

STATE FAMILY DRUG TREATMENT COURT REPORT

2019

Pursuant to West Virginia State Code §62-15B-1(d)(4), the State Family Treatment Court Advisory Committee is to report by January 1 annually to the Legislative Oversight Commission on Health and Human Resources Accountability regarding legislation to enhance Family Drug Treatment Courts

LEGISLATIVE CHARGE

House Bill 3057, codified as §62-15B-1(d)(4), permitted the Supreme Court of Appeals of West Virginia to create and implement a Family Drug Treatment Court pilot program in at least four counties to serve individuals with substance use disorders who are also involved in a child abuse and neglect case. The Supreme Court provides oversight, technical assistance, and training. The Court established a State Family Treatment Court Advisory Committee, as called for in Code, and local family drug treatment court advisory committees in the counties where there are Family Drug Treatment Courts. Each local advisory committee sets criteria for the eligibility and participation of adults who have a substance use disorder and have been adjudicated to be abusive or neglectful parents and who have been granted a post-adjudicatory improvement period.

The State Family Drug Treatment Court Advisory Committee is chaired by the Chief Justice of the Supreme Court of Appeals of West Virginia and staffed by the Supreme Court Division of Probation Services. (See Appendix 1 for list of State Committee members and Appendix 2 for the Policies and Procedures Manual for Family Drug Treatment Courts created by the Division of Probation Services.)

Family Drug Treatment Courts are designed to protect children and help parents who have been adjudicated in abuse and /or neglect overcome substance abuse disorders before they permanently lose custody of their children. The Legislature established the Family Drug Treatment Court pilot program to help combat the drug epidemic that is ravaging West Virginia. As a result of the epidemic, the state is facing a significant shortage of foster homes, which in turn has caused a substantial burden on the West Virginia Department of Health and Human Resources (DHHR). The state of West Virginia, according to 2018 data from DHHR, has more than 7,000 children under the care, custody, and control of the state. Family Drug Treatment

Courts are designed to return children to a safer home environment and achieve permanency faster and more effectively than traditional methods.

PROGRESS IN 2019

The goal of Family Treatment Courts is to provide parents and families with treatment and at the same time require accountability. This is accomplished by offering access to recovery services through an intensive, court-involved program. The program focuses on therapeutic jurisprudence to protect children, reunite families when it is safe to do so, encourage long-term sobriety with respect to the parents involved, and expedite and sustain permanency.

Family Drug Treatment Courts are a collaborative effort across systems. The State Committee membership has vast representation from DHHR, treatment providers, and other agencies in order to ensure all needs are met. The State Committee met on three occasions in 2019, while different smaller work groups met several additional times.

Director Robert Hanson with the DHHR's Office of Drug Control Policy provided the grant funding to implement three Family Drug treatment Courts in West Virginia in 2019 and another expected to open in early 2020. Additional funding was secured with a federal grant from the Office of Juvenile Justice and Delinquency Prevention to implement an additional court. In total, this year we have been able to establish Family Treatment Court's in Boone, Randolph, and Ohio Counties with Roane and Nicholas Counties in the development phase as of December 31, 2019. (See Appendix 3 for media release on the opening of the first Family Drug Treatment Court in Boone County.) As of the end of November 2019, only Boone and Ohio Counties had active participants. (See Appendix 3 for the initial data on these sites.)

During the Family Drug Treatment Court planning period, West Virginia worked very closely with the national Family Drug Treatment Court technical assistance providers, the Center for Children and Family Futures. Through many conference calls the Center assisted in numerous ways, including process structure, education on best practices, policy development, and referrals to site visits of current Courts. In addition, representatives of the Center came to West Virginia in October to train all treatment team members of Boone, Randolph, and Ohio Counties' Family Drug Treatment Courts. The Center's assistance has been invaluable to the implementation of our Family Drug Treatment Courts and we look forward to a continued relationship with the Center as we expand.

RECOMMENDED LEGISLATION TO ENHANCE FAMILY DRUG TREATMENT COURTS

One area the Committee has identified as a barrier to the overall successful implementation and continuance for Family Drug Treatment Courts is the lack of compensation for court appointed attorneys involved. Under current statute, defense counsel and Guardians *ad Litem* do not receive compensation for their work with Family Treatment Courts, with the exception of public defenders whose are salaried employees. At the local program level, recruiting defense counsel, apart from those that are associated with the local Public Defender Corporation, to actively participate is difficult. The State Committee has determined that legislation to allow attorneys who participate on treatment court teams to bill fees and expenses would be greatly beneficial in aiding in the success of the local Family Drug Treatment Court programs. Funding also must be provided to accomplish this. (See Appendix 4 for recommended legislation.)

LOOKING FORWARD

Though West Virginia is still in the pilot phase of this project, there has been a significant shift in the participating court systems in the way individuals and families affected by this crisis are treated and assisted. We have already seen numerous small achievements with our families and feel confident that Family Drug Treatment Courts will play an important role in helping children and families of West Virginia.

APPENDIX ONE

FAMILY TREATMENT COURT STATE ADVISORY COMMITTEE

Per Code:

1. Chief Justice of the Supreme Court of Appeals of West Virginia
2. Robert Hanson, Director of the Office of Drug Control Policy, West Virginia Department of Health and Human Resources
3. Bill Crouch, Cabinet Secretary, West Virginia Department of Health and Human Resources
4. Linda Watts, Commissioner of the Bureau for Children and Families, West Virginia Department of Health and Human Resources (Tina Mitchell – Proxy)
5. Dr. Catherine Slemph, Interim Commissioner of the Bureau for Public Health, West Virginia Department of Health and Human Resources (Gary Thompson – Proxy)
6. Christina Mullins, Commissioner of the Bureau for Behavioral Health, West Virginia Department of Health and Human Resources (Nikki Tennis – Proxy)
7. Phillip Morrison, Executive Director of the West Virginia Prosecuting Attorneys Institute
8. Dana Eddy, Executive Director of West Virginia Public Defender Services (Brenda Thompson – Proxy)
9. Kim Runyon Wiles, West Virginia Court Appointed Special Advocates (CASA) Association
10. Judge Will Thompson, 25th Circuit Judicial Court

Additional:

1. Cynthia Parsons, Commissioner for the Bureau of Medical Services, West Virginia Department of Health and Human Resources (Keith King – Proxy)
2. Cydney Smith, West Virginia Coalition Against Domestic Violence
3. Andrea Darr, Director of the West Virginia Center for Children's Justice
4. Rebecca Derenge, State Coordinator for McKinney-Vento "Homeless" Education Program and Neglected and Delinquent State Coordinator
5. Cindy Hill, Director of the Division of Children and Juvenile Services, Supreme Court of Appeals of West Virginia
6. Angela Miller, Veteran's Outreach Coordinator
7. Karen Yost, Chief Executive Officer, Pretera Center
8. Leigh Lefler, Guardian *Ad Litem*, Respondents Attorney
9. Peggy Harman, Master's of Social Work Program Director, Marshall University
11. Jackie Newson, Office of Maternal Infant and Early Childhood Home Visiting Program, West Virginia Department of Health and Human Resources
10. Jerry Swanson, Chief Probation Officer, Boone County

Staff:

- Stephanie Bond, Director of Probation Services, Supreme Court of Appeals of West Virginia
- Nicholas Leftwich, State Drug Court Coordinator, Division of Probation Services, Supreme Court of Appeals of West Virginia
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- Julianne Wisman, Counsel, Division of Probation Services, Supreme Court of Appeals of West Virginia
- Alicia Fields, OCMS QA/Data Analyst, Division of Probation Services, Supreme Court of Appeals of West Virginia
- Carmen Combs, Program Evaluator, Division of Probation Services, Supreme Court of Appeals of West Virginia

APPENDIX TWO

Policies
and
Procedures
Manual
for Family
Treatment
Courts
(FTC)

**SUPREME
COURT OF
APPEALS OF
WEST VIRGINIA**



***Division of Probation
Services***

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THIS IS A POLICIES AND PROCEDURES MANUAL ONLY.

Noting that there are outside contractors who have entered into a Memorandum of Understanding with The Division of Probation Services, all employees of the Court are “At-Will Employees” under West Virginia law. Either the employer or the employee can terminate the employment relationship at any time, with or without cause, with or without notice.

This employment at will relationship exists regardless of any other written statements or policies contained in this Manual, any other documents, or any verbal statement to the contrary.

With regard to any outside contractors who have entered into a Memorandum of Understanding with The Court, the employment relationship between the employer and such contractors is governed solely by that Memorandum of Understanding, and is not modified or altered by any other written statements or policies contained in this Manual or any other documents or any verbal statement.

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I. Introduction

The Supreme Court of Appeals of West Virginia (“the Court”) through its Division of Probation Services (“DPS”) establishes this policy to serve as a guide and a resource for the Family Treatment Court (“FTC”) professionals throughout the State of West Virginia. The policies and procedures set forth in this document (“Manual”) are intended to guide West Virginia’s Family Treatment Court professionals in their efforts to improve program outcomes for both the participants and the communities the Family Treatment Courts serve.

Wherever possible, Family Treatment Court professionals are to follow the policies and procedures set forth in this Manual. However, it is understood that disparities in treatment resources may impact the ability of some programs to fully implement some of the policies outlined here. Furthermore, local FTCs may elect to be more or less restrictive in their individual local program; however, such changes shall be made in consultation with the Division of Probation Services.

***Note that this manual has been cross-referenced with the Family Treatment Court Planning Guide, published by NDCI and in conjunction with resources provided to the Court by the Center for Children and Family Futures.**

This Manual is intended to be dynamic in that it will continue to incorporate the latest research and developments in Family Treatment Court practice, as well as input from FTC Judges, Local Family Treatment Court Case Coordinators (“FTC CC”), and FTC Treatment Teams (“FTC Teams”).

II. West Virginia Family Treatment Court Standards

Foundationally, Family Treatment Courts are deeply rooted in Adult Drug Court best practices and standards. Due to the nature of the population to be served by FTCs statewide, Adult Drug Court programmatic structure cannot satisfactorily meet the needs of the establishing permanency within respondent homes. In the 2019 Legislative Session, HB 3057 was passed enacting §62-15B-1 Family Drug Treatment Court Act. This Act allows the Supreme Court of Appeals of West Virginia to implement FTC. Additionally, in the summer of 2019, the Family Treatment Court Standards and Best Practices were developed by Children and Family Futures in collaboration with National Association of Drug Court Professionals. These Standards, and other previously mentioned resources, were used to create this manual. In order for a FTC to be established and/or to maintain a FTC in the State of West Virginia, each program must implement the following Family Treatment Court Best Practices Standards in their treatment strategies:

A. Family Treatment Court Best Practices

1. Organization and Structure

The Family Treatment Court has agreed-upon structural and organizational principles that are supported by research and evidence-based policies, programs, and practices. West Virginia's FTCs are organized so that Circuit Court personnel, with support from the Division of Probation Services, the Administrative Office of the Supreme Court, and the Department of Health and Human Resources (hereafter referred to as the "Department") can provide the appropriate treatment services to respondents in the justice system.

The core programmatic components, day-to-day operations, and oversight structures are defined and documented in FTC policies and procedures manual, both at the State and local levels, participant handbooks, and applicable relevant Memoranda of Understandings (MoU's).

The FTC is a partnership among organizations—public, private, and community-based—dedicated to a coordinated and cooperative approach to rehabilitating the participant. The FTC fosters system-wide involvement through its commitment to share responsibility and participation of program partners. Strong connections between the program and the larger community will benefit both the program itself, and, more importantly, the participants. FTCs should identify any and all gaps and barriers to addressing this standard.

All treatment team members (especially the FTC Judge, the FTC Case Coordinator ("FTC CC"), the Child Protective Services Worker dedicated to FTC ("FTC-CPSW") and the treatment professionals) may be required to attend regular national and state trainings. These trainings will provide high-level knowledge and skills, based upon the best and most current research and information. Regular training of all FTC staff will not only improve their skill development and effective handling of the cases, but will also maintain the appropriate focus on the FTC overarching mission.

FTCs need to recognize the following provisions as vital for the overall structure of the program:

- Multidisciplinary Collaboration and Systemic Approach
- Partnerships, Community Resources, and Support
- Multidisciplinary Team
- Governance Structure
- Shared Mission and Vision
- Communication and Information Sharing
- Cross Training and Interdisciplinary Education
- Family-Centered and Trauma-Informed Services
- FTC Policy and Procedure Manual
- FTC Pre-Court Staffing and Court Review Hearing

2. Role of the Judge

Judicial leadership is critical to the effective planning and operation of the Family Treatment Court. The FTC Judge works collectively with leaders of partner agencies and other stakeholders to establish clear roles and a shared mission and vision. He or she has the unique ability to engage the leaders and stakeholders in the development, implementation, and ongoing operations of the FTC. The Judge is a vital part of the operational team, convening meetings that encourage team members to identify shared values, voice concerns, and find common ground. Additionally, the Judge's development of rapport with participants is among the most important components of the FTC.

In the absence of the FTC Judge, another Circuit Judge or Family Court Judge may preside over the FTC, as necessity dictates.

The role of the Judge will be further elaborated upon in Section IV of this policy

3. Ensuring Equity and Inclusion

The Family Treatment Court has an affirmative obligation to continually assess its operations and those of partner organizations for policies or procedures that could contribute to disproportionality and disparities. Disproportionality is the result of processes which produce over or under representation of a group compared to the percentage of that same group in the population of interest. Disparities are inequitable differences in the services received or outcomes by race, gender, or other characteristic. The FTC actively collects and analyzes program and partner organization data to determine if there are examples of disproportionality or disparities within the program; members of the FTC treatment team and local advisory committee are to implement corrective measures to eliminate those identified.

FTCs should engage in the following provisions to ensure that disproportionality and disparities are mitigated to the best of the program's ability:

- Equivalent FTC Program Admission Practices
- Equivalent FTC Retention Rates and Child Welfare Outcomes
- Equivalent Treatment
- Equivalent Responses to Participant Behavior
- Team Training

4. Early Identification, Screening, and Assessment

The early identification, screening and assessment of families to enter into Family Treatment Court provides the greatest opportunity to fully meet the comprehensive needs of children, parents and families in the child welfare system. Families involved in the child welfare system where adjudication is imminent are promptly, systematically, and universally screened and referred to the FTC as early as possible. FTC team members screen and assess all referred families using objective eligibility and exclusion criteria based on the best available evidence indicating which families can be served safely and effectively in FTCs.

FTC team members use validated screening and assessment tools and procedures to promptly refer children, parents and families to the appropriate services and levels of care. FTC team members conduct ongoing validated assessments of the needs of the child, parent, and family, while also addressing barriers to recovery and reunification throughout the case. Service referrals match identified needs and connect children, parents and families to evidence-based interventions, promising programs and trauma informed, culturally responsive and family centered practices. FTC team members have varying roles for this process to occur in a timely and efficient manner.

