

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 62**

4 (By Senators Cookman, Laird and Plymale)

5 \_\_\_\_\_  
6 [Originating in the Committee on the Judiciary;

7 reported February 7, 2014.]

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9 **FISCAL  
NOTE**

10 A BILL to amend and reenact §62-15-7 of the Code of West Virginia,  
11 1931, as amended, relating to authorizing drug courts to refer  
12 drug court participants who may have co-occurring addiction  
13 and mental illness conditions to properly licensed, certified  
14 mental health professionals for purposes of diagnosis and  
15 treatment; and directing the Department of Health and Human  
16 Resources to pay for the services using the Medicaid fee  
17 schedule if the participant is without insurance and unable to  
18 pay.

19 *Be it enacted by the Legislature of West Virginia:*

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

22 **ARTICLE 15. DRUG OFFENDER ACCOUNTABILITY AND TREATMENT ACT.**

23 **§62-15-7. Treatment and support services.**

24 (a) As part of any diagnostic assessments, the individual  
25 assessment ~~should~~ shall make specific recommendations to the drug

1 court team regarding the type of treatment program and duration  
2 necessary, including a determination of medical appropriateness of  
3 long acting opiate antagonists, so that a drug offender's  
4 individualized needs can be addressed. These assessments and  
5 resulting recommendations ~~should~~ must be based upon objective  
6 medical diagnostic criteria. Treatment recommendations accepted by  
7 the court, pursuant to the provisions of this article, ~~shall be~~  
8 ~~deemed~~ are considered to be reasonable and necessary.

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

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

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

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

23 (f) Recognizing that the longer a drug offender stays in  
24 treatment, the better the outcome, the length of stay in treatment  
25 ~~should~~ shall be determined by the drug court team based on  
26 individual needs and accepted practices: *Provided*, That drug court

1 participation ~~shall~~ may not be less than one year duration.

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