

1 **Senate Bill No. 388**

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

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4 [Introduced February 27, 2013; referred to the Committee on the
5 Judiciary; and then to the Committee on Finance.]

6 _____
7 **FISCAL**
8 **NOTE**

9
10 A BILL to amend and reenact §62-15-7 of the Code of West Virginia,
11 1931, as amended, relating generally to requiring the
12 Department of Health and Human Resources to pay for properly
13 licensed, certified or court-approved programs for adult drug
14 offenders participating in drug courts.

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

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

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

19 **§62-15-7. Treatment and support services.**

20 (a) As part of any diagnostic assessments, the individual
21 assessment should make specific recommendations to the drug court
22 team regarding the type of treatment program and duration necessary
23 so that a drug offender's individualized needs can be addressed.

1 These assessments and resulting recommendations should be based
2 upon objective medical diagnostic criteria. Treatment
3 recommendations accepted by the court, pursuant to the provisions
4 of this article, shall be deemed to be reasonable and necessary.

5 (b) A drug court making a referral for substance abuse
6 treatment shall refer the drug offender to a program that is
7 licensed, certified, or approved by the court.

8 (c) The court shall determine which treatment programs are
9 authorized to provide the recommended treatment to drug offenders.
10 The relationship between the treatment program and the court should
11 be governed by a Memorandum of Understanding, which should include
12 the timely reporting of the drug offender's progress or lack
13 thereof to the drug court.

14 (d) It is essential to provide offenders with adequate support
15 services and aftercare.

16 (e) Recognizing that drug offenders are frequently dually
17 diagnosed, appropriate services should be made available, where
18 practicable.

19 (f) Recognizing that the longer a drug offender stays in
20 treatment, the better the outcome, the length of stay in treatment
21 should be determined by the drug court team based on individual
22 needs and accepted practices: *Provided*, That drug court
23 participation shall not be less than one year duration.

1 (g) When a court has referred or ordered a drug offender to a
2 program, the court may, upon its own motion, or upon a motion of
3 any party, order the West Virginia Department of Health and Human
4 Resources to pay for professional services rendered by the program.
5 Provided, That the program is properly licensed, certified or has
6 been approved by the court. Professional services include, but are
7 not limited to, treatment, therapy, counseling, evaluation, report
8 preparation, consultation and preparation of expert testimony. The
9 West Virginia Department of Health and Human Resources shall set
10 the fee schedule for the services in accordance with the Medicaid
11 rate, if any, or the customary rate and adjust the schedule as
12 appropriate. Every program that is properly licensed, certified or
13 has been approved by the court shall be paid by the West Virginia
14 Department of Health and Human Resources upon completion of
15 services and submission of a final report or other information and
16 documentation as required by the policies and procedures
17 implemented by the West Virginia Department of Health and Human
18 Resources.

NOTE: The purpose of this bill is to require the Department of Health and Human Resources to pay for properly licensed, certified, or court approved programs for adult drug offenders participating in drug courts. The new language proposed in this bill is similar to the language provided in §49-7-33 which requires the department to pay for such services for juveniles.

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