

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Introduced**

## **Senate Bill 361**

BY SENATOR TRUMP

[Introduced January 24, 2018; Referred  
to the Committee on the Judiciary]

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 including addition of the Administrative Office of the Supreme Court of Appeals, along with  
 4 the Division of Justice and Community Services, to consult with the Governor’s Advisory  
 5 Council on Substance Abuse to use appropriated funds to develop proposed substance  
 6 abuse treatment plans to serve those offenders under treatment supervision in each  
 7 judicial circuit and on parole supervision; and including the Administrative Office of the  
 8 Supreme Court of Appeals, along with the Division of Justice and Community Services, in  
 9 developing qualifications and other matters related to the quality and delivery of services  
 10 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~~ are not be eligible for treatment supervision; or.  
 8 (2) The offender has been accepted into an Adult Drug 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 part of an Adult Drug Court program has violated the conditions of his or her treatment supervision  
17 involving the participant's use of alcohol or a controlled substance, the judge may order a period  
18 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 Committee 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 shall be paid by the Division  
45 of Justice and Community Services from funds appropriated for that purpose. The Division of  
46 Justice and Community Services shall contract for payment for the services provided to eligible  
47 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.

1           (j) The revisions to this section shall take effect on July 1, 2018.

NOTE: The purpose of this bill is to allow funding allotted for Treatment Supervision to be applied to any participant in an Adult Drug Court program by making the definition of persons eligible for Treatment Supervision funding consistent with the statutory requirements for participation in an Adult Drug Court program and removing the presently existing differences between the two. The bill also provides that the Administrative Office of the Supreme Court of Appeals is added with the Division of Justice and Community Services in consulting with the Governor's Advisory Council on Substance Abuse to use appropriated funds to develop proposed substance abuse treatment plans to serve those offenders under treatment supervision in each judicial circuit and on parole supervision. And, the bill adds the Administrative Office of the Supreme Court of Appeals along with the Division of Justice and Community Services in developing qualifications and other matters related to the quality and delivery of services to offenders.

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