## WEST VIRGINIA CODE: §62-15-2

## **§62-15-2. Definitions.**

For the purposes of this article:

- (1) "Assessment" means a diagnostic evaluation to determine whether and to what extent a person is a drug offender under this article and would benefit from its provisions. The assessment shall be conducted in accordance with the standardized risk and needs assessment and risk cut-off scores adopted by the West Virginia Supreme Court of Appeals. The results of all standardized risk and needs assessments and risk cut-off scores are confidential.
- (2) "Continuum of care" means a seamless and coordinated course of substance abuse education and treatment designed to meet the needs of drug offenders as they move through the criminal justice system and beyond, maximizing self-sufficiency.
- (3) "Controlled substance" means a drug or other substance for which a medical prescription or other legal authorization is required for purchase or possession.
- (4) "Drug" means a controlled substance, an illegal drug or other harmful substance.
- (5) "Drug court" means a judicial intervention process that incorporates the Ten Key Components and may include preadjudication or post-adjudication participation.
- (6) "Drug court team" shall consist of the following members who are assigned to the drug court:
- (A) The drug court judge, which may include a magistrate, mental hygiene commissioner or other hearing officer;
- (B) The prosecutor;
- (C) The public defender or a member of the criminal defense bar;
- (D) A representative from the day report center or community corrections program, if operating in the jurisdiction;
- (E) A law-enforcement officer;
- (F) The drug court coordinator;
- (G) A representative from a circuit court probation office or the division of parole supervision or both;

- (H) One or more substance abuse treatment providers; and
- (I) Any other persons selected by the drug court team.
- (7) "Drug offender" means an adult person charged with a drug-related offense or an offense in which substance abuse is determined from the evidence to have been a factor in the commission of the offense.
- (8) "Dual diagnosis" means a substance abuse and cooccurring mental health disorder.
- (9) "Local advisory committee" may consist of the following members or their designees:
- (A) A drug court circuit judge, who shall serve as chair;
- (B) Drug court magistrates;
- (C) The prosecutor;
- (D) A public defender;
- (E) The drug court coordinator;
- (F) A member of the criminal defense bar;
- (G) The circuit clerk:
- (H) A day report center director;
- (I) A circuit court probation officer, parole officer or both;
- (J) Law enforcement;
- (K) One or more substance abuse treatment providers;
- (L) A corrections representative; and
- (M) Any such other person or persons the chair considers appropriate.
- (10) "Illegal drug" means a drug whose manufacture, sale, use or possession is forbidden by law.
- (11) "Memorandum of understanding" means a written document setting forth an agreed upon procedure.
- (12) "Offender" means an adult charged with a criminal offense punishable by incarceration.
- (13) "Other harmful substance" means a misused substance otherwise legal to possess,

including alcohol.

- (14) "Preadjudication order" means a court order requiring a drug offender to participate in drug court before charges are filed or before conviction.
- (15) "Post adjudication" means a court order requiring a drug offender to participate in drug court after having entered a plea of guilty or nolo contendre or having been found guilty.
- (16) "Recidivism" means any subsequent arrest for a serious offense (carrying a sentence of at least one year) resulting in the filing of a charge.
- (17) "Relapse" means a return to substance use after a period of abstinence.
- (18) "Split sentencing" means a sentence which includes a period of incarceration followed by a period of supervision.
- (19) "Staffing" means the meeting before a drug offender's appearance in drug court in which the drug court team discusses a coordinated response to the drug offender's behavior.
- (20) "Substance" means drugs or alcohol.
- (21) "Substance abuse" means the illegal or improper consumption of a substance.
- (22) "Substance abuse treatment" means a program designed to provide prevention, education, and therapy directed toward ending substance abuse and preventing a return to substance usage, through a continuum of care, including: Treatment of cooccurring substance abuse and mental health issues; outpatient care; intensive outpatient care; residential care; peer support; relapse prevention; and cognitive behavioral programming, based on research about effective treatment/recovery models for the offender population.
- (23) "Ten Key Components" means the following benchmarks intended to describe the very best practices, designs, and operations of drug courts. These benchmarks are meant to serve as a practical, yet flexible framework for developing effective drug courts in vastly different jurisdictions and to provide a structure for conducting research and evaluation for program accountability:
- (A) Drug courts integrate alcohol and other drug treatment services with justice system case processing;
- (B) Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights;
- (C) Eligible participants are identified early and promptly placed in the drug court program;
- (D) Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services;

- (E) Abstinence is monitored by frequent alcohol and other drug testing;
- (F) A coordinated strategy governs drug court responses to participants' compliance;
- (G) Ongoing judicial interaction with each drug court participant is essential;
- (H) Monitoring and evaluation measure the achievement of program goals and gauge effectiveness;
- (I) Continuing interdisciplinary education promotes effective drug court planning, implementation and operations; and
- (J) Forging partnerships among drug courts, public agencies and community-based organizations generates local support and enhances drug court effectiveness.
- (24) "Treatment supervision" means a program under which an eligible felony drug offender, pursuant to section six-a of this article, is ordered to undergo treatment for substance abuse by a circuit court judge as a condition of drug court, a condition of probation or as a modification of probation.