

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

### **Originating**

## **House Bill 2918**

BY DELEGATES D. KELLY, HANNA, WALKER, PUSHKIN,  
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[Originating in the Committee on Prevention and Treatment  
of Substance Use; reported on March 3, 2021]



1 A BILL to amend and reenact §62-15B-1 and §61-15B-2 of the Code of West Virginia, 1931,  
2 relating to family drug treatment court; making permanent the pilot program; eliminating a  
3 report to the Legislative Oversight Commission on Health and Human Resources  
4 Accountability; and eliminating the ineligibility barrier for parents with a prior involuntary  
5 termination of parental rights of another child.

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

**ARTICLE 15B. FAMILY DRUG TREATMENT COURT ACT.**

**§62-15B-1. Oversight and implementation of family drug treatment courts.**

1 (a) The Supreme Court of Appeals of West Virginia may implement a Family Drug  
2 Treatment Court pilot program. ~~in at least four circuits.~~

3 (b) Family drug treatment courts are specialized court dockets within the existing structure  
4 of West Virginia's court system offering judicial monitoring of intensive treatment and strict  
5 supervision of individuals with substance use disorder involved in a child abuse and neglect case  
6 pursuant to §49-4-601, *et. seq.*

7 (c) The Supreme Court of Appeals of West Virginia may:

8 (1) Provide oversight for the distribution of funds for family drug treatment courts;

9 (2) Provide technical assistance to family drug treatment courts;

10 (3) Provide training for judges who preside over family drug treatment courts;

11 (4) Provide training to the providers of administrative, case management, and treatment  
12 services to family drug treatment courts; and

13 (5) Monitor the completion of evaluations of the effectiveness and efficiency of family drug  
14 treatment courts in the state.

15 (d) A state family drug treatment court advisory committee shall be established to:

16 (1) Evaluate and recommend standards for the planning and implementation of family drug  
17 treatment courts;

18 (2) Assist in the evaluation of their effectiveness and efficiency; and

19 (3) Encourage and enhance cooperation among agencies that participate in their planning  
20 and implementation. ~~and~~

21 ~~(4) Report by January 1, annually, to the Legislative Oversight Commission on Health and~~  
22 ~~Human Resources Accountability regarding legislation to enhance family drug treatment courts.~~

23 (e) The committee shall be chaired by the Chief Justice of the Supreme Court of Appeals  
24 of West Virginia or his or her designee and shall include a circuit court judge who presides over  
25 a family drug treatment court; the Director of the Office of Drug Control Policy or the executive  
26 assistant to the director; Cabinet Secretary of the Department of Health and Human Resources  
27 or his or her designee; the commissioners or their designee of the following bureaus: the Bureau  
28 for Children and Families; the Bureau for Public Health; and the Bureau for Behavioral Health;  
29 the Executive Director of the West Virginia Prosecuting Attorneys Institute or his or her designee;  
30 the Executive Director of the West Virginia Public Defender Services or his or her designee; and  
31 the Executive Director of West Virginia CASA Association or his or her designee.

32 (f) Each circuit selected to establish a family drug treatment court shall establish and  
33 maintain a local family drug treatment court advisory committee. Each advisory committee shall  
34 ensure quality, efficiency, and fairness in the planning, implementation, and operation of the family  
35 drug treatment court or courts that serve the jurisdiction or combination of jurisdictions. Advisory  
36 committee membership shall include, but shall not be limited to the following people or their  
37 designees:

38 (1) The family drug treatment court judge;

39 (2) The prosecuting attorney of the county;

40 (3) The public defender or a member of the county bar who represents individuals in child  
41 abuse and neglect cases;

42 (4) The Community Service Manager of the Bureau of Children and Families of the  
43 Department of Health and Human Resources;

44 (5) A court appointed special advocate, as applicable; and

45 (6) Any other individuals selected by the family drug treatment court advisory committee.

**§62-15B-2. Establish eligibility and policies procedures.**

1 (a) Each local family drug treatment court advisory committee shall establish criteria for  
2 the eligibility and participation of adult respondents who have been adjudicated an abusing or  
3 neglecting parent pursuant to §49-4-601(i) and who have been granted a post-adjudicatory  
4 improvement period pursuant to §49-4-610(2) and who have a substance use disorder. Adult  
5 respondents who have been adjudicated for such abuse that the department is not required to  
6 make reasonable efforts to preserve the family as defined in ~~§49-4-604(b)(7)~~ §49-4-604(c)(7) shall  
7 not be eligible for participation in any family drug treatment court: Provided, That if the court  
8 determines that the parental rights of the parent to another child have been terminated  
9 involuntarily, the court, in its sole discretion and subject to other eligibility criteria as established  
10 by the local family drug treatment court advisory committee, may admit the parent to family drug  
11 treatment court.

12 (b) Participation by an adult respondent in a family drug treatment court shall be voluntary  
13 and made pursuant only to a written agreement into by and between the adult respondent and  
14 the department with concurrence of the court.

NOTE: The purpose of this bill is to make permanent the Family Drug Treatment Court Pilot Program and to eliminate the ineligibility barrier for parents with a prior involuntary termination of parental rights of another child.

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