Pursuant to West Virginia State Code §62-15B-2(b), participation in FTC is voluntary, post-adjudication, and with a written agreement by and between the adult respondent, and the Department with concurrence of the Court. FTC programs should be as inclusive as resources and community support will allow. FTCs should adhere to the following criteria when making decisions on accepting participants to FTC:

- Target Population, Objective Eligibility, and Exclusion Criteria
- Standardized Systematic Referral, Screening, and Assessment Process
- Use of Valid and Reliable Screening and Assessment Instruments
- Valid, Reliable, and Developmentally Appropriate Assessments for Children
- Identification and Resolution of Barriers to Treatment and Reunification Services

5. Timely, Quality, and Appropriate Substance Use Disorder Treatment

Substance use disorder (SUD) treatment is provided to meet the individual and unique substance-related clinical and supportive needs of persons with substance use disorders. For participants in Family Treatment Court, it is important that the SUD treatment agency or clinician provide services in the context of the participants' family relationships, particularly the parent-child dyad, and understand the importance of and responsibility to ensure child safety within the Adoption and Safe Families Act (ASFA) timeline for child permanency. SUD treatment providers' continuum of SUD services includes early identification, screening, and brief intervention; comprehensive standardized assessment; stabilization; timely, appropriate, evidence-based treatment including medications if warranted; timely communication with the FTC team; and continuing care. The parent, child, and family treatment plan is based on individualized and assessed needs and strengths and is provided in a timely manner including concurrent treatment of needs such as SUD, mental health, and physical health.

FTCs should consider these provisions when identifying the best treatment options to serve their respective program:

- Timely Access to Treatment
- Treatment Matches Assessed Need
- Comprehensive Continuum of Care
- Integrated Treatment of Substance Use and Co-Occurring Mental Health Disorders, if applicable
- Family-Centered Treatment
- Gender-Responsive Treatment
- Treatment for Pregnant Women, if applicable and as necessity dictates
- Culturally Responsive Treatment
- Evidence-Based Manualized Treatment
- Medication-Assisted Treatment
- Drug Testing Protocols (via the Division of Probation Services)
- Treatment Provider Qualifications

6. Comprehensive Case Management, Services, and Supports for Families

The Family Treatment Court (FTC) ensures that children, parents, and families receive comprehensive services that meet their assessed needs and promotes sustained family safety, permanency, recovery, and well-being. In addition to high-quality substance use and co-occurring mental health disorder treatment, the FTC's family-centered service array includes other clinical treatment and related clinical and community support services. These services are trauma responsive, include families as active participants, and are grounded in cross-systems collaboration and evidence-based or evidence-informed practices implemented with fidelity.

In an effort to meet this standard, FTCs need to evaluate all available resources and supports availed to the program to accomplish greater successes. This can be attained by FTCs adhering to the following provisions:

- Intensive Case Management and Coordinated Case Planning
- Family Involvement in Case Planning
- Recovery Supports
- High-Quality Parenting Time (Visitation)
- Parenting and Family Strengthening Programs
- Reunification and Related Supports
- Trauma-Specific Services for Children and Parents
- Services to Meet Children's Individual Needs
- Complementary Services to Support Parents and Families
- Early Intervention Services for Infants Affected by Prenatal Substance Exposure
- Substance Use Prevention and Early Intervention for Children and Adolescents

7. Therapeutic Responses to Behavior

The Family Treatment Court's (FTC's) operational team applies therapeutic responses (e.g., child safety interventions, treatment adjustments, complementary service modifications, incentives, and sanctions) to improve child, parent, and family functioning, ensure children's safety and well-being, support participant behavior change, and promote participant accountability. The FTC recognizes the biopsychosocial and behavioral complexities of supporting participants through behavior change to achieve sustainable recovery, stable reunification, and resolution of the child welfare case. When responding to participant behavior, the FTC team considers the cause of the behavior, the effect of the therapeutic response on the participant, the participant's children and family, and the participant's engagement in treatment and supportive services.

FTCs must understand that this population may or may not be criminally convicted and thus, incentives and responses need to be geared toward accomplishing the desired behavior changes while following proper due process rights for the respondent participants. FTCs should adhere to the following provisions of this best practice standard:

- Child and Family Focus
- Treatment Adjustments
- Complementary Service Modifications [changes to treatment plan based on structural (e.g., transportation) or individual (e.g., disability) barriers to success]
- FTC Milestones
- Incentives and Responses to Promote Engagement
- Equivalent Responses
- Certainty
- Advance Notice
- Timely Response Delivery
- Opportunity for Participants to Be Heard
- Professional Demeanor
- Child Safety Interventions
- Licit Addictive or Intoxicating Substances
- FTC Discharge Decisions

8. Monitoring and Evaluation

The Family Treatment Court collects and reviews data to monitor participant progress, engage in a process of continuous quality improvement, monitor adherence to best practice standards, and evaluate outcomes using scientifically valid and reliable procedures. The FTC establishes performance measures for shared accountability across systems, encourages data quality, and fosters the exchange of data and evaluation results with multiple stakeholders. The FTC uses this information to improve policies and practices in addition to monitoring the strengths and limitations of various service components. Evaluation results and data are also critical components of effective stakeholder outreach and sustainability helping the FTC “tell its story” of success and needs.

Ongoing monitoring and evaluation of West Virginia’s FTCs will be vital to ascertain program success and deficiencies. Pursuant to West Virginia State Code §62-15B-1(d)(4), the Supreme Court of Appeals shall report by January 1, annually, to the Legislative Oversight Commission on Health and Human Resources Accountability regarding legislation to enhance FTCs. FTC programs shall be required to Assist the Division of Probation Services to meet the requirement of this best practice standard by engaging in the following provisions:

- Data is maintained electronically, via an identified, and approved database(s)
- FTC engages in process of continuous quality improvement
- Evaluation of FTC's adherence to best practices
- Use of rigorous evaluation methods

B. Family Treatment Court Common Characteristics

The purpose of these characteristics is to illustrate programmatically how FTCs are to be implemented in West Virginia. Like the Adult Drug Court key components, the FTC Common Characteristics focus on respondent sobriety and familial reunification.

1. *Focus on the permanency, safety, and welfare of abused and neglected children as well as the needs of the parents.*
2. *Provide early intervention, assessment, and facilitated access to services for parents and children in a holistic approach to strengthen family function.*

Family Treatment Courts' main purpose is to enhance the overall wellbeing of the entire family. During the initial milestones, the FTC's focus will be on the participants' addiction and preparing them to properly care for their children while sober. While in foster care / kinship care, the needs of the children will be met by DHHR:BCF (Bureau for Children and Families). As the participant progresses through the milestones, safe family reunification and the skills to do so are to be provided to all.

Additionally, FTC's will need to utilize a standardized, valid assessment tool(s) to ensure that respondents are appropriately diagnosed and matched to the right level of care and services.

3. *Develop comprehensive service plans that address the needs of the entire family system.*
4. *Provide enhanced case management services to monitor progress and facilitate access to services.*
5. *Schedule regular staff meetings to facilitate the exchange of information and coordinate services for the family.*

Staff/Staffing meetings, to be known as "Treatment Team Meetings", will occur, at a minimum, on a weekly basis. Treatment Team meetings are designed to bring all appropriate stakeholders to the table to discuss progress, deficiencies, etc. of the respondent participants in an effort to aid success.

6. *Increase judicial supervision of children and families*

As demonstrated in FTC, judges can step beyond their traditional role responding to participants in a way that supports continued engagement in recovery. Increased frequency of hearings provide enhanced supervision and monitoring which ensures that families are receiving needed services.

7. *Promote individual and systems accountability.*
8. *Ensure legal rights, advocacy, and confidentiality for parents and children.*
9. *Operate within the federal mandates of the Adoption and Safe Families Act (ASFA) and Indian Child Welfare Act.*

Given the conflicting timelines between the ASFA and the time it takes to achieve recovery, early identification is critical to the success of reunification and long term recovery.

10. *Secure judicial leadership for both the planning and implementation of the court.*
11. *Commit to measuring outcomes of the Family Treatment Court program and plan for program sustainability.*
12. *Work as a collaborative, non-adversarial team supported by cross-training.*

C. Mission, Vision, and Outcomes

It is the vision of Family Treatment Courts to strengthen West Virginia children and families through recovery, resiliency, and permanency.

It is the mission of Family Treatment Courts to partner with families and communities to provide guided supports through immediate interventions that facilitate attachment, family empowerment, recovery, and reunification to ensure the safety, well-being, and permanency of West Virginia families.

For Family Treatment Courts, there are certain improved outcomes that are desired through implementation of the programs. These improved outcomes, as noted by the Center for Children and Family Futures, are aimed at aiding in the success of the participants of FTC. The outcomes are anecdotally named the “Five R’s”:

Recovery – parents accessed treatment more quickly and participated longer

Return to home at a potentially faster rate than traditional abuse and neglect court proceedings

Reunification where children stayed less days in the foster care system and reunified within twelve months at a higher rate

Repeat maltreatment – fewer children experience subsequent maltreatment

Re-entry – fewer children who are reunified returned back to foster care

III. Administration

Under the direction of the Court and the Administrative Director of the Court, the Division of Probation Services is responsible for the statewide administration, implementation, expansion, and support of FTCs. Therefore, the DPS shall support the development of training programs and the FTCs dedicated to serving communities, protecting victims, and addressing the underlying causes of addiction. Further, the DPS will work to support the design, development, funding, and evaluation of FTCs throughout the state. The DPS Director and staff will work closely with Judges and FTC CCs in West Virginia's judicial circuits in an effort to meet the goals of this Division.

Specifically, the DPS shall perform the following duties:

A. Coordination and Leadership

- Execute the statutory and Administrative Order mandates of the Court and the West Virginia Legislature
- Establish and maintain relationships with national agencies and associations involved with FTC programs
- Participate in projects with other state agencies that advance the goals of the DPS and its FTCs
- Provide technical assistance and training to Family Treatment Court professionals on treatment court issues
- Coordinate and participate in treatment court research projects and initiatives

B. Court Operations

- Develop and implement statewide Family Treatment Court policies and procedures
- Work with FTC CCs and Judges in each Circuit/Region to implement and support the operation of their Family Treatment Court programs
- Provide guidance to the judicial circuits on issues affecting the operation of their local Family Treatment Courts
- Work with Family Treatment Courts to identify and implement the best practices and innovative procedures
- Monitor and review all operations of FTCs, including data entry into the appropriate data base(s)
- Review and process request for travel and training, drug testing invoices, and other related financial responsibilities

- Review and submit all Administrative Office grant related reports

C. Human Resources

- Advise and/or assist local FTCs regarding the posting of new positions and participate on the interview panels for new FTC staff, as appropriate

D. Training

- Develop and conduct training for FTC teams and FTC CCs
- Develop and conduct training on special FTC topics, as needed
- Provide or facilitate interdisciplinary education for persons involved in FTC operations to foster a shared understanding of the values, goals, and operating procedures of both the treatment and justice system components

E. Fiscal

- Purchasing
 - Process requests for instant read drug tests and other drug testing/monitoring supplies in accordance with purchasing guidelines established by the Court
 - Implement and process procedures for laboratory confirmation tests
 - Process requests for office supplies
- Contracts for goods and services
 - Review and assist courts with bid process if needed
 - Review, approve, and prepare Memoranda of Understanding
- Grants
 - Adhere to fiscal reporting requirements
 - Assist and participate in the grant application process as needed

F. Family Treatment Court Implementation

Any circuit Judge, with advice and consent from the Chief Judge of the Circuit, who wishes to develop a new FTC shall seek prior review and authorization from the Court. Requests should first be submitted to the DPS's Director and State Drug Court Coordinator for a detailed review, who shall, after reviewing the request, submit the same to the Administrative Director for inclusion on the agenda for an upcoming Administrative Conference.

G. Family Treatment Court Closure/Suspension

If the leadership of FTC program wishes to close or suspend the program, the FTC Judge shall send written notice at least 30 days prior to closing/suspending to the State Drug Court and Family Treatment Case Court Coordinators with the DPS stating the reasons for the closure. The Court must also provide a transition plan for each of the participants currently enrolled in the program at the time of closure/suspension.

IV. The Family Treatment Court Treatment Team and Local FTC Advisory Committee

Under the direction of the Chief Judge of the Circuit, or the FTC Judge, the FTC Team is responsible for the day-to-day operations of the FTC in collaboration with the FTC CC and the Circuit Court. The Circuit Courts are to utilize the Administrative Offices of the Supreme Court of Appeals of West Virginia and the Division of Probation Services for guidance and support.

A. The Family Treatment Court Treatment Teams

1. FTC Treatment Team

The Family Treatment Court Treatment team shall include the following persons:

- The FTC Judge
- The prosecutor dedicated to represent the DHHR in child abuse and neglect proceedings
- At least one dedicated public defender or member of the criminal defense bar to oversee all respondent participants' best interests throughout the duration of the FTC program.
- A Guardian ad Litem (GAL) to represent the best interests of the children involved in these cases.
- A representative from the treatment provider(s)
- A law-enforcement officer
- The FTC CC Family Treatment Court Case Coordinator
- The FTC-CPSW Family Treatment Court-Child Protective Service Worker
- Child Protective Services Supervisor of the district in which the FTC is jurisdictionally operational.
- Chief Probation Officer, or their designee
- Any other persons selected by the FTC team and approved by the presiding FTC Judge.

All members of the FTC team shall be trained in the fundamental components of the FTC model including:

- The team approach

- Pharmacology of substance use disorder
- Incentives and Responses
- The recovery process
- Motivational Interviewing

If multiple professionals within an agency will be working with the FTC participants, it may be useful to appoint one or two individuals from within that agency to appear at staffings or status hearings. This is because it might be difficult, for example, to schedule numerous treatment providers or defense attorneys to attend staff meetings on a weekly basis. Additionally, this will aid in providing continuity for the participants as they progress through FTC.

The FTC treatment team is the group of professionals who are primarily responsible for overseeing the day-to-day operations of the program and administering the treatment and supervisory interventions. Each team member must understand and respect the boundaries and responsibilities of other team members. The FTC treatment team shall:

- Conduct a staffing prior to each FTC hearing to discuss and provide updated information to the Court regarding participants' status in FTC
- Recommend appropriate incentives and responses to be applied based on participants' progress or lack thereof
- Participate in interdisciplinary education when available to develop an understanding of the values, goals, and operating procedures of both the treatment and justice system components
- Review the efficacy of current treatment modalities and recommend changes in treatment to the Division of Probation Services as need for change arises or if certain modalities do not have the desired effect. Any changes in treatment should be evidenced based and effectiveness or lack thereof should be closely monitored by the team.
- Act as a community liaison for the FTC

In order to avoid any appearance of impropriety and/or potential conflict of interest, an FTC team member shall physically remove her or himself from the FTC treatment team meeting for any discussion, decision process, or any recommendation regarding the FTC participant when that FTC team member or their spouse, parent or child wherever residing:

- is related by blood or marriage to a participant;
- has a personal relationship with a participant or any close family member(s) of a participant; or,
- has a financial interest or relationship with a participant or any close family member(s) of a participant.

Under no circumstances is a FTC treatment team member to initiate such a relationship with a participant or any close family member(s) of a participant during their participation in FTC.

