

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4028

FISCAL
NOTE

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[Introduced January 11, 2018; Referred
to the Committee on the Judiciary then Finance]

1 A BILL to amend and reenact § 62-15-6a of the Code of West Virginia, 1931, relating to allowing
 2 funding allotted for treatment supervision of drug offenders to be applied to participants in
 3 the Adult Drug Court Program; and sets forth additional duties for the Administrative Office
 4 of the Supreme Court of Appeals.

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 the~~ 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 not be eligible for treatment supervision; or

8 (2) The offender has been accepted into the Adult Drug Court Program created by
 9 §62-15A-1 et seq. of this code.

10 (b) As a ~~condition of drug court~~, a condition of probation or as a modification of probation,
 11 a circuit court judge may impose treatment supervision on an eligible drug offender convicted of
 12 a felony or as a condition of drug court with regard to an offender accepted into the Adult Drug
 13 Court Program: *Provided*, That a judge may impose treatment supervision on an eligible drug
 14 offender convicted of a felony, notwithstanding the results of the risk assessment, upon making
 15 specific written findings of fact as to the reason for the departure.

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

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

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

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

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

- 35 (1) Qualifications for provider certification to deliver a continuum of care to offenders;
36 (2) Fee reimbursement procedures; and
37 (3) Other matters related to the quality and delivery of services.

38 (f) The Division of Justice and Community Services shall require education and training
39 for providers which shall include, but not be limited to, cognitive behavioral training. The duties of
40 providers who provide services under this section may include: Notifying the probation
41 department, the Adult Drug Court Program, and the court of any offender failing to meet the
42 conditions of probation or referrals to treatment; appearing at revocation hearings when required;
43 and providing assistance with data reporting and treatment program quality evaluation.

44 (g) The cost for all drug abuse assessments and certified drug treatment under this section
45 and §62-12-17(e) of this code shall be paid by the Division of Justice and Community Services

46 from funds appropriated for that purpose. The Division of Justice and Community Services shall
47 contract for payment for the 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 Administrative Office of the Supreme
52 Court 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 the 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.

73 (j) The changes made to this section during the 2018 Regular Legislative Session shall
74 become effective on July 1, 2018.

NOTE: The purpose of this bill is to allow funding allotted for treatment supervision of drug offenders to be applied to participants in the Adult Drug Court Program. The bill provides that the Administrative Office of the Supreme Court of Appeals be involved in certain specific duties.

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