WEST VIRGINIA CODE: §17c-5A-3

§17C-5A-3. Safety and treatment program; reissuance of license.

(a) The Division of Motor Vehicles shall administer a comprehensive safety and treatment program for persons whose licenses have been suspended or revoked under the provisions of §17B-3-5(6), §17C-5-2, §17C-5-2a, or §17C-5-7a of this code and shall also establish the minimum qualifications for mental health facilities, day report centers, community corrections centers, or other public agencies or private entities conducting the safety and treatment program: *Provided*, That the Division of Motor Vehicles may establish standards whereby the division will accept or approve participation by violators in another treatment program which provides the same or substantially similar benefits as the safety and treatment program established pursuant to this section.

(b) The program shall include, but not be limited to, treatment of alcoholism, treatment of alcohol and drug abuse, psychological counseling, educational courses on the dangers of alcohol and drugs as they relate to driving, defensive driving, or other safety driving instruction, and other programs designed to properly educate, train, and rehabilitate the offender: *Provided*, That successful compliance with the substance abuse and counseling program prescribed in §61-11-26a of this code is sufficient to meet the requirements of this section.

(c) The Division of Motor Vehicles shall provide for the preparation of an educational and treatment program for each person whose license has been revoked under the provisions of §17B-3-5(6), §17C-5-2, §17C-5-2a, or §17C-5-7a of this code, which shall contain the following: (1) A listing and evaluation of the offender's prior traffic record; (2) the characteristics and history of alcohol or drug use, if any; (3) his or her amenability to rehabilitation through the alcohol safety program; and (4) a recommendation as to treatment or rehabilitation and the terms and conditions of the treatment or rehabilitation. The program shall be prepared by persons knowledgeable in the diagnosis of alcohol or drug abuse and treatment.

(d) A special revenue account is created within the State Treasury, known as the Division of Motor Vehicles Safety and Treatment Fund. The Commissioner of the Division of Motor Vehicles shall manage and expend moneys from the account for the purpose of administering the comprehensive safety and treatment program established by subsection (a) of this section. The moneys in the account may be invested and all earnings and interest accruing shall be retained in the account. The Auditor shall conduct an audit of the account at least every three fiscal years.

(e) (1) The program provider shall collect the established fee from each participant upon enrollment unless the division has determined that the participant is an indigent based upon criteria established pursuant to legislative rule authorized in this section.

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(2) If the division determined that a participant is an indigent based upon criteria established pursuant to the legislative rule authorized by this section, the department shall provide the participant with proof of its determination regarding indigency, which proof the participant shall present to the interlock provider as part of the application process provided in §17C-5A-3a of this code and the rules promulgated pursuant thereto.

(3) Program providers shall remit to the Division of Motor Vehicles a portion of the fee collected, which shall be deposited by the Commissioner of the Division of Motor Vehicles into the Division of Motor Vehicles Safety and Treatment Fund. The Division of Motor Vehicles shall reimburse enrollment fees to program providers for each eligible indigent offender.

(f) On or before January 15 of each year, the Commissioner of the Division of Motor Vehicles shall report to the Legislature on:

(1) The total number of offenders participating in the safety and treatment program during the prior year;

(2) The total number of indigent offenders participating in the safety and treatment program during the prior year;

(3) The total number of program providers during the prior year; and

(4) The total amount of reimbursements paid to program providers during the prior year.

(g) The Commissioner of the Division of Motor Vehicles, after giving due consideration to the program developed for the offender, shall prescribe the necessary terms and conditions for the reissuance of the license to operate a motor vehicle in this state revoked under §17B-3-5(6), §17C-5-2, §17C-5-2a, or §17C-5-7a of this code which shall include successful completion of the educational, treatment, or rehabilitation program, subject to the following:

(1) When the period of revocation is six months, the license to operate a motor vehicle in this state may not be reissued until: (A) At least 90 days have elapsed from the date of the initial revocation, during which time the revocation was actually in effect; (B) the offender has successfully completed the program; (C) all costs of the program and administration have been paid; and (D) all court costs assessed as a result of criminal proceedings have been paid.

(2) When the period of revocation is for a period of one year or for more than a year, the license to operate a motor vehicle in this state may not be reissued until: (A) At least one half of the time period has elapsed from the date of the initial revocation, during which time the revocation was actually in effect; (B) the offender has successfully completed the program; (C) all costs of the program and administration have been paid; and (D) all court costs assessed as a result of a criminal proceedings have been paid. Notwithstanding any provision in this code, a person whose license is revoked for refusing to take a chemical test

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as required by §17C-5-4 of this code for a first offense is not eligible to reduce the revocation period by completing the safety and treatment program.

(3) When the period of revocation is for life, the license to operate a motor vehicle in this state may not be reissued until: (A) At least 10 years have elapsed from the date of the initial revocation, during which time the revocation was actually in effect; (B) the offender has successfully completed the program; (C) all costs of the program and administration have been paid; and (D) all court costs assessed as a result of a criminal proceeding have been paid.

(4) Notwithstanding any provision of this code or any rule, any mental health facilities or other public agencies or private entities conducting the safety and treatment program, when certifying that a person has successfully completed a safety and treatment program, shall only have to certify that the person has successfully completed the program.

(h) (1) The Division of Motor Vehicles shall provide for the preparation of an educational program for each person whose license has been suspended for 60 days pursuant to §17C-5-2(j) of this code. The educational program shall consist of not less than 12 nor more than 18 hours of actual classroom time.

(2) When a 60-day period of suspension has been ordered, the license to operate a motor vehicle may not be reinstated until: (A) At least 60 days have elapsed from the date of the initial suspension, during which time the suspension was in effect; (B) the offender has successfully completed the educational program; (C) all costs of the program and administration have been paid; and (D) all costs assessed as a result of a suspension hearing have been paid.

(i) As a component of the programs required by subsections (b) and (c) of this section, the offender shall attend a victim impact panel program. The victim impact panel program must provide a forum for victims of alcohol and drug-related offenses and offenders to share first-hand experiences on the impact of alcohol and drug-related offenses in their lives. The Division of Motor Vehicles shall propose and implement a plan for victim impact panels where appropriate numbers of victims are available and willing to participate and shall establish guidelines for other innovative programs which may be substituted where the victims are not available to participate in an impact panel. The plan shall require, at a minimum, discussion and consideration of the following:

(1) Economic losses suffered by victims and offenders;

(2) Death or physical injuries suffered by victims and offenders;

(3) Psychological injuries suffered by victims and offenders;

(4) Changes in the personal welfare or familial relationships of victims and offenders; and

(5) Other information relating to the impact of alcohol and drug-related offenses upon

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victims and offenders.

The Division of Motor Vehicles shall ensure that any meetings between victims and offenders shall be nonconfrontational and ensure the physical safety of the persons involved.

(j) The Commissioner of the Division of Motor Vehicles shall propose a rule for legislative approval in accordance with §29A-3-1 *et seq.* of this code to administer the provisions of this section and establish a fee to be collected from each offender enrolled in the safety and treatment program. The rule shall include: (A) A reimbursement mechanism to program providers of required fees for the safety and treatment program for indigent offenders, criteria for determining eligibility of indigent offenders, and any necessary application forms; and (B) program standards that encompass provider criteria including minimum professional training requirements for providers, curriculum approval, minimum course length requirements, and other items that may be necessary to properly implement the provisions of this section.

(k) A day report or community corrections program, authorized pursuant to §62-11C-1 *et seq*. of this code, may provide the comprehensive safety and treatment program pursuant to this section.

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