and accepted practices: *Provided*, That drug court
4 participation ~~shall~~ may not be less than one year duration.

5 (g) When a drug court has cause to believe that a drug court
6 participant may have co-occurring addiction and mental health
7 issues it may direct that the participant be evaluated and, if
8 necessary, treated by a psychiatrist, psychologist or other mental
9 health professional. Any program to which a participant is
10 referred must be appropriately licensed or certified. A
11 participant who has been ordered into a program pursuant to this
12 section who does not have insurance coverage or the ability to pay
13 shall, pursuant to the court order, have his or her mental health
14 evaluation and treatment, including, but not limited to, prescribed
15 medications, paid for by the Department of Health and Human
16 Resources, based on the Medicaid fee schedule for the services
17 while the participant is under the jurisdiction of the drug court.

NOTE: The purpose of this bill is to require the Department of Health and Human Resources to pay for mental health evaluations and treatment for drug offenders participating in drug courts.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.