

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

Senate Bill 361

BY SENATOR TRUMP

[Originating in the Committee on the Judiciary;

reported on February 2, 2018]

1 A BILL to amend and reenact §62-15-6a of the Code of West Virginia, 1931, as amended, relating
2 to treatment supervision under the Drug Offender Accountability and Treatment Act;
3 expanding offender groups eligible for treatment supervision; including addition of the
4 Administrative Office of the Supreme Court of Appeals, along with the Division of Justice
5 and Community Services, to consult with the Governor's Advisory Council on Substance
6 Abuse to use appropriated funds to develop proposed substance abuse treatment plans
7 to serve those offenders under treatment supervision in each judicial circuit and on parole
8 supervision; and including the Administrative Office of the Supreme Court of Appeals,
9 along with the Division of Justice and Community Services, in developing qualifications
10 and other matters related to the quality and delivery of services to offenders.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. DRUG OFFENDER ACCOUNTABILITY AND TREATMENT ACT.

§62-15-6a. Treatment supervision.

1 (a) A ~~felony~~ drug offender is eligible for treatment supervision ~~only~~ if:
2 (1) The offender would otherwise be sentenced to prison, and the standardized risk and
3 needs assessment indicates the offender has a high risk for reoffending and a need for substance
4 abuse treatment: *Provided*, That an inmate who is, or has been, convicted for a felony crime of
5 violence against the person, a felony offense where the victim was a minor child, or a felony
6 offense involving the use of a firearm, as defined in §28-5-27(o) and §28-5-27(p) of this code,
7 ~~shall is not be eligible for treatment supervision; or~~
8 (2) The offender has been accepted into an adult drug court program.
9 (b) As a ~~condition of drug court~~, a condition of probation or as a modification of probation,
10 a circuit court judge may impose treatment supervision on an eligible drug offender convicted of
11 a felony or as a condition of drug court with regard to an offender accepted into an adult drug
12 court program: *Provided*, That a judge may impose treatment supervision on an eligible drug

13 offender convicted of a felony, notwithstanding the results of the risk assessment, upon making
14 specific written findings of fact as to the reason for the departure.

15 (c) Whenever a circuit court judge determines that a treatment supervision participant not
16 be part of an adult drug court program has violated the conditions of his or her treatment
17 supervision involving the participant's use of alcohol or a controlled substance, the judge may
18 order a period of incarceration to encourage compliance with program requirements.

19 (1) Upon written finding by the circuit court judge that the participant would otherwise be
20 sentenced to the custody of the Commissioner of Corrections for service of the underlying
21 sentence, the cost of the incarceration order under this subsection, not to exceed a period of 30
22 days in any one instance, shall be paid by the Division of Corrections.

23 (2) Whenever a circuit court judge orders the incarceration of a treatment supervision
24 participant pursuant to this subsection, a copy of the order of confinement shall be provided by
25 the clerk of the circuit court within five days to the Commissioner of Corrections.

26 (d) The Division of Justice and Community Services shall, in consultation with the
27 Governor's Advisory Council on Substance Abuse, created by Executive Order No. 5-11, and the
28 Administrative Office of the Supreme Court of Appeals use appropriated funds to develop
29 proposed substance abuse treatment plans to serve those offenders under treatment supervision
30 in each judicial circuit and on parole supervision.

31 (e) The Division of Justice and Community Services, in consultation with the Governor's
32 Advisory Council on Substance Abuse and the Administrative Office of the Supreme Court of
33 Appeals, shall develop:

34 (1) Qualifications for provider certification to deliver a continuum of care to offenders;

35 (2) Fee reimbursement procedures; and

36 (3) Other matters related to the quality and delivery of services.

37 (f) The Division of Justice and Community Services shall require education and training
38 for providers which shall include, but not be limited to, cognitive behavioral training. The duties of

39 providers who provide services under this section may include: Notifying the probation
40 department, adult drug court program, and the court of any offender failing to meet the conditions
41 of probation or referrals to treatment; appearing at revocation hearings when required; and
42 providing assistance with data reporting and treatment program quality evaluation.

43 (g) The cost for all drug abuse assessments and certified drug treatment under ~~this section~~
44 ~~and subsection (e), section seventeen, article twelve of this chapter §62-12-17 of this code~~ shall
45 be paid by the Division of Justice and Community Services from funds appropriated for that
46 purpose. The Division of Justice and Community Services shall contract for payment for the
47 services provided to eligible offenders.

48 (h) The Division of Justice and Community Services, in consultation with the Governor's
49 Advisory Council on Substance Abuse and the Administrative Office of the Supreme Court of
50 Appeals, shall submit an annual report on or before September 30 to the Governor, the Speaker
51 of the House of Delegates, the President of the Senate, the Chief Justice of the Supreme Court
52 of Appeals, and, upon request, to any individual member of the Legislature containing:

- 53 (1) The dollar amount and purpose of funds provided for the fiscal year;
54 (2) The number of people on treatment supervision who received services and whether
55 their participation was the result of a direct sentence or in lieu of revocation;
56 (3) The number of people on treatment supervision who received services pursuant to
57 their participation in an adult drug court program;

58 ~~(3)~~ (4) The number of people on treatment supervision who, pursuant to a judge's specific
59 written findings of fact, received services despite the risk assessment indicating less than high
60 risk for reoffending and a need for substance abuse treatment;

61 ~~(4)~~ (5) The type of services provided;

62 ~~(5)~~ (6) The rate of revocations and successful completions for people who received
63 services;

64 ~~(6)~~ (7) The number of people under supervision receiving treatment under this section who
65 were rearrested and confined within two years of being placed under supervision;

66 ~~(7)~~ (8) The dollar amount needed to provide services in the upcoming year to meet
67 demand and the projected impact of reductions in program funding on cost and public safety
68 measures; and

69 ~~(8)~~ (9) Other appropriate measures used to measure the availability of treatment and the
70 effectiveness of services.

71 ~~(i) Subsections (a), (b), and (c) of this section shall take effect on January 1, 2014. The~~
72 ~~remaining provisions of this section shall take effect on July 1, 2013.~~