2. Local Family Drug Treatment Court Advisory Committee¹

The goal of this committee is to work to ensure quality, efficiency, and fairness in planning, implementing, and operating FTCs serving the jurisdiction or combination of jurisdictions.

Meeting minutes should be sent to the State Family Treatment Court Coordinator to be stored in the master electronic file for documentation of meetings held throughout the calendar year.

B. Responsibilities of Members

All FTC Team members must execute the Program Pledge of Confidentiality and Statement of Ethics forms. Federal confidentiality law and regulations (see 42 U.S.C. § 290dd-2, 42 C.F.R. Part 2) prohibits a program from disclosing protected information when sought as part of a criminal investigation or prosecution of a patient or former patient unless a court issues a special authorizing order in compliance with Subpart E of the regulations, §§ 2.61-2.67. (See section IX for more on Confidentiality)

1. Family Treatment Court Judge Responsibilities

- Preside over court sessions for the FTC
- Participate in and preside over the FTC treatment team staffing meetings
- Work collaboratively with the local community and FTC treatment team to enhance the progress of the participants and the FTC program
- Participate in statewide trainings as they relate to alcohol, substance abuse/substance use disorder, and proven treatment modalities
- Remains abreast of research regarding behavioral modification techniques with relation to the imposition of applicable incentives and responses as necessity dictates
- Participate in the interview process for new FTC staff
- Review and participate in policy and procedure recommendations for the FTC
- The FTC Judge shall appoint a local family drug treatment court advisory committee and serve as chair of said committee pursuant to *West Virginia Code* § 62-15B-1(f), *et seq.*

¹ Pursuant to West Virginia Code, §62-15B-1(f), The Local Family Drug Treatment Court Advisory Committee shall include the following individuals or their designees: The Family Treatment Court Judge, who shall serve as chair, the Prosecuting Attorney of the County, the Public Defender or a member of the county bar who represents individuals in child abuse and neglect case, the Community Service Manager of the Bureau for Children and Families of the Department of Health and Human Resources, a court appointed special advocate (CASA) as applicable, and any such other person or persons the chair deems appropriate. This advisory committee shall be staffed by the local Family Treatment Court Case Coordinator with the FTC-CPSW.

- Regularly revisit program mission and goals and objectives with treatment team to assure their efficacy application
- Determine the appropriate response/incentive to be applied in cases where the FTC team is unable to come to an agreement
- 2. Local Family Treatment Court Case Coordinator Responsibilities
 - Handle the day-to-day operations of the FTC
 - Assist in scheduling, coordinating and facilitating FTC Treatment Team Meetings and attend all appropriate court hearings
 - Will conduct announced and unannounced home, agency, employment, school and field visits, some of which will be during non-traditional work days / hours. The number of visits will be determined by the participants Milestones.
 - Coordinate with DHHR/CPS case worker, when applicable
 - Work within the community and the Local Drug Treatment Court Advisory Committee to promote the FTC concept
 - Create a resource library and build linkages to programs by supporting team in community outreach and activities.
 - **Judicial ethics prohibit judicial employees from any type of fundraising for court programs.**
 - Coordinating FTC orientation for new/prospective FTC participants
 - Work directly with participants, performing case management as required
 - Prepare calendars for court, schedule meetings and trainings for team members
 - Prepare judicial orders and other documents as needed
 - Maintain and update the appropriate database(s) with complete information about each participant
 - Create interagency linkages to address client's ancillary needs in the areas of culture, age, and gender needs, medical & mental health provision, educational, vocational, skills training, housing, and employment training and placement
 - Conduct frequent, random, and observed drug testing while ensuring proper protocol is followed
 - Monitor referrals of potential participants to determine eligibility and interest
 - Work with the Administrative Office of the WV Supreme Court of Appeals and County officials regarding annual budget, purchasing, grant applications and/or grant-related reports
 - Participate in statewide and national trainings and conferences
 - Responsible for monthly, quarterly and/or annual reports as necessity dictated
 - Periodically review all documents and procedures for continued applicability and efficacy
 - Consult with the FTC Judge(s) on a wide range of organizational and managerial issues including, but not limited to, FTC efficiency and internal and external quality assurance
 - FTC CCs and/or staff should arrange periodic visits to treatment provider facilities as necessity dictates. Site visits accomplish the following:
 - Inform FTC staff and team of the services offered

- Communicates to the providers that the FTC considers them an important part of the FTC process
- Helps court staff to address any participant complaints about program actions or activities
- Perform other duties as assigned

Due to the nature of the duties, non-traditional work hours may be required. The FTC CC is an employee of the Supreme Court of Appeals of West Virginia. The selection process involves the Local Probation Office, with the participation of the FTC Judge. The Chief Probation Officer and/or the State Family Treatment Court Coordinator (or her or his designee) may assist with interviewing appropriate candidates for the FTC CC position. Any candidate for the FTC CC position must be approved by the Chief Judge of the Circuit before recommendation for employment. Finally, all candidates must successfully complete the employment process and receive final approval from the Director of the Division of Probation Services in order to be hired.

3. Family Treatment Court Child Protective Service Worker Responsibilities

The position of FTC-CPSW is a DHHR:BCF employee. Administratively, the Court does not have jurisdiction over the DHHR:BCF's policies and procedures that their respective employees are required to follow. However, since the FTC-CPSW will work exclusively with FTC with regard to caseload, all approved FTC-CPSW's shall adhere to this policy and the roles and responsibilities expected outlined herein.

The following are examples of duties that may be expected of FTC-CPSW:

- Develop a network of community resources with key stakeholders in order to share and gain knowledge of available resources, identify gaps in services, and promote development of resources, such as assistance with obtaining medications, housing, employment, benefits, groceries, utilities, official documents, etc.;
- Coordinate with various professionals and community agencies to ensure Family Treatment Court participants continuity of care;
- Identify individual problems, needs, strengths, and resources, coordinate services necessary to meet those needs; monitor the provision of necessary and appropriate services; and, provide follow up. Provide linkages to obtain services, facilitate the access to services and monitor participant progress;
- Coordinate supervised visits with participants and their children as approved by the FTC Treatment team and FTC Judge.
- Assist FTC CC with case planning, and preparation for FTC related meetings and hearings;
- Participate in weekly Family Court Treatment Team meetings and hearings;
- Accompany FTC CCs, as requested, during home/school/work/office visits of FTC participants (NOTE: FTC-CPSWs do not have arrest authority or authority to search);
- Monitor delivery of services on a continuous basis and report back to FTC CC and/or FTC Treatment team of issues, concerns, etc.;

- Will provide updates to the FTC CC as well as the treatment team regarding any safety concerns, parenting time behaviors, child(ren) updates as well as any met or unmet service needs of the family.

4. Prosecutor, Defense Attorney, Guardian Ad Litem, Law Enforcement: Non-Adversarial Roles

At least one public defender/member of the defense bar (to represent the interests of the FTC participants), one Guardian Ad Litem (GAL), and one prosecuting attorney, representing the DHHR, shall be assigned to sit on the FTC treatment team. Attorneys working in FTC should be thoroughly familiar with the Court's policies, procedures and protocols. The consistency of attorneys:

- Promotes smooth operations
- Facilitates swift referral to treatment
- Solidifies the team dynamic
- Ensures that the lawyers are familiar with the FTC process

The effectiveness of FTCs depends on honest disclosure by participants regarding drug use and compliance with terms and conditions of FTC as well as designated service treatment plans. Fear of prosecution will undermine the atmosphere of trust required for disclosure; therefore, information obtained in FTC may not be used outside of the FTC relative to any current, past, and future cases brought by the prosecutor's office concerning any FTC participant. All attorney's roles during FTC should be conducted in a non-adversarial manner.

Prosecutor Responsibilities: Typically, the Prosecuting Attorney is represented by an assistant prosecuting attorney (APA) in FTC staffings and hearings. Prosecutors on the treatment team provide the voice of accountability for participants to meet their obligations. While FTC is a non-adversarial environment, prosecutors must still be mindful of their obligations to promote public safety and advocate for the Department's interests.

Other duties of the treatment team prosecutor include filing necessary legal documents as they arise, and potentially resolving pending legal cases that affect participants' legal status or eligibility.

The prohibitions on disclosure would apply to all protected information that the prosecuting attorney on behalf of the Department of Health and Human Resources may obtain in FTC in his or her role as a FTC treatment team member. Information disclosed in FTC may not, subject to extremely limited circumstances, be disclosed to the general prosecuting attorney's office by any team member or used outside of FTC relative to any current, past, and future criminal cases brought by the prosecuting attorney's office or **further investigations brought** by the DHHR concerning any FTC participant. Extremely

limited circumstances being whatever needs to be disclosed in compliance with state child abuse and neglect mandatory reporting laws, or serious crimes per 42 CFR Part 2. For further information and clarification, please contact the Division of Probation Services. (See section IX for more on Confidentiality)

Public Defender or Representative of the Defense Bar Responsibilities: The chief role of the public defender or defense bar representative is to monitor the participants' legal rights and interests. It is essential to keep in mind that each discipline on the FTC treatment team has its own ethical obligations, and represents diverse professional philosophies and interests. For example, the chief role of the defense bar representative is to provide insight and guidance on the participants' legal rights and interests. While every participant will have their own counsel of record, it might be preferable to have one public defender or defense attorney who can generally speak to the interests of the participant. This representative will not represent the individual participant, but rather, will serve as a representative of the defense bar and contribute meaningful insight to the entire team about the participants' legal rights and interests.

Guardian Ad Litem Responsibilities: It is important to include GALs in FTCs due to the nature of ensuring that children's basic needs and well-being are met in an appropriate manner. GALs will maintain constant contact with the FTC-CPSW to collaborate on the welfare of the children in their current placement. He/She will also conduct visits with the child and visits to the home prior to reunification.

Law Enforcement Responsibilities: It is important to include Law Enforcement on the team to enhance the non-adversarial relationship with the participants. The member is often the FTC Judge's Bailiff, but could also be a local Police Officer, Deputy Sheriff, or State Trooper. The Officer can help with home and other field visits as well as observe the participants in the community. He/she also acts as a liaison between the FTC and Law Enforcement.

5. Substance Abuse Treatment Provider

To assure the provision of high quality substance abuse treatment for West Virginia's FTC programs, providers shall provide a treatment service that involves one approved treatment provider and the participant. The provider(s) agrees that they be able to document that their staff who is providing therapy services has attained a Master's Degree in a human services field, such as psychology, social work, or counseling, and meet credentialing requirements required to provide these services, including professional licensure, certification, supervision and training/experience.

In the event that an individual with a Master's Degree is not available to provide therapy services, the Director of Probation Services may consider approving someone with a Bachelor's Degree to provide supportive individual and group counseling provided that person has at least one of the following certifications:

- Alcohol & Drug Counselor
- CCJP (Certified Criminal Justice Addiction Professional)
- NCAC I (National Certified Addictions Counselors I)
- NCAC II (National Certified Addictions Counselors II)

A resume with a complete description of prior training and experience is to be submitted for approval to the State Drug Court Coordinator within the Division of Probation Services, or their respective designees.

Supportive counseling services, such as curriculum-based groups, not therapy sessions, may be conducted by someone with a bachelor's degree with equivalent training.

C. Treatment Team Staffing

The entire FTC team should meet prior to each court session to review the progress of the individual participants. All members should be given an opportunity to be heard and treatment providers on the team should limit discussions to participants in their respective programs. The team should, at a minimum, review the following:

- Treatment attendance and participation
- Participant's engagement in treatment and/or progress
- Drug testing results
- Compliance with the FTC terms and conditions Incentives and Responses
- Requests for Milestone advancements
- Reports from FTC-CPSW regarding status of parental visits and participation
- Applications for graduation
- Other FTC-related matters as necessity dictates

The team should try to reach a consensus regarding each participant. However, the Judge has the final say regarding incentives and responses and other Court action.

The focus of the court session is the participants' progress in the Family Treatment Court program. The Team should always attempt to focus on positives, even when negative situations must be addressed. By doing so and continue to be encouraging, participants are much less likely to "give up". In addition, presenting a unified front diminishes the participant's ability to fragment the team or manipulate members when he or she perceives conflict or disagreement. This also helps to clarify expectations for the participant.

D. Continuing Interdisciplinary Education / Training

All treatment team members (especially the FTC Judge, the FTC CC, and the treatment professionals) are required to attend regular training so that their knowledge and skills to address the needs of the participants remain at the highest level, based upon the best

and most current research and information. Regular training of all FTC staff will not only improve their skill development and effective handling of the cases, but will also maintain the appropriate focus on the FTC mission. Training may be a combination of national training (such as the annual conference of the National Association of Drug Court Professionals), state training (such as the West Virginia State Treatment Court Conferences), and local training opportunities that assist personnel in their FTC duties. It is always helpful for training to reinforce the importance of the collaborative nature of FTC. Before starting a Family Treatment Court, team members should attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and Family Treatment Courts and develop fair and effective policies and procedures for the program. New staff hires must receive a formal orientation training on the Drug Court/Family Treatment Court model and best practices in Drug Courts/Treatment Courts as soon as practicable after assuming their position and attend continuing education workshops thereafter. A simple and effective method of educating new FTC staff is to visit an existing court to observe its operations and ask questions. On-site experience with an operating FTC provides an opportunity for new FTC staff to talk to their peers directly and to see how their particular role functions.

Staff also should receive cross-training so each member of the team understands and appreciates the role and expertise of the other members of the team. For example, it is essential that the FTC Judge, the FTC CC, and the entire Treatment Team should know the goal of each treatment intervention. It may also be advisable to provide information and training regarding the FTC system, its procedures, and practices outside of the Treatment Team, to the Local Advisory Committee, key sources of referrals, and to the community at large, to enhance community support and understanding of the FTC program.

While the Division of Probation Services will continue to identify and communicate training opportunities to FTC programs, it is the responsibility of the FTC programs to actively seek out training resources that can improve their performance. Special effort should be made to seek training on key FTC concepts, such as best practices in evidence-based treatment, drug testing and analysis, and the correct application of incentives and responses.

V. Admission Process

FTC programs should be as inclusive as resources and community support will allow, while remaining mindful of the participants who appear to only agree to participate to avoid potential termination of parental rights. The program is voluntary, so screening for potential participants should consider the level of engagement and potential active participation. This process should also keep in mind that while a participant is dealing with a substance use disorder, they may be quite different when sober and thus more invested in change.

Those involved in the Admissions process should also be mindful of the proportionality of participants compared to those in the general population. The team should always strive

to serve and meet the needs of all individuals regardless of race, gender or other characteristics.

A. Targeted Population

FTCs should seek to serve those individuals that have been adjudicated during abuse and neglect proceedings with substance use being a prevalent factor in the removal of their children from their care. These individuals are at a high risk of relapse that has or could impact the safety of their children.

