

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 388**

4 (By Senators Cookman, Unger, Plymale and Palumbo)

5 _____
6 [Originating in the Committee on the Judiciary;
7 reported March 27, 2013.]

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9 **FISCAL**
10 **NOTE**

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

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

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

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

24 **§62-15-7. Treatment and support services.**

1 (a) As part of any diagnostic assessments, the individual
2 assessment should make specific recommendations to the drug court
3 team regarding the type of treatment program and duration necessary
4 so that a drug offender's individualized needs can be addressed.
5 These assessments and resulting recommendations should be based
6 upon objective medical diagnostic criteria. Treatment
7 recommendations accepted by the court, pursuant to the provisions
8 of this article, shall be deemed 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 be governed by a Memorandum of Understanding, which should include
16 the timely reporting of the drug offender's progress or lack
17 thereof 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

1 should be determined by the drug court team based on individual
2 needs and accepted practices: *Provided*, That drug court
3 participation shall not be less than one year duration.

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