

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 492

BY SENATOR TRUMP

[Introduced March 1, 2017; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §62-15-4 of the Code of West Virginia, 1931, as amended, relating
2 to court participation in the drug court program.

Be it enacted by the Legislature of West Virginia:

1 That §62-15-4 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 15. DRUG OFFENDER ACCOUNTABILITY AND TREATMENT ACT.

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

1 (a) Each judicial circuit or two or more adjoining judicial circuits may establish a drug court
2 or regional drug court program under which drug offenders will be processed to address
3 appropriately, the identified substance abuse problem as a condition of pretrial release, probation,
4 incarceration, parole or other release from a correctional facility. ~~Provided, That all judicial circuits~~
5 ~~must be participating in a drug court or regional drug court program in accordance with the~~
6 ~~provisions of this article by July 1, 2016~~

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

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

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

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

- 15 (1) Is performing satisfactorily in drug court;
- 16 (2) Is benefitting from education, treatment and rehabilitation;
- 17 (3) Has not engaged in criminal conduct; or
- 18 (4) Has not violated the terms and conditions of the agreement.

19 (f) A drug court may impose reasonable sanctions on the drug offender, including

20 incarceration for the underlying offense or expulsion from the program, pursuant to the written
21 agreement, if it finds that the drug offender:

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

23 (2) Is not benefitting from education, treatment or rehabilitation;

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

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

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

27 (g) Upon successful completion of drug court, a drug offender's case shall be disposed of
28 by the judge in the manner prescribed by the agreement and by the applicable policies and
29 procedures adopted by the drug court. This may include, but is not limited to, withholding criminal
30 charges, dismissal of charges, probation, deferred sentencing, suspended sentencing, split
31 sentencing, or a reduced period of incarceration.

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

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

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

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

NOTE: The purpose of this bill is to remove the requirement that all judicial circuits must be participating in a drug court or regional drug court program.

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