Prognostic risk refers to the characteristics of individuals that predict relatively poorer outcomes in *standard* rehabilitation programs. Among drug-involved participants, the most reliable and robust prognostic risk factors include:

- early onset of substance abuse or delinquency (specifically, delinquency began before the offender was 16 years old or substance abuse began before the offender was 14 years old)
- prior felony convictions
- previously unsuccessful treatment attempts
- history of violence
- familial history of substance use disorder, and
- regular contacts with antisocial or substance-abusing peers

Note: While a diagnosis of antisocial personality disorder or psychopathy certainly qualifies as a prognostic risk factor associated with relatively poorer outcomes in standard rehabilitation programs, offenders diagnosed with antisocial personality disorder or psychopathy would likely present significant challenges to treatment and supervision (it would be unwise to include them in group therapies, for instance). FTC programs should therefore be cautious about accepting such individuals and should take great care in structuring their treatment and supervision to meet such their treatment and supervisory needs. This is not to say individuals with antisocial personality disorder or psychopathy are barred from entry to FTC, just that other programs and courses of treatment may be more effective in rehabilitating these individuals while not exposing the public to problematic behaviors.

In addition to helping participants achieve and maintain sobriety, safely and effectively parent their child(ren) and become productive members of society, another goal is to reduce their likelihood of ever returning to the Court system. We do this by also focusing on their level of risk of relapse as well as the safety of their children.

B. Eligibility and Screening Process

While it is a matter of statutory law that respondents do not have a right to admission to an FTC program per West Virginia Code § 62-15B-2, a fair process of evaluating and accepting participants into FTC should be employed consistently. Acceptance is a two-stage process that encompasses a legal screening that determines if referrals are

statutorily prohibited from participation in FTC and a participant screening to determine if referrals are within the FTCs target population.

Referrals to Family Treatment Court may be made by CPS, Prosecuting Attorneys, Defense Attorneys, Guardians ad litem, and/or the Circuit Court Judge within the judicial circuit. (See Appendix B for Referral Form) Additionally, with regard to timeframes within the justice system, referrals to Family Treatment Court may be made when CPS receives an intake for a Family Functioning Assessment through possible petition and/or removal of children to adjudicatory hearing

The FTC Case Flow Chart (See Appendix C) shows the formal screening process used to identify eligible participants early. This process will help to build capacity and will ensure that FTC's can assess potentially eligible offenders in a timely manner. The period immediately after a CPS petition is filed and/or a preliminary hearing is held in a child abuse and neglect proceeding provides a critical window of opportunity for intervening and introducing the value of substance abuse treatment, as this is the moment following the immediate crisis of the petition being filed and possibly children being removed from the respondents' care, custody, and control. Rapid and effective action also increases public confidence in the justice system. In addition, the sooner an individual enters treatment after a crisis, (e.g. removal of children, CPS Petition filed, etc.) the longer they will remain in treatment. Length of time in treatment is directly related to long-term sobriety.

When possible, allow potential participants to observe an FTC session (**as long as proper confidentiality waiver forms have been signed by potential participants**). Also allow the participant an opportunity to have questions and concerns answered by the FTC CC and the FTC Judge. Observation and discussion can help an offender make an informed decision about entering the program, and it also provides motivation to those who may believe that they cannot abstain from using drugs and/or alcohol.

Including the Respondent's defense counsel during the referral process is essential. Defense counsel must have the opportunity to consult with the respondent before FTC personnel approach him or her regarding participation and can discuss the program and its appropriateness with the client. The defense counsel should:

- Review the CPS petition, affidavits, all FTC program documents (e.g., waivers, written agreements) and other relevant information.
- Advise the respondent as to the nature and purpose of the FTC, the rules governing participation, the consequences of abiding or failing to abide by the rules, and how participating or not participating in the FTC will affect his or her interests, and explain all of the rights that the respondent will temporarily or permanently relinquish;
- Give advice on alternative courses of action, including legal and treatment alternatives available outside the FTC program.

- Discuss with the respondent the long-term benefits of sobriety and a drug-free life;
- Explain that the respondent will not be prosecuted based upon an admission of drug and alcohol use. As a result, the respondent should be encouraged to be truthful with the Judge and treatment staff.
- Advise the participant that since the FTC is a program, their appointed attorney will not be representing them during the hearings. However, if legal action needs to be taken, the appointed attorney will attend (i.e., dispositional hearing)
- Inform the participant that he or she will be expected to speak directly to the Judge, not through an attorney, during FTC proceedings.
- Enable the client to make an informed decision about entering the FTC program

*for more information on recommended duration of treatment for the criminal justice population, see NATIONAL INSTITUTE OF DRUG ABUSE, PRINCIPLES OF DRUG ABUSE FOR CRIMINAL JUSTICE POPULATIONS (2006) available at http://www.drugabuse.gov/pdf/podat_cj.pdf

1. Legal Eligibility

Under West Virginia Code §62-15B-2(a), FTC participants are those respondents who have been adjudicated as an abusing or neglecting parent or guardian pursuant to §49-4-601(i) and who have been granted a post-adjudicatory improvement period pursuant to §49-4-610(2) and who have a substance use disorder.

FTCs should NOT admit confidential informants to the Program, nor should they allow their participants to become confidential informants.

2. Screening Process

a) *Once a client is referred to the FTC, the FTC CC will meet with the individual and conduct the following:*

- Adverse Childhood Experience Survey (ACES)
- Risk and Needs Triage (RANT)
- Addiction Severity Index (ASI) (or SASSI if FTC CC has not been trained on the ASI)
- Court Referral Form

When complete, the FTC CC and the FTC CPSW will review all above listed information along with the Family Functional Assessment provided by the original CPS Worker.

b) *Additional Factors to Consider*

The following should be considered when determining eligibility:

- Current use (type, frequency, intensity);
- Substance Abuse history and its relation to criminal justice history

- Psychological/behavioral functioning (including cognitive factors, co-occurring issues)
- Current mental status
- If appropriate treatment and services are available for the participants' level of need.
- Medical status (including intoxication or withdrawal potential)
- Participant motivation

FTCs should formulate guidelines for admission according to functionality rather than diagnosis. Consult closely with clinical professionals who understand the challenges presented by the population and who are aware of available resources in the community. The respondent **must** be able to operate within the program guidelines.

3. Family Treatment Court Team Review

- Once eligibility has been determined and the individual has voluntarily consented to participate in FTC, the case should be reviewed by the team to decide whether the individual should be admitted to the Program.
- The input of the therapist / treatment provider is essential as acceptance is determined.
- The team will consider all information obtained on the individual as well as the individual's willingness to participate in the program.
- When assessing non-English speaking participants, consider whether or not treatment services are available in the participant's native language.
- The team will then vote on acceptance, however the final decision always rests with the Judge assigned to the FTC team.
- Once accepted, the participant will sign a FTC Contract agreeing to the terms and conditions.

VI. Family Treatment Court Program

A. **Milestone System**

FTC should be organized into a series of Milestones with specific and quantifiable goals for each. The objectives of each Milestone must be clearly explained to the participant. The Milestones should be structured to give participants manageable and achievable goals. Short-term goals that the participants can accomplish will help to motivate them to advance to the next Milestone culminating in graduation. Individual circumstances could change potential Milestone guidelines and timeframes, which could include, but is not limited to: participant visitation schedules with their child(ren), reunification of familial unit more expeditiously than standard program guidelines, etc. Local FTC Programs shall follow this general structure; however, if there are to be any programmatic deviations from the Milestones and their respective checklists, the local

FTC programs shall contact the Division of Probation Services to discuss and consult regarding any substantial changes

1. Milestone I – Stabilizing Me: The Road to My Recovery Begins (Minimum of 30 days)

The goal of the first Milestone is to introduce the participant to the intensive rigors regarding Family Treatment Court. The following is an overview of the process that participants could expect in Milestone I:

- Attend FTC orientation session and observe an FTC hearing
- Complete detoxification, if applicable (where detoxification is found to be necessary by the FTC Team)
- Daily contact with FTC CC via phone call, text, email or messenger (Specific type of contact will be determined by the CC)
- Weekly office Visit with FTC CC
- Attend weekly FTC court hearings
- Develop coordinated case plans with treatment provider(s), FTC Case Coordinator and DHHR / CPS as these will all be different plans. This will allow for a more collaborative effort among the agencies involved.
- Begin engaging with treatment provider(s) and follow treatment plan(s) as dictated their treatment provider.
- Identify triggers (i.e. people, places, and things, etc.)
- Frequent, random, and observed drug testing (no less frequently than three times per week on a random basis)
- Submit to unannounced and announced home, field, school, agency and/or employment visits (minimum three times monthly per participant) in addition to office visits set forth by FTC CC and/or FTC Judge.
- Comply with a curfew at 7pm in your designated home and this will be verified by FTC CC (concessions can and will be made for PREAPPROVED activities with children and or employment)
- Provide list of prescribed medications as well as any consistent OTC medication and/or vitamins/supplements
- Attempt to obtain a complete physical and dental examination
- Assess housing needs
- Participate in SUPERVISED visits with children as well as any event or appointment the children have scheduled. If FTC participant attends any activity with their children under the influence, the activity will cease immediately. Visit to be supervised by an Administrative Service Organization (ASO) provider (referral made by FTC-CPSW) or an approved person by the treatment team.
- Community service may be instituted as appropriate
- Other DHHR-services as necessity dictates

In order to progress to the next Milestone, the participant must be able to complete the following minimum guidelines:

- Been on Milestone I for a minimum of thirty (30) days
- A minimum of 14 consecutive days without a positive test for illicit drug and alcohol use (at the discretion of the FTC Judge)
- Must be engaged with treatment
- Must maintain compliance with all terms and conditions of supervision under FTC
- Submit application to advance to Milestone II (if required by local program)
- Must be approved by the Treatment Team to progress to next Milestone pending all aforementioned requirements are met

2. Milestone II – Commitment to My Recovery and Family (Minimum of 45 Days)

In Milestone II, the goal is to stabilize the participant in treatment, present them with strategies for living without drugs and alcohol and work to develop effective parental responsibilities. The following is an overview of the process that participants could expect in Milestone II:

- Attend, and continually be engaged in, all required treatment sessions (as determined by the Treatment Provider based on standardized, evidence-based screening and assessment)
- Report to FTC CC as directed
- Report to FTC-CPSW to amend case plan as needed
- Frequent, random, and observed drug testing (no less frequently than two times per week on a random basis)
- Attend all required court sessions as directed (discretion of frequency relegated to the local Treatment Team and presiding FTC Judge.)
- Submit to unannounced and announced home, field, school, agency and/or employment visits (minimum twice monthly per participant) in addition to office visits set forth by FTC CC and/or FTC Judge.
- Explore life skills, health, education and employment programs
- Obtain a valid ID (e.g. Driver's License, State-issued ID, etc.)
- Continue working to obtain and maintaining stable housing if applicable
- Demonstrate changing people, places, and things
- Curfew at the discretion of the FTC Treatment Team, FTC CC, and/or FTC Judge
- Reassessments as necessary
- Participate in and be engaged with children during visits.
 - These will be in home or community two times per week as dictated by treatment team and approved by the Judge and will be monitored by the ASO provider or the FTC-CPSW

- Complete required community service hours for this phase

In order to progress to the next Milestone, the participant must be able to complete the following minimum guidelines:

- Been on Milestone II for a minimum of 45 days
- A minimum of 30 consecutive days without a positive test for illicit drug and alcohol use (at the discretion of the FTC Judge)
- Must maintain compliance with all terms and conditions of supervision under FTC
- Must be actively participating in supervised visits with child(ren)
- Submit application to advance to Milestone III (if required by local program)
- Must be approved by the Treatment Team to progress to next Milestone pending all aforementioned requirements are met.

3. Milestone III– Strengthening Myself, My Family, and My Recovery (Minimum of 45 days)

The goal of Milestone III is to work with the participant towards engaging in more pro-social activities by guiding the participant to connect with more positive influences. Additionally, participants in the Milestone will begin, if it hasn't been addressed in previous Milestones, working on safe parenting skills in an effort to equip the participant with the tools necessary to maintain sobriety while parenting. The following is an overview of the process that participants could expect in Milestone III:

- Continued engagement in treatment
- Maintain compliance with terms and conditions
- Work actively on relapse prevention strategies
- Actively engaged in parenting time with a Socially Necessary Provider (i.e. ASO Services) in the home with children (referral for this service to be made by the FTC-CPSW)
- Attend all appointments and activities for children
- Work with CPSW to prepare for and develop an implementation of an in-home safety plan
- Curfew at the discretion of the FTC CC, FTC Judge, and/or FTC Treatment Team
- Report to FTC CC as directed
- Attend all required court sessions as directed (discretion of frequency relegated to the local Treatment Team and presiding FTC Judge.)
- Submit to unannounced and announced home, field, school, agency and/or employment visits (minimum twice monthly per participant) in addition to office visits set forth by FTC CC
- Frequent, random, and observed drug testing (no less frequently than twice per week on a random basis)
- Develop and initiate a continuing care plan

- Demonstrate changing people, places, and things
- Establish and maintain recovery network
- Begin or continue with educational or vocational training in an effort to have a sustainable income for the home
- Attend required life skills, parenting skills, health, employment, education programs and/or other ancillary, non-criminogenic services
- Continue required community service hours
- Maintaining stable housing

In order to progress to the next Milestone, the participant must be able to complete the following minimum guidelines:

- Been on Milestone III for a minimum of 45 days
- Must demonstrate the ability to maintain sobriety (at the discretion of the presiding FTC Judge)
- Must be engaged with treatment
- Must maintain compliance with all terms and conditions of supervision under FTC
- Must be actively participating in supervised visits with child(ren)
- Submit application to advance to Milestone IV (if required by local program)
- Must be approved by the Treatment Team to progress to next Milestone pending all aforementioned requirements are met.

4. Milestone IV – Active Parenting while Maintaining My Recovery (Minimum of 60 days)

The goal of Milestone IV is to continue to encourage sobriety but begin to shift the focus from substance abuse treatment to re-establishing permanency by utilizing and implementing the skills learned in previous Milestone(s). (i.e., parenting, anger and stress management, budgeting, etc...)

The following is an overview of the process that participants could expect in Milestone IV:

- Unsupervised parenting time with a provider, as needed at the discretion of the treatment team with significant input from the Socially Necessary provider.
 - *Last month of Milestone, begin overnight unsupervised parenting time with child(ren).
- Continued engagement in treatment as determined by the treatment provider.
- Work actively on relapse prevention strategies
- Report to FTC CC as directed
- Attend all required court sessions as directed (discretion of frequency relegated to the local Treatment Team and presiding FTC Judge.)

- Submit to unannounced and announced home, field, school, agency and/or employment visits (minimum once monthly per participant) in addition to office visits set forth by FTC CC and/or FTC Judge.
- Frequent, random, and observed drug testing (no less frequently than twice per week on a random basis)
- Develop and initiate a continuing care plan
- Demonstrate changing people, places, and things
- Establish and maintain recovery network
- Participate in positive and approved pro-social/family gatherings
- Attend required life skills, parenting skills health, employment, education programs and/or other ancillary, non-criminogenic services
- Continue required community service hours
- Secure stable housing

In order to advance to the last Milestone, the participant must be able to complete the following minimum guidelines:

- Been on Milestone IV for a minimum of 60 days
- Must demonstrate the ability to maintain sobriety (at the discretion of the presiding FTC Judge)
- Must maintain compliance with all terms and conditions of supervision under FTC
- Must not have obtained a recent Response, at the discretion of the Court.
- Must have been able to maintain stable housing
- Must have completed an in-home safety plan with FTC-CPSW in order for child(ren) to be returned to the home to start Milestone V
- Complete application to advance to Milestone V (if required by local program)
- Must be approved by the FTC Treatment Team to progress to the last Milestone pending all aforementioned requirements are met.

