

# 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 contendere 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.