5. Milestone V – The Return of My Family: Aftercare (Minimum of 90 days)

The goal of Milestone V is to develop an aftercare plan for all potential graduating participants. Aftercare plans will be designed to promote maintenance of the changes achieved in treatment and throughout the FTC program. The aftercare plan should target ongoing treatment, community resources, family, housing, employment and social networks designed to help the participant re-integrate into a social environment without resorting to former friends and illegal and self-defeating patterns of behavior. Ultimately, this Milestone will reunify participants with their child(ren), if not previously completed in other Milestones, in an effort to afford the participant and their family to live a healthy and safe lifestyle.

The following is an overview of the process that participants could expect in Milestone V:

- Child(ren) transitioned back to the home at the onset of the Milestone contingent on completion of in-home safety plan by the family and the FTC-CPSW
- Continued engagement in treatment as determined by the treatment provider.
- Weekly check-in with FTC-CPSW
- Report to FTC CC as directed
- Work actively on relapse prevention strategies
- Attend all required court sessions, for the purpose of a “status review” (discretion of frequency relegated to the local Treatment Team and presiding FTC Judge.)
- Submit to unannounced and announced home, field, school, agency and/or employment visits (minimum once monthly per participant) in addition to office visits set forth by FTC CC and/or FTC Judge.
- Frequent, random, and observed drug testing (no less frequently than once per week on a random basis)
- Establish and maintain recovery network
- Maintain sustainable income
- Maintain stable housing
- Once child(ren) are returned to the home full-time, reapply, with help from FTC CC and/or FTC-CPSW, for economic benefits that are needed to maintain the basic essentials (e.g. SNAP, WIC, Medicaid, LIEAP, TANF, etc.)

The FTC should use tools designed to increase participant acceptance of an aftercare plan.

- Plan a transition group for clients who will be graduating at the same time. Introduce participants to the concept of aftercare and encourage all to share concerns and ask questions
- Plan an alumni group and have periodic meetings. This group can share with other upcoming graduates as an introduction to the benefits of aftercare

In order to graduate FTC, the participant must be able to complete the following minimum guidelines:

- Been on Milestone V for a minimum of 90 days
- Must demonstrate the ability to maintain sobriety (at the discretion of the presiding FTC Judge)
- Must maintain compliance with all terms and conditions of supervision under FTC
- Must be Response-free at the discretion of the FTC Judge

- Must complete the graduation application (if required by local program)
- Must be approved by the Treatment Team to progress to graduate pending all aforementioned requirements are met.

B. Relapse Prevention Plan

Lapse/Relapse and/or other types of non-compliance are a normal part of the recovery process. Courts should design responses to motivate, not discourage the participants. However, if a participant demonstrates continued non-compliance or falters significantly after a period of abstinence, consideration should be given to adding additional time to a Milestone length in an effort to address on-going issues. A participant should be prepared to deal with a lapse or relapse either before or after the FTC program has ended. To achieve this, the participant will need to complete a relapse prevention plan with their therapist early in their recovery. This plan should be continually monitored by the treatment provider and FTC Team and must consist of the following (and be structured consistent with the Participant's capabilities throughout the program):

- Identifying and managing relapse warning signs
- Understanding the cues that trigger cravings and urges
- Identifying, disputing, and replacing patterns of thinking that increase relapse risk.
- Anticipating high risk relapse scenarios and developing effective coping skills
- Identifying and learning to manage negative emotional states
- Identifying and coping with the social pressures to use substances
- Learning damage control to interrupt lapses early in the process and return to treatment
- Improving interpersonal relationships and developing a recovery support system
- Developing employment and financial management skills
- Creating a more balanced lifestyle.

At any Milestone, if there is a relapse, a "Re-Commitment to My Recovery Action Plan" will be developed with the FTC CC and then completed within at least 30 days after relapse. (Completion as well as commitment to the action plan to be reviewed and approved by the treatment team). The Re-Commitment to Recovery Plan should include attainable goals that refocuses the participant on their recovery. Refer to Appendix D for a checklist.

C. Graduation

1. Graduation Requirements

Establish specific and concrete requirements for graduation and communicate them to participants clearly upon entry into the FTC. Include the requirements in the participant

handbook and the written FTC contract. Individuals in the early stages of recovery suffer short-term memory loss, difficulty with abstract thinking and other cognitive deficits associated with substance abuse. Therefore, it is important to state participation goals as clearly and succinctly as possible. . Do the same with fines and court costs if any. Do **NOT** change the requirements during the course of a participant's attendance. If policy changes dictate a change in graduation requirements, those changes should apply only to new participants.

Graduation requirements should include at a minimum:

- Completion of all program Milestones
- Completion of Relapse Prevention Plan
- Must be able to demonstrate sobriety; length to be determined at the discretion of the FTC program.
- FTC team approval
- Progress toward educational, vocational and employment goals
- A written graduation application in Milestone V, if required by the local program (See Appendix E)
- Completion of community service, if applicable
- Comply to completion the in-home safety plan developed and approved by the FTC-CPSW and the participant
- Other requirements as dictated by the FTC Treatment Team

D. Graduation Decision

Participants should be aware that the FTC team will be involved in reviewing any graduation application and making the decision to approve or deny the application. If an application is denied, the FTC team should notify the participant of any unfulfilled requirements. This will give the participant an opportunity to work towards their completion. If a participant has met all of the obligations under the initial contract, the graduation should be approved. Most importantly, all participants should be encouraged to continue treatment post-graduation.

Prior to graduation, the FTC CC should conduct an exit survey to determine which elements of the program worked best (and least) from their perspective. Participants can provide valuable insight into what actually motivates them to succeed and what programs or factors tend to undermine success. This report should be given to participants at graduation with a postage paid envelope addressed to the Family Treatment Court Coordinator in the Administrative Office. This Coordinator will compile information from these surveys and inform programs of the cumulative results.

E. Termination

With essential due process protections in place, the Court should also take care to make the decision to terminate appropriately. The factors in such a decision vary depending on

whether the non-compliance giving rise to the termination analysis is legal, clinical, or programmatic.

1. Legal Non-Compliance

Aggravating circumstances which arise during program participation should be assessed on a case by case basis. This approach gives the court the ability to weigh concerns for the best interest of the child against the possibility that the new conduct is a manifestation of a relapse that merits a response (including removing the children from the home if the family has been reunified) rather than termination. The following factors should be considered after new negative conduct:

- Does the new conduct render the participant ineligible for participation in FTC (e.g., allegations of sexual or physical abuse, or a criminal arrest for a violent felony) or can it be dealt with a response in lieu of termination
- Is the new conduct associated with relapse? Did the participant provide substances to another participant?

A new CPS referral need not automatically prompt termination. A new CPS referral prompts an appropriate response, discussed collaboratively by the treatment court team, based on proximal and distal considerations. It is suggested that when the referral is made, the FTC-CPSW should conduct any and all investigations associated with the new referral since the FTC-CPSW has institutional case knowledge of the participant and rapport has already been established with the participant.

Another example would be when a participant ceases participation in the program, which includes no communication with the FTC CC. In these cases, the Court should consider the following prior to termination:

- Length of time in the program before cessation
- Length of time between cessation and return to court
- Whether the participant returned voluntarily or involuntarily
- Any previous incidents of ceasing participation.

If the Judge finds the participant has voluntarily waived their right to appear at the termination hearing, he/she could proceed with termination.

2. Clinical Non-Compliance

Non-Compliance (e.g. leaving treatment against provider's recommendations, refusing to engage or re-engage in any treatment) should be assessed in light of the client's intellectual, cognitive and affective capacities. When considering termination for clinical non-compliance, some factors that the FTC team should consider are as follows:

- Has the participant's responsivity issues been addressed?
- Have treatment resources been exhausted?
- Have all appropriate levels of care been utilized?
- Does the participant wish to continue in the program?
- Would continued participation undermine the effectiveness of the program?

3. Programmatic Non-Compliance

Before terminating a participant from the FTC program, the treatment provider should be notified and should have the opportunity to participate in the decision-making process. Treatment providers generally possess the most information regarding a participant's prognosis for successful recovery. This prognosis should be carefully considered before terminating. When considering termination, some factors to consider are:

- Have appropriate re-assessments been utilized?
- Have all appropriate levels of responses been utilized?
- Would continued participation undermine the effectiveness of the program?
- Has the participant acted in a way that places another participant and/or FTC member in danger?
- Has the participant sought out the FTC Team members to assist them if they have had issues meeting their parenting time?

F. Discharge Summary

It is the policy of West Virginia's FTC's to involve participants in discharge planning at the earliest possible moment in the treatment process. The participant's needs, preferences, and progress during treatment should be continually assessed and analyzed. Participants will be assisted throughout the discharge process with continued transition into other services or back into the community. A discharge summary will be completed within seven (7) judicial days of termination from program participation and within ten (10) judicial days of program completion and prior to program graduation. A discharge summary is a report prepared by the FTC CC at the conclusion of treatment. It outlines the participant's chief complaint, the diagnostic findings, the therapy administered and the participant's response to it, and recommendations on discharge.

The discharge summary should contain the following information:

- Reason for admission/diagnosis upon admission (Provide Axis diagnoses, i.e. substance abuse/dependent, any co-occurring disorders)
- Status upon discharge (i.e. successfully completed/graduated vs. terminated for non-compliance)
- Diagnosis upon discharge

- Medications
- A summary of the treatment/therapies administered and progress toward treatment goals
- Employment/vocational status
- Educational accomplishments/status
- Housing status
- Family/social support or issues/impediments to recovery
- Health problems
- License status
- Recommendations for continued treatment/support (For graduates include aftercare plan)
- Prognosis
- Status of reunification/permanency for child(ren)
- Any specific instructions and names of referrals given to participant.

The discharge summary, when possible, shall be signed by the participant, the FTC CC and the treatment provider. The discharge summary may be provided to the Court, the Department, etc. This report should provide a snapshot of where the participant has been, what he/she has done, and recommendations for future treatment/services to support continued abstinence as well as permanency.

G. Post Termination

The FTC CC shall compile information on the number of participants:

- Referred
- Admitted
- Denied
- Terminated
- Progress made in program, but unable to successfully complete program
- Incarcerated
- Withdrawn / Dropped out
- Graduated
- Deceased

This report should include “reasons why” where applicable and is to be forwarded to the Local Family Drug Treatment Court Advisory Team. This Team should conduct a thorough examination of the reasons for the participant’s failure and look at ways that the FTC staff might have better addressed the failure to comply. Any identified issues should be reported to the Division of Probation Services so that resources and/or technical assistance may be provided to the FTC to strengthen the program.

VII. Treatment and Special Considerations

A. Clinical Intake Assessment

Clinical Assessments should match participant to appropriate levels of care and modalities of substance abuse services. These assessments will be completed at intake to assist in developing the participant's individualized treatment plan. Basic components of the assessment should include:

- Being evidence based
- Providing a diagnosis (abuse, dependence)
- Level of care determinations referencing the DSM-V of the American Psychiatric Association
- Meaningful strength oriented treatment planning
- Goals for the participant

Effective assessments should reflect the following:

- An objective strength-based clinical evaluation that clarifies the nature and extent of a substance abuse disorder in relation to a range of bio-psychosocial areas (substance abuse history, treatment history, medical, familial, vocational and other domains of functioning)
- Identification of the client's needs, strengths, resources and problem areas
- Regular review and updating to ensure that a comprehensive picture of each client is reflected

The following guidelines should be followed when interviewing the respondent:

- Participant should not be visibly impaired by illicit drugs and/or alcohol for the interview, with the exception of medically assisted treatment if applicable.
- The interview should be clearly worded and should be geared to the education level of the interviewee
- The environment should be conducive to the establishment of trust and rapport
- 1 to 1.5 hours minimum should be allocated for the interview
- Encourage the participation of family members or significant others (with client's permission) to gather additional information
- The interviewer should be trained in proper interviewing techniques and the use of evidence-based assessment tool*
- Level of care determinations should be made via the assessment. A level of care determination will insure that the client receives the least restrictive but most appropriate level of chemical dependence services available.
- FTC's should follow the American Society of Addiction Medicine guidelines for organizing an appropriate referral process.

B. Levels of Care

Family Treatment Courts offer a continuum of care for substance abuse disorder treatment including detoxification, residential, sober living, day treatment, and intensive inpatient and outpatient services. Standardized participant placement criteria govern the level of care that is to be provided. Bear in mind that adjustments to the level of care are predicated on each participant's response to treatment and are not to be intertwined with the participant's programmatic progress within the drug court. **The FTC shall follow the recommendations of treatment professionals when making level of care determinations.** These determinations should help to assure that participants are placed in the most clinically appropriate level of care available.

Levels of Care refer to the following treatment services:

- Crisis Services – medically managed detox, in-patient medically supervised withdrawal, and out-patient medically supervised withdrawal;
- Outpatient Services – outpatient, intensive outpatient Medication Assisted Treatment (MAT), and psychiatric/medication management;
- Inpatient Rehabilitation – management of psychiatric or physical symptoms from emergent or chronic conditions in a hospital setting
- Residential services – short or long-term substance use or substance use/co-occurring residential treatment; recovery programs, sober living programs, and other community supportive living services

C. Intensive Outpatient (IOP) Services

The primary focus of IOP in FTC programs should be to target substance abuse and related criminogenic needs. IOP should also target needs that may affect a participant's responsivity. It would therefore also treat disorders or functional impairments that may be lesser predictors of recidivism, but that would complicate risk reduction if left untreated. Generally, the higher the need level, the more intensive the treatment or rehabilitation services should be, and vice-versa. Additionally, any effort in a FTC program's IOP to address non-criminogenic needs, should occur only AFTER a participant's criminogenic needs (most importantly, including substance use disorder and antisocial or criminal thinking patterns) have been stabilized substantially.

FTC programs should be utilizing evidence based Cognitive Behavioral Therapy (CBT) approach which is trauma informed. CBT is a type of counseling where the participant works with a mental health therapist in a structured way that is directed at helping the patient become aware of inaccurate or negative thinking, so he or she can view challenging situations more clearly and respond to them in a more effective way. It should be trauma informed to address the needs of participants with post-traumatic stress disorder (PTSD) and other difficulties related to traumatic life events. The goal of this type of therapy is to help the participant to identify and cope with emotions, thoughts, and behaviors without abusing substances.

D. Other Special Considerations

1. Co-Occurring Disorders

Given the high chance of participants having co-occurring disorders, the treatment team should be trained on dealing with these individuals and understand that they may need to personalize incentives and responses to the co-occurring participant. In addition, treatment of individuals with co-occurring disorders requires careful planning and implementation.

Key modifications for co-occurring disorders include:

- Psychiatric consultation and medication monitoring should be available to all FTC participants
- Education regarding mental and substance use disorders should be provided to all participants
- Incentives and Responses should be applied to consider the effects of mental disorders on behavior and difficulties in achieving sustained abstinence, and to encourage small positive changes in behavior and ongoing involvement in mental health services
- FTCs should coordinate with residential treatment providers and jails to insure that FTC participants who are sanctioned to residential treatment or jail have access to medications that were previously received and are engaged in other services to prevent destabilization of mental health symptoms
- Judicial hearings for those with co-occurring disorders should focus on mental health issues, including adherence to medication and other treatment requirements
- Specially trained case managers with dedicated assignments and reduced caseloads should be provided whenever possible to assist participants with co-occurring disorders
- Clinical services should be adapted to provide shorter group treatment sessions; greater use of modeling, feedback and rehearsal and to include skills development activities focused on both mental and substance use disorders
- Timelines for movement through Milestones and for graduation should be more flexible and should allow for longer periods of treatment, court monitoring and supervision

2. Women in Recovery

Due to the specific and discrete needs of women in the context of recovery (particularly if trauma is indicated), it is preferable that women should be afforded separate treatment from men as often as possible to address their treatment needs.

For more information on gender specific treatment needs of women, see SAMHSA's TIP 51: Substance Abuse Treatment: Addressing the Specific Needs of Women

3. Veterans

Pursuant to §62-16-4(a), the Supreme Court of Appeals has been authorized to establish a Military Service Members Court program which is designed to serve as an Adult Drug Court for veterans. FTCs are encouraged to admit appropriate eligible Veteran respondents, but must be mindful of the specific issues and additional resources that are relevant to Veteran participants. Veteran respondents are especially likely to experience co-occurring mental disorders (specifically post-traumatic stress disorder or traumatic brain injury), and programs serving a Veteran respondents should be sure to screen and assess carefully to identify any such needs and determine how best to serve them. When pursuing these or other treatment services for Veteran participants, FTC programs should determine if the Veteran participant is eligible for benefits (including treatment services) from the U.S. Department of Veterans' Affairs. Per §62-16-6(a), any FTC that desires to employ a Military Service Members Court program track within their existing FTC program shall order the respondent to have an assessment conducted by the U.S. Department of Veterans' Affairs Justice Outreach. This can be done by working with the nearest Veterans Justice Outreach Specialist. Indeed, if the FTC treatment team is experiencing a significant number of Veteran participants, it should consider including a Veterans Justice Outreach Specialist to serve on its FTC Treatment Team or Local Family Drug Treatment Court Advisory Committee.

4. Peer Support Groups

FTC participants should be encouraged to attend peer support groups in conjunction with formal substance abuse treatment. FTC staff should create a directory of these groups in the area, including **but not limited to** Alcoholics Anonymous, Narcotics Anonymous and SMART Recovery. Attending peer recovery groups in conjunction with treatment allows the participant to establish relationships with sober peers. However, these groups are NOT treatment and should be promoted only in conjunction with formal substance abuse treatment.

FTCs may mandate attendance at a peer support group, but **may not require** attendance to a specific meeting (i.e., AA, NA or other faith based meetings). Courts across the nation have routinely held that AA and NA groups are inherently religious. Therefore, ordering AA or NA attendance constitutes a violation of the Establishment Clause of the United States Constitution. However, if alternatives that are not premised on a monotheistic deity are offered, there is no violation. If there are no alternatives available locally, you may want to suggest that participants contact the following organizations:

- LifeRing Recovery - <http://www.unhooked.com>
- Rational Recovery – <http://www.rational.org>
- Secular Organizations for Sobriety (SOS) – <http://www.secularhumanism.org/sos>

Whichever peer support program is utilized, participants' attendance of such programs should not occur before they are ready to begin attendance. For almost all FTC participants, this will not be before they begin Milestone II of the Program. In these cases, the participant may receive preparation for the attendance of a peer support program as part of their treatment plan.

5. Medication Assisted Treatment

The use of various medications (such as Methadone, Buprenorphine, or Naltrexone) as part of a Medication Assisted Treatment ("MAT") program for opioid use disorders is increasing throughout the medical field. As a result of the substantial scientific evidence supporting the effectiveness of MAT for the treatment of opioid substance use disorder, inclusion of MAT as part of opioid abuse treatment in FTCs is recommended by the National Association of Drug Court Professionals as well as the National Association of State Alcohol and Drug Abuse Directors. Furthermore, in order to ensure full eligibility for possible BJA, OJJDP and SAMHSA federal grant funding, **FTC programs must demonstrate that they will not deny access to FTC to any eligible participant because of their use of MAT**, as such treatment constitutes FDA-approved medication for the treatment of substance use disorders. Furthermore, **MAT must be permitted to be continued for as long as the prescribing physician determines that the medication is clinically beneficial**. FTCs receiving or seeking federal funding must assure that an FTC participant will not be compelled to cease MAT as part of the conditions of the FTC participation or graduation, if such a mandate is inconsistent with a licensed prescriber's recommendation or valid prescription.

Failure to accommodate participants' utilization of properly-prescribed and medically administered MAT not only forecloses federal funding opportunities, but could also subject FTC programs to potential civil liability. A FTC program that imposes a judicial finding forbidding access to MAT that has been appropriately medically prescribed, or a compulsion to terminate MAT made for judicial rather than medical reasons could give rise to a claim that the FTC has violated the Americans with Disabilities Act, or the Rehabilitation Act of 1973. Imposing judicial authority in this medical context could also give rise to a claim that the FTC is violating the participant's Constitutional Right to Due Process, or freedom from cruel and unusual punishment.

West Virginia's FTCs should not deny eligible participants access to the program because of his/her use of the following FDA-approved medications for the treatment of substance use disorders, such as:

- Methadone treatment rendered in accordance with current federal and state methadone dispensing regulations from an Opioid Treatment Program and ordered by a physician who has evaluated the client and determined that methadone is an appropriate medication treatment
- Buprenorphine products and its derivatives
 - Buprenorphine/naloxone combination formulations, i.e. Suboxone

- Buprenorphine mono-product formulations
- Naltrexone
 - Naltrexone for extended release injectable suspension, i.e. Vivitrol

FTC professionals, therefore, should educate themselves about the benefits and side effects associated with MAT modalities and with the requirements of any medication assisted treatment programs in the area. FTC professionals should also be familiar with the signs and symptoms of methadone abuse.

Decisions about medication assisted treatment should be made in close consultation with the Division of Probation Services, treatment professionals on the FTC team, and with an eye to available services in the community. As medication assisted treatment requires that patients attend counseling and other services, attendance in FTC may result in duplication of valuable services. Therefore, if an offender is participating in medication assisted treatment, be sure that services will not be duplicated upon his/her admission to FTC. Treatment services are a valuable commodity and should be used to serve the greatest number of people possible. This will require FTCs to work closely with the providers of medication assisted treatment programs in their area.

Prior to incorporating the use of FDA-approved medications for the treatment of substance abuse disorders for a participant in a FTC program, the Judge shall determine:

- That the participant has an objectively ascertained medical diagnosis of opioid substance use disorder (or a substance use disorder diagnosis relating to another substance for which MAT would be appropriate).
- That the participant is interested in MAT
- That the participant authorizes that any drug screen inconsistent with the participant's course of MAT may be reported by the FTC team to the clinician administering the participant's MAT
- That the participant has signed all appropriate releases in order to obtain full disclosure from the MAT provider;
- That the participant is receiving those medications as part of a treatment for a diagnosed substance use disorder;
- That a clinician,
 - licensed in the state of West Virginia,
 - acting within his/her scope of practice,
 - has examined the participant and
 - determined that the medication is an appropriate treatment for the substance use disorder; and
- That the medication is appropriately authorized through prescription by a licensed prescriber

A FTC should then require the clinician to provide periodic reports discussing whether the medication remains clinically beneficial. However, the FTC will permit the MAT to be continued for as long as the prescriber determines that the medication is clinically

beneficial. Participants shall not be compelled to cease use of MAT if such a mandate is inconsistent with a licensed prescriber's recommendation or valid prescription.

No FTC Judge, other judicial official, Court supervision officer, DHHR employee or any other staff or team member connected to the FTC may deny the use of these medications when made available to the client under the care of a properly authorized physician and pursuant to regulations within an Opioid Treatment Program or through a valid prescription. All FTC Judges retain judicial discretion to mitigate/reduce the risk of abuse, misuse, or diversion of these medications. For example, in addition to the continuance of drug screening and reports of noncompliance to the clinician as indicated above, participants should be required to submit to monitoring of their MAT medication by FTC personnel, and confirmation by FTC personnel that all their prescriptions are current and counts must be correct.

A FTC Judge may only impose responses or termination for a participant's usage of prescribed medication if the Judge determines the following:

- the participant is not receiving those medications as part of treatment for a diagnosed substance use disorder;
- a licensed clinician, acting within his/her scope of practice, has not examined the participant and determined that the medication is an appropriate treatment for his/her substance use disorder; and
- the medication was not appropriately authorized through prescription by a licensed prescriber.
- the participant is not using the medication as prescribed

6. Discouraging and Addressing Participant Fraternization

One issue that should be monitored is fraternization between participants. In this context, "fraternization" means romantic or sexual interactions between participants. While positive peer relationships or friendships that support recovery are to be encouraged among participants, romantic and sexual interactions should be discouraged. A person in the process of recovery and beginning abstinence is not in a position to make sound emotional decisions. Romantic or sexual entanglements during that fragile period are unnecessarily confusing and almost certainly distracting. Such relationships also present too much potential for conflict and have an unacceptable potential for the exploitation or victimization of female participants. Such relationships do frequently arise in substance abuse treatment programs, such as FTC, therefore the FTC CC and Treatment Team must be aware of this. However, it shall be up to the discretion of the FTC Treatment team and/or the FTC Judge to determine allowance of a said relationship if it has been previously established (e.g. respondents still currently engaged in a dating, sexual, or intimate relationship).

It should be made clear to participants from the beginning of the program that fraternization is not acceptable in FTC because it interferes with a participant's own

recovery and that of other participants especially if there hasn't been a previously established dating, intimate, and/or sexual relationship. As part of their entry into FTC, participants agree that they will refrain from this behavior so that they do not jeopardize their recovery or that of other participants. The FTC CC and Treatment Teams must thereafter monitor the participants to watch for the development of such relationships. Properly observant home & field visits and the cultivation of collateral contacts (with the participants' family and friends) can be especially helpful in identifying this behavior.

If fraternization is uncovered, it constitutes programmatic (and possibly treatment) non-compliance and merits an appropriate response. The response need not be automatic termination from the program, however. The response to this behavior must be informed by an analysis of how (or whether) it has affected the participants' recovery. Information from the Treatment Provider will be especially relevant to this analysis. It should also be noted that if a participant engages in repeat infractions regarding this policy, or if a participant demonstrates coercive or predatory behavior, it would be necessary for the response to be more severe, up to and including termination.

E. Parenting Services

A referral will be made by FTC-CPSW to a Socially Necessary Service Provider for a variety of services to be rendered in the home with the participant prior to parenting time with children, as well as during parenting time with children. This will be established during the development of the safety plan with the participant and the FTC-CPSW. A Socially Necessary Service Provider may also provide supervised visits if there is not someone available who has been approved by the treatment team. Engagement with child(ren) will be observed and a report to be provided via FTC-CPSW from the provider to the treatment team.

VIII. Motivating the Family Treatment Court Participant

Sobriety and family reunification and/or placement permanency of children are the ultimate goals of Family Treatment Courts. Many participants have a pattern of positive urine tests within the first several months following admission, which is expected. Because substance abuse disorders take a long time to develop and because many factors contribute to drug use and dependency, it is rare that an individual stops use as soon as he or she enrolls in treatment. Even after a period of sustained abstinence, it is common for individuals to occasionally test positive.

Although Family Treatment Courts recognize that individuals have a tendency to lapse and/or relapse, continuing use is not condoned. Family Treatment Courts impose appropriate responses, in consultation with the treatment provider, for continuing substance use. Responses increase in severity for continued failure to abstain. FTCs must encourage cooperation as well as respond to noncompliance. Even minor encouragement for incremental successes can have an important effect on a participant's sense of purpose and accomplishment.

A. Behavioral Modification

Family Treatment Courts establish a coordinated strategy, including a continuum of both positive and negative responses, to continuing noncompliant behavior. A coordinated strategy can provide a common operating plan for treatment providers and other FTC personnel. A written copy of these responses, given to participants during the orientation period, emphasizes the predictability, certainty, and swiftness of their application.

The effectiveness of incentives and responses are keyed to the individual and therefore vary from FTC to FTC and individual to individual. These are utilized as part of the behavior modification of participants towards becoming drug free in the program. Indeed, incentives and responses can be more accurately described as positive and negative reinforcement of compliant or non-compliant behavior by the participant.

Incentives and responses can best achieve the intended changes in behavior when the FTC Team has identified specific goals, via Milestones, for their use with the intention of developing the participants' competencies and skills. It is essential that incentives and responses be applied in a way that is, "individualized," meaning that they are specifically targeted at the strengths and deficits of each participant. This sort of specifically-targeted motivation is much more likely to facilitate the sort of self-reflection on the part of the participant necessary to achieve genuine change in his or her life.

FTCs should utilize a system of incentives and graduated responses to motivate behavior change in participants. FTCs should rely on behavioral research findings in crafting incentives and responses in an effort to respond to participant behavior in the most effective and creative ways.

1. Clinical Perspective

Incentives and responses will impact participants differently. Therefore, any system of incentives and responses must utilize a combination of continued clinical assessment, motivational strategies, cognitive-behavioral interventions and the development of continuing care strategies in light of what works best for each individual participant. Examples include:

- “Intentional behavior change” should be encouraged by using motivational strategies that help participants to understand the benefits of abstinence and ceasing antisocial behaviors.
- Participant goals should reflect their understanding of these intrinsic benefits
- Responses and incentives should be “customized” to the individual while maintaining the perception of fairness
- Resist blanket policies regarding responses. For example, jail may not be the most appropriate response to non-compliance for all participants.

- Responses should be applied immediately or as close as possible. FTC Team members should be able to be reached via phone or email to permit a quick consensus on the response to be imposed by the FTC CC. Waiting even hours from the infraction lessens the value of the response and waiting days for a weekly treatment team meeting would greatly diminish the effectiveness.
- Participants that relapse should be re-assessed by the treatment provider in order to determine the best method for addressing the relapse and returning the participant to abstinence. This is especially important in the dual-diagnosis participant as they may be experiencing psychiatric disturbances that interfere with recovery.
- The FTC and treatment provider should reassess their case plans at each Milestone advancement in order to address progress and problems, potential lapses and to avoid treatment failures.
- Reassessment should include drug testing and attendance reports, the existence of any life stress problems, housing issues, lack of appropriate social support, emerging psychological or emotional problems, etc. as necessity dictates.

2. Incentives

Incentives are to be offered to motivate compliance. Much research has shown that a “contingency management” approach where points or vouchers are awarded for abstinence and/or compliance with program terms often produces favorable results. This protocol allows participants to exchange points for items consistent with a drug-free lifestyle. On a point system, points can also be taken away as a response for non-compliance. Research shows that incentives are more effective than responses at changing behavior and should be given on a 4:1 ratio.

FTC staff must explore ways to use this protocol without involving the court directly in the solicitation of goods or services which actions are ethically prohibited for court judiciary and employees.

Additionally, an “escalating schedule” of incentives should be used, meaning the value of incentive or number of prize draws awarded should increase with successively longer periods of good behavior, and resets to the original low value if the participant is non-compliant.

** A list of suggested Incentives and Responses can be found in Appendix F.*

3. Responses

Responses should be structured in such a way as not to be considered too punitive, but rather to help mold behavior. Responses that are perceived to be solely punitive may not

have the desired motivational effect. Additionally, they are generally not perceived as the harshest punishment for many offenders.

As FTC participants are civil respondents in child abuse and neglect proceedings, the FTC should refrain where possible from using incarceration as a response. If a participant in FTC so willfully disregards program and treatment directives that the treatment team is considering incarceration as a response, the FTC should likely consider termination from the program rather than a jail response.

As previously stated, the FTC is a civil treatment court and not a criminal justice court. In addition, incarceration may expend additional time and resources that would be better utilized with rehabilitating other participants and families. Finally, incarceration will impede the goals of FTC: establishing permanency among families, maintaining ongoing treatment for substance abuse disorders, and facilitating visitation and connection between parents and their children.

While the Division of Probation Services recognizes that presiding Circuit Court Judges have statutory authority to hold a respondent/participant in contempt for violating a Court Order, FTCs should employ a wide range of responses and should take into consideration the participant's history of incarceration, employment status, age, health, mental health and other individual characteristics of the participant.

Essays can be an effective response for noncompliance and can also reveal literacy issues or the presence of highly personal issues. However, before asking participants to read essays in open court, the Judge should consider whether this might embarrass the participant. If a participant believes that the Court is trying to humiliate or embarrass them, it can offset the therapeutic benefit of having written the essay. Along the same lines, a possible response could be that the participant write a letter of apology to their child(ren) to memorialize the participant's acceptance of wrongdoing; this letter should in no way, shape, or form, EVER be disseminated to their respective child(ren), without a plan from the treatment provider, as this could potentially cause relationship issues.

Visitation itself shall not be used as a response. The type of visit (unsupervised vs. supervised) and who (family member vs. provider) supervises may be affected by the participant's behavior, however the ability of a child to spend time with his/her parents (and vice versa) is not an effective deterrent as it may cause more harm than good.

4. Therapeutic Responses

FTC's should make every effort to communicate to participants that therapeutic responses are not punitive, but rather given to assist the participant in meeting their treatment and program goals. Non-compliance will result in a response as there should a reaction for a negative action, but it is not intended to be punitive in nature.

IX. Procedural and Legal Considerations: Due Process and Confidentiality

A. Basic Rights

Child abuse and neglect litigants have a number of procedural rights which should be recognized in the context of FTC. For example, children and parents or guardians have a right to counsel at every stage of child abuse and neglect proceedings, as well as a right to notice of hearing, and a “right to be heard[,]” which includes having the opportunity to testify and to present and cross-examine witnesses. W. Va. Code § 49-4-601. For each FTC, a member of the defense bar and a Guardian ad Litem shall sit on the treatment team to provide general safeguards for the FTC participants. See, **Section IV(B)(4)**, *supra*. However, if, for example, at the point of response or termination from the program, a participant requests his or her regular attorney be present for those proceedings, the FTC must oblige.

While the use of jail incarceration as a response in FTC contradicts best practices, and should not be utilized in the context of FTC, the DPS recognizes this response might be utilized in extreme circumstances based upon a judicial officer’s authority to impose limited incarceration in instances of contempt. See *In re Frieda Q.*, 230 W. Va. 652, 662, 742 S.E.2d 68, 78 (2013) (citing *In re Morrissey*, 305 F.3d 211, 217 (4th Cir. 2002)) (citation omitted) (“The power to punish for contempts is inherent in all courts; its exigence is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders and writs of the courts and, consequently, to the due administration of justice.”). In those instances, the FTC Judge should be mindful “that due process requirements vary in their applicability to contempt cases depending upon the nature of the contempt involved[,]” the four “natures” of contempt being direct-criminal, indirect-criminal, direct-civil, and indirect-civil.² *State ex rel. Robinson v. Michael*, 166 W. Va. 660, 669 n.9, 276 S.E.2d 812, 817 n.9 (1981). For example, when a court charges a litigant with criminal contempt of court under West Virginia Code § 61-5-26, “[n]o court shall, without a jury, for any such contempt ... impose a fine exceeding fifty dollars, or imprison more than ten days.” Beyond that, the court shall impanel a jury, and naturally, the participant/defendant shall be afforded all procedural and constitutional safeguards due a criminal defendant. See *also*, W. Va. R.Crim.P., 42.

B. Termination Due Process Requirements

Participants should be afforded the right to have their counsel present at termination proceedings. For the purposes of FTC, this hearing should echo the procedural protections of a dispositional hearing in the child abuse and neglect setting (in the way an Adult Drug Court termination hearing echoes a probation revocation hearing). The FTC treatment team should provide:

² “Direct” refers to conduct which occurred in the actual physical presence of the court, while “indirect” contempt refers to conduct which occurs partially or entirely outside the actual physical presence of the court. *In re Frieda Q.*, 230 W. Va. at 663, 742 S.E.2d at 79.

- Written and timely notice of claimed violations;
- Disclosure of the evidence against the participant;
- An opportunity for the participant to be heard and to present evidence;
- The right for the participant to confront and cross-examine witnesses; and,
- A neutral and detached hearing body (this could be the FTC Judge, though pursuant to the Canons of Judicial Ethics could also be another circuit judge sitting by special assignment).

Importantly, in order to ensure that the participant's right to cross-examine witnesses and present evidence are truly protected, **it is necessary that participants be afforded the right to have their counsel** present at termination hearings. This shall be their appointed or retained counsel from the child abuse and neglect proceedings, not the public defender or defense bar representative from the treatment team.

For more explanation of a traditional dispositional hearing in the child abuse and neglect proceedings, please see West Virginia Code § 49-4-604, as well as the Rules of Procedure for Child Abuse and Neglect, 30-33.

C. Confidentiality

As often-cited, both the treatment records and the participant's FTC file are confidential, and protected under state and federal law. For this reason, the FTC shall take great care to maintain confidentiality protocols when handling and using the FTC file, and shall also conduct FTC hearings behind closed doors. Additionally, references to FTC participation should not be made in pleadings, records or other documents that will directed outside of the FTC Team.

West Virginia protects child abuse and neglect proceedings as confidential, and "[a]ttendance at all proceedings brought pursuant to W. Va. Code § 49-4-601, *et seq.* shall be limited to the parties, counsel, persons entitled to notice and the right to be heard, witnesses while testifying, multidisciplinary treatment team members, and other persons whom the circuit court determines have a legitimate interest in the proceedings." W. Va. R. Child Abuse and Neglect P, 6a. The West Virginia Rules of Procedure for Child Abuse and Neglect Proceedings also mandate that all child abuse and neglect records maintained by the courts "shall be kept confidential" subject to a few exceptions (including that "family courts and staff shall have access to all circuit court orders and case indexes in this State in all [child abuse and neglect] proceedings.") *Id.* (See Appendix G for Confidentiality of Court Records)

As a practical matter, should an FTC Case Coordinator receive a request from outside the FTC team for information or documents that are confidential, the FTC Case Coordinator is to notify both the Chief Probation Officer for the Court and the Counsel to the Division of Probation Services and/or the Statewide Family Treatment Court Coordinator.

This group shall then determine the best course for responding to any such requests (this could include notifying the requesting party that the information or documents they are

seeking may not be provided, preparing an appropriate release that would authorize the release of the requested information or documents, or filing legal motions to attempt to block or seal the requested disclosure).

Additionally, however, please note that an FTC Case Coordinator is authorized to provide limited reports to a Circuit Judge or MDT who has referred or transferred a participant into an FTC program, and disclose to that referring or transferring Judge or MDT a summary of the Participant's progress, including his or her time in the program, current milestone, and the number of incentives and responses received by the Participant. This is permissible because the Consent authorized by every FTC participant expressly contemplates and authorizes disclosures of a broad category of information regarding the FTC Participant to the "person or agency who made [the Participant's] referral to treatment court." Further, such disclosures are being authorized for the specific purpose of keeping such person or agency informed as to the Participant's, "compliance, and progress ... and to facilitate diversion." The Consent also clearly contemplates the creation of, "reports concerning [the Participant's] participation in the treatment court" and status as a child abuse and neglect respondent. Accordingly, the consent form executed by all FTC Participants, by its express terms, authorizes disclosures to referring Judges and MDTs regarding the status and progress of FTC Participants. The disclosure of further information **shall not** occur without an express, specific consent from the Participant for this purpose (or upon Order of the Circuit Court).

Such a disclosure is not only permissible under this Consent, but is specifically tailored to fall within the Consent's requirement that only "necessary and pertinent" disclosures may be made. Providing more specific or detailed information without a more specific and detailed consent would not only be questionable under this Consent, but would also raise the likelihood that any later action that may be taken by the referring Judge (in the event the Participant does not successfully complete FTC) could be challenged, or that the FTC program may face consequences for failure to comply with applicable confidentiality laws.

Further, issues discussed during FTC Hearings include results of drug tests, attendance of therapeutic group classes, and other information that is clearly treatment information. Moreover, such Hearings obviously reveal the identity of the FTC participants. As both the identification of persons receiving treatment for drug or alcohol substance use disorder and the revelation of treatment information regarding such individuals would constitute disclosures forbidden by federal regulations, FTC Hearings **must be closed to the general public**. Only the participants, the members of the FTC team, persons authorized by the FTC team, The Division of Probation Services, or the Supreme Court of Appeals of West Virginia may be present at FTC Hearings—all of which are personnel who must sign and complete a pledge of ethics and confidentiality prior to observing or participating in the hearing. Noted, however, is the proven therapeutic value to be gained by permitting a participant's support network, such as members of his or her family, to be present at FTC Hearings to provide support and reinforce accountability. For this reason, the FTC team may authorize such persons to attend FTC Hearings, if they are agreed that such persons' attendance serves the therapeutic needs of the

participant and if the guests sign and complete the pledge of confidentiality. Again, any such authorized non-participant present at an FTC Hearing must sign an appropriate agreement to maintain the confidentiality of information relating to the participants. Note that a participant's underling counsel may attend the staffing meetings and treatment team hearings **as it pertains to that participant, and no other participant**, at the approval of the treatment team and participant. This attorney must also sign the pledge of confidentiality.

For further information on incarceration as an ineffective response in treatment courts, please see:

[http://www.cffutures.org/files/webinar-handouts/SantionsInFDTC%20 JudgeEdwards.pdf](http://www.cffutures.org/files/webinar-handouts/SantionsInFDTC%20JudgeEdwards.pdf)

X. Drug and Alcohol Screening

Drug Testing is an essential component of the intensive supervision required for a FTC program. It must be conducted in a way that is reliable and legally appropriate.

Drug Testing in FTCs should be:

- Scientifically valid – employs proven methods and techniques and is accepted by the scientific community
- Therapeutically beneficial – provides an accurate profile of participant's drug use and offers rapid results
- Legally defensible – able to withstand challenge and has been scrutinized by legal/judicial review
- Frequent, random, and observed

Drug testing should be consistent with this Manual and the Drug Testing Protocol promulgated by the Division of Probation Services. Staff should be trained to strictly adhere to each step of the process in order to maintain the integrity of the urine collection and drug testing process.

The following can be used for the detection of substance use:

- Urine
- Breath
- Saliva
- Blood
- Sweat
- Hair

Urine specimens generally contain high concentrations of drugs, provide evidence of both recent and past usage and are a good analytical specimen. Where feasible, participants should be regularly tested for alcohol use whether or not it is their drug of choice. Saliva samples permit a correlation with the degree of impairment and can be easily obtained. Breathalyzers, which can be used frequently and at minimal cost, can be useful in detecting the presence and amount of alcohol that may not be detected through random urinalyses. Any test conducted with blood, sweat and/or hair must receive prior approval for payment to occur.

A. Drug Testing Protocol

FTC participants are entitled to scientifically reliable testing. As such, stringent protocols should be followed in order to insure the integrity of sample collection and testing. Participants who challenge test results may be required to pay, at their own expense, for confirmation testing in the event of a positive confirmation. They should be clearly informed of the consequences for lying about drug use. The drug testing component must be administered by qualified and trained staff who can perform the duties and follow the required protocols. **Direct observation of the sample submission is essential and required.**

For sample collection procedures, please refer to the Probation Drug Testing Protocol available on the Supreme Court Intranet on the Probation tab.

B. Drug Test Interpretation

Drug test results are tools that can be used as one of the many indicators of a participant's program compliance. A positive drug screen should trigger a response by the court but the severity of the response should be tempered if the participant is compliant with all other program requirements. Conversely, if a participant is testing negative but is not compliant in other aspects of the program, the possibility that the samples are unreliable should be considered.

Drug test results should always be interpreted qualitatively - that is as positive or negative. Drug concentrations or levels are of little or no interpretive value as quantitative levels can be influenced by many factors such as age, exercise, salt intake, water intake, etc. As such, where any decision regarding responses based upon the outcome of a drug test is being made within the FTC Program by any member of the FTC Team, **ONLY** the qualitative result should be considered, and, in any event, where the qualitative result is negative such a decision **MAY NOT** be based upon any quantitative result.

Creatinine levels should always be noted. A Minimum normal creatinine level for a healthy adult is at least 20 mg/dL. Lower levels suggest a diluted sample. Levels less than 5mg/dL are considered “substituted” samples. Abnormal creatinine levels should be reviewed to determine possible physiological causes. If there are no physiological causes, the Court may want to increase the frequency of testing. They should also assess whether there other indicators of drug use (e.g. missed appointments, lateness)

Courts should be cautious about giving responses to participants based solely on “abnormal” creatinine levels as a small percentage of the population will test at low levels without water loading.

To help insure the reliability of testing, each FTC should establish a written policy that participants are responsible for what they put in their bodies. This should include notifying a FTC team/staff member immediately if a physician prescribes medication for them.

Participants should notify FTC staff if they are taking any over the counter medications as many medications can affect drug test results.

C. Drug Testing Frequency

Drug testing should be frequent, random and observed, no less often than twice per week on a random basis. (At least in Milestone 1, testing should be no less often than three times per week.)

Random testing accomplishes two goals:

- It limits the participants’ ability to “plan ahead”
- It provides participants with a tool to employ in the face of peer pressure to use, “I can’t I could be tested at any time.”

Unless drug testing is conducted randomly and frequently, there is a great possibility that participants could use drugs without detection. A variety of randomized procedures can be instituted, for example, the most common requires a participant to call in each morning (during a specific time window) to check whether his or her number or color is scheduled for testing on that day. Participants whose number or color is chosen is given a specific amount of time (usually 8 hours) to report to a location for testing that day.

Spot testing is another practice that assists in detecting drug use. Spot tests are unscheduled tests usually conducted by treatment or FTC staff when they suspect that the participant may be under the influence of drugs or alcohol. It is important that these staff members also be trained on and follow the drug court drug testing protocol.

D. Medications

While in FTC, participants are prohibited from taking any mood or mind-altering drugs or any narcotic medications. They are to make their FTC CC aware of all medications they

are taking, both prescribed and over the counter. On a periodic and random basis, the FTC CC will conduct pill counts on the prescribed medications to ensure the participant is taking them as directed. Participants are to be made aware of over the counter medications and other food, drink, etc... that may cause a positive result on a drug test and thus they should refrain from using.

FTC participants are required to notify their treating physicians that they are persons with substance use disorder and that they are FTC participants. All FTC participants are required to present notification in writing to their physicians. The notification will ask the physician to confirm whether or not a non-mood/mind altering or non-narcotic medication is available and suitable for use in the treatment of the participant's medical condition.

If after notification, a physician prescribes a mind/mood altering or narcotic medication, the FTC may not prohibit the participant from taking the medication. However, the FTC should take all necessary steps to insure that the participant is taking the medication as prescribed, including conducting pill counts. Additionally, if it appears that the participant will not be able to achieve and maintain a drug free status, the FTC team should consider whether or not continued participation in the FTC program is in the best interest of all program participants and program integrity.

E. Participant Supervision

In all FTCs, the FTC Judge provides the ultimate supervision of the participant. In order for the Judge to provide effective monitoring, he or she must rely on information provided by the FTC CC and FTC team, those who shall supervise the participant in treatment, in FTC, and in the community both during work and during non-traditional working hours / days.

Supervision shall include:

- Community based supervision – monitoring the participant outside of treatment. Community based supervision may include announced/unannounced home, agency, employment, school, and field visits; curfew checks, enforcement of location restrictions, verification of employment/education attendance, and family involvement. Community based supervision should be intensive and frequent in nature depending on the Milestone level of the FTC participant.
- Case management services that address the individual needs of the participant including education, employment, health, dental, housing, parenting, transportation, anger management, and civil legal needs etc.
- Frequent, random, and observed drug testing
- Ongoing assessment of progress in treatment, timely recommendations by treatment providers regarding changes in level of care, early intervention for non-compliance
- Incentives for compliance & Responses for non-compliance
- FTC Team members, especially the Judge, should routinely inform clients about the contingencies of participation and how that participation will be monitored.

- A correlation has been found between higher retention rates and proactively informing offenders of the contingencies of the program, consistent messages among multiple criminal justice agents and treatment staff, the use of behavioral contracts and judicial orders, or other responses for non-compliance.

Any issues of meeting these community based supervision requirements should be made known to the State Drug Court Coordinator in an effort to strategically plan to ensure that proper intensive supervision is being employed.

XI. Court Proceedings and Appearances

Every Judge has his or her own unique individuality in courtroom decorum and procedure. Fortunately, the FTC model can accommodate a wide range of judicial approaches from stern to lenient or from formal to informal. It is the Judges' responsibility to create an atmosphere in the courtroom that is perceived as safe and that is conducive to building self-esteem and for teaching participants accountability.

Judges should be mindful of the following:

- Maintain consistency of the messages sent to participants
- Responses to participants can be individualized but the overall approach should be constant
- When incentives/responses are customized to the individual, the rationale for the different response should be explained to other participants
- Perceived certainty of response has a deterrent effect
- When participants perceive judicial response as predictable they will have greater success controlling their behavior
- Unpredictable responses lead to "learned helplessness" on the part of the participants

Family Treatment Courts are grounded in the principle of therapeutic jurisprudence. The key is to maintain a balance between the role as caring authority figure and the role of Judge. The Judge needs to gain the participant's trust through effective communication and understanding the challenge of recovery. However, the Judge must resist being perceived as the participant's friend. For that reason, ongoing group activities that include the Judge, court staff and participants should be discouraged (e.g., weekly bowling leagues, etc.).

Participant motivation towards compliance comes from the fact that an individual with great authority cares about their well-being. When the Judge - participant relationship moves toward a perceived friendship, that motivation is diminished.

A. Courtroom Atmosphere

The FTC program is built upon the creation of a non-adversarial courtroom atmosphere where a single Judge and a dedicated team of court officers and staff work together toward the common goal of breaking the cycle of drug abuse and neglect as well increase effectiveness of parenting for the overall safety and well-being of children. FTC has often been described as “theater” with participants in the “audience” watching the FTC in action. The behavior and attitudes that the participants observe in court affect their overall perception of the court’s fairness.

The following steps should be taken to ensure that the participants receive the most possible benefit out of the court experience:

- When possible, use a smaller courtroom to insure that the participants and the audience can clearly hear the proceedings.
- Communications between the Judge and the participants should be designed to affect the observing participants as well
- All treatment team members and court staff should remain attentive and engaged during FTC proceedings
- FTC staff should follow the same rules that they expect participants to follow regarding court appearances – show up on time, dress appropriately, pay attention, be mindful of the formal courtroom setting, etc.
- Try to schedule court sessions so as not to interfere with participants’ treatment, work and school schedules.
- Require participants to stay and observe the entire court session. Granting permission to leave early should be used as an incentive and reserved for those participants who are doing well.
- Requiring participants to observe provides several benefits:
 - Observing others do well provides reassurance and motivation (“If he/she can do it, so can I.”)
 - Observing the court’s imposition of responses on non-compliant participants helps them to learn consequential thinking
 - Observation should help to enhance the perception that FTC is fair and that all participants are treated equally
- Use a strength based approach when communicating with participants – even when a participant is non-compliant include mention of what they have done well.
 - Highlight skills, educational achievements, responsible behaviors, positive family interactions and talents
 - Relate a participant’s strengths to their potential for succeeding in recovery
- Avoid language that could be construed as public shaming
- Routinely inform participants about the contingencies of treatment participation (i.e. consequences for non-compliance)
 - Higher retention rates have been associated with engaging participants in understanding program contingencies, consistent messages from criminal justice and treatment personnel, and swift and fair responses for failures.
- Each participant should be asked to set one small manageable goal to be accomplished before his or her next court date. The satisfaction of reaching one goal provides the motivation for the next. It is encouraged to utilize the Milestone system as a way for the participants to accomplish these small manageable goals.

B. Frequency of Court Appearances

The frequency of required court appearances should be linked to Milestone status. Appearances should decrease in frequency as participants' progress through the Phases of the FTC program. The Court should require participants to attend court at least once a week at the outset and should gradually reduce the frequency to once a month in the final Milestone of the program. Regardless of how frequently a participant is required to attend court, treatment providers should advise the court immediately of significant non-compliance.

Frequent status hearings tend to increase compliance among participants, hold participants accountable, and promote a positive relationships with the Judge.

C. Family Treatment Court Judicial Mandate versus Treatment Programming

The FTCs should be careful to distinguish between the FTC's judicial mandate and its treatment mandate. Requirements for time in the program, frequency of court appearances, drug testing protocols, etc., are set by both statute and this Manual. However, the court should defer to licensed treatment professionals to make treatment decisions. All treatment decisions should be based on approved clinical assessment criteria. The criteria should include history of substance use, frequency of use, previous treatment and modalities used, employment status, housing status, health history etc.

XII. Program Reporting

A. Performance and Evaluation

The statutory critical data elements will be tracked through the FTC database as it will be used by the FTC. Data pertaining specifically to the FTC case must be entered in the FTC database and NOT in the WVOCMS probation database.

Once per year, at a minimum, all active FTCs participants in each FTC program will be provided with participant experience surveys to be completed and the results will be sent directly to the DPS. Each FTC CC will be asked to provide the blank surveys to the active participants and to encourage them to complete them and send to the DPS.

FTC Coordinators ("Users") and other designated persons will have access to the FTC database, and will use this database for electronic filing of the FTC caseload, generating reports for the FTC staffing meetings, for tracking FTC participants' progress, and for collecting relevant data to evaluate the FTC program.

Users are not to misuse the database. For example, there will be no unauthorized sharing of any information entered into the database. Unauthorized users shall not have access to the database through any means. The DPS will assign all usernames and passwords, and any individual without a username and password is an unauthorized user. Users will not be permitted to access the database on unauthorized or unsecured networks. Any unauthorized use or misuse of the database shall be reported to Department of Probation Services immediately.

Users will update data as often as reasonably possible. Each case shall be entered promptly at intake and be updated with accurate information throughout the progression of the case (including after interviews, at milestone progression, etc.). The DPS shall provide authorized users with training, monitor that data is entered accurately and with authorization, and ensure that this data, which is confidential under state and federal law, is protected.

B. Local Monitoring and Evaluation

The FTC treatment team shall set aside at least one day annually to review policies and procedures, explore areas of concern, and set goals and objectives for the next year. FTC's are dynamic. Drugs of choice change, participant characteristics such as age, ethnicity and gender may shift over time, new treatment approaches emerge and new staff members join the team.

Part of the review should include an examination of the program's compliance with federal confidentiality laws. FTCs in West Virginia may convene to examine trends in drug use, identify obstacles to operations, and brainstorm solutions.

APPENDIX THREE

FAMILY TREATMENT COURT DATA SUMMARY

SEPT. 1 – NOV. 30 2019

Counties: Ohio & Boone

DEMOGRAPHICS

Total participants referred: 13

Total participants accepted: 12

Gender:

MALE: 2 FEMALE: 10

Race:

WHITE: 12 BLACK: 0
HISPANIC: 0 OTHER: 0

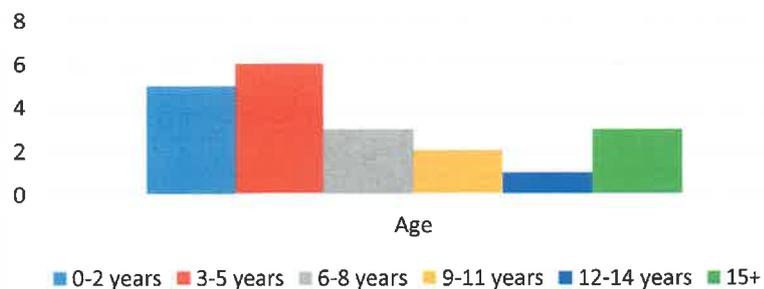
DEPENDENTS

The total number of children removed from their home by DHHR during the reporting period.

Total Number of Children Removed: 20

Age of Children:

0-2: 5 3-5: 6 6-8: 3 9-11: 2 12-14: 1 15+: 3



Gender

FEMALE: 12 MALE: 8

Race

WHITE: 20 BLACK: 0 HISPANIC: 0 OTHER: 0

MILESTONES

The current Milestone of participants as of Nov. 30. Participants achieve milestones as they progress through goals in the program.



DRUG SCREENS

The total number of drug screens of all participants in the program from their acceptance date through the reporting period.

Total: 143

Positive: 26%



SUBSTANCE USE DISORDER & MENTAL HEALTH TREATMENT

Participants can enroll and complete multiple treatment services during the reporting period.

Completed: Detox: 1 MAT: 0 IOP: 0 Outpatient: 1 Residential: 4

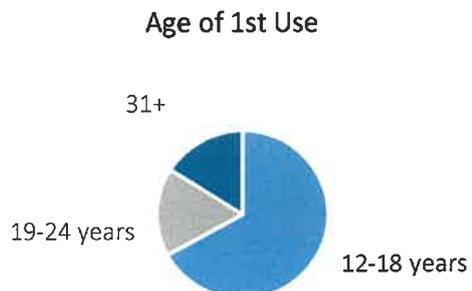
Currently Enrolled: Detox: 0 MAT: 4 IOP: 1 Outpatient: 5 Residential: 1



SUBSTANCE USE HISTORY

Age of 1st Use

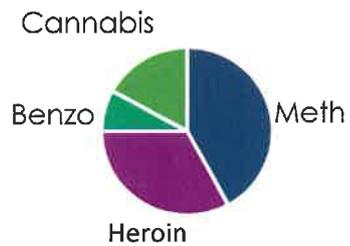
12-18: 67% 19-24: 17% 25-30: 0 31+: 16%



Primary Drug of Choice

Meth: 42% Heroin: 33% Benzodiazepine: 17% Cannabis: 8%

Primary Drug of Choice



APPENDIX FOUR

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill Number

BY SENATORS AND DELEGATES

[Enter References]

A BILL to amend and reenact §29-21-2 of the Code of West Virginia, 1931, as amended, to authorize payment of fees and reimbursement of expenses of attorneys who participate on court teams or advisory bodies of specialty courts established by the Supreme Court of Appeals.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. PUBLIC DEFENDER SERVICES.

§29-21-2. Definitions.

As used in this article, the following words and phrases are hereby defined:

(1) "Eligible client": Any person who meets the requirements established by this article to receive publicly funded legal representation in an eligible proceeding as defined herein;

(2) "Eligible proceeding": Criminal charges which may result in incarceration; juvenile proceedings; proceedings to revoke parole or probation if the revocation may result in incarceration; contempt of court; child abuse and neglect proceedings which may result in a termination of parental rights; mental hygiene commitment proceedings; extradition proceedings; proceedings which are ancillary to an eligible proceeding, including, but not limited to, proceedings to enhance sentences brought pursuant to sections eighteen and nineteen, article eleven, chapter sixty-one of this code, forfeiture proceedings brought pursuant to article seven, chapter sixty-a of this code, and proceedings brought to obtain extraordinary remedies; and appeals from or post-conviction challenges to the final judgment in an eligible proceeding; and participation on court teams or advisory bodies of drug courts, family treatment courts, military service members courts, or other specialty courts established or sanctioned by the Supreme Court of Appeals. Legal representation provided pursuant to the provisions of this article is limited to the court system of the State of West Virginia, but does not include representation in municipal courts unless the accused is at risk of incarceration;

- (3) "Legal representation": The provision of any legal services or legal assistance as counsel or guardian ad litem consistent with the purposes and provisions of this article;
- (4) "Private practice of law": The provision of legal representation by a public defender or assistant public defender to a client who is not entitled to receive legal representation under the provisions of this article, but does not include, among other activities, teaching;
- (5) "Public defender": The staff attorney employed on a full-time basis by a public defender corporation who, in addition to providing direct representation to eligible clients, has administrative responsibility for the operation of the public defender corporation. The public defender may be a part-time employee if the board of directors of the public defender corporation finds efficient operation of the corporation does not require a full-time attorney and the executive director approves such part-time employment;
- (6) "Assistant public defender": A staff attorney providing direct representation to eligible clients whose salary and status as a full-time or part-time employee are fixed by the board of directors of the public defender corporation;
- (7) "Public defender corporation": A corporation created under section eight of this article for the sole purpose of providing legal representation to eligible clients; and
- (8) "Public defender office": An office operated by a public defender corporation to provide legal representation under the provisions of this article.

NOTE: The purpose of this bill is to authorize payment of fees and reimbursement of expenses of attorneys for participation on court teams or advisory bodies of specialty courts established by the Supreme Court of Appeals.

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