

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

Senate Bill 232

BY SENATORS TRUMP AND RUCKER

[Originating in the Committee on the Judiciary;

reported on February 01, 2023]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §27-6A-12, relating to creating a multi-disciplinary study group to make
3 recommendations regarding the diversion of persons with mental illness, developmental
4 disabilities, substance abuse problems, and other disabilities from the criminal justice
5 system; setting forth findings; listing the membership makeup of the study group;
6 promoting appropriate interventions and placements for inmates and persons with
7 disabilities; developing a plan to coordinate care, treatment, and placement for persons
8 with disabilities in the criminal justice system and in the community; directing a report be
9 made to Legislature on or before November 30, 2023; authorizing per diem expenses for
10 nongovernmental members.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 6A. COMPETENCY AND CRIMINAL RESPONSIBILITY OF PERSONS
CHARGED OR CONVICTED OF A CRIME.**

**§27-6A-12. Development of a strategic plan for a Sequential Intercept Model to divert adults
and juveniles with mental illness, developmental disabilities, and substance use
disorders away from the criminal justice system into treatment and to promote
continuity of care and interventions; directing submission of a report to the
Legislature.**

1 (a) The Legislature finds that the state's adult and juvenile forensic patient populations
2 continue to increase and that the placement of forensic patients at state health care facilities,
3 diversion facilities, group homes, transitional living facilities, in the community, and other settings
4 continues to rapidly escalate. The Legislature further finds that persons with mental illness,
5 developmental disabilities, and/or substance use disorder may be overrepresented in the criminal
6 justice system, and many of these people might not present a danger to the public if they could
7 participate in a functioning community behavioral health continuum of care. The Legislature

8 further finds that the increasing adult and juvenile forensic patient populations, the placement and
9 treatment of adult and juvenile forensic patients, and the release of persons with mental illness,
10 developmental disabilities, and other disabilities creates significant clinical, public safety, staffing,
11 and fiscal needs and burdens for the judiciary, law enforcement, state health care facilities,
12 correctional facilities, behavioral health professionals, hospitals, and the public. The Legislature
13 further finds that there is a need for improved coordination among the Department of Health and
14 Human Resources, the Division of Corrections and Rehabilitation, and the Division of
15 Rehabilitation Services to promote the identification, safe discharge, and effective community
16 intervention and placement of persons who suffer from mental illness, a developmental disability,
17 and/or substance use disorder. The Legislature further finds that there is a need to develop
18 functional standards and protocols for the identification, management, qualified assessment, and
19 treatment of adult and juvenile forensic patients.

20 (b) The Chairman of the Dangerousness Assessment Advisory Board (DAAB) shall
21 convene a multi-disciplinary study group of the following persons:

22 (1) The Statewide Forensic Clinical Director;

23 (2) The Statewide Forensic Coordinator;

24 (3) The two forensic psychiatrists who are members of the board;

25 (4) The two psychologists who are members of the board;

26 (5) The Director of the Office of Drug Control Policy;

27 (6) A designee of the Supreme Court of Appeals;

28 (7) A designee of the Bureau of Children and Families with experience in juvenile forensic
29 matters;

30 (8) A designee of the Division of Corrections and Rehabilitation;

31 (9) A designee of the Division of Rehabilitation Services;

32 (10) A designee of the Prosecuting Attorneys Institute;

33 (11) A designee of the Public Defender Services;

34 (12) A designee of the West Virginia Behavioral Healthcare Providers Association who is
35 a licensed clinician with forensic patient experience;

36 (13) A designee of the West Virginia Hospital Association;

37 (14) A designee of the West Virginia Housing Development Fund;

38 (15) A designee of Disability Rights of West Virginia;

39 (16) A designee of the West Virginia Sheriff's Association; and

40 (17) A designee of the Juvenile Justice Commission.

41 (c) The purpose of the multi-disciplinary study group is to provide opinion, guidance, and
42 informed objective expertise to the Legislature regarding each of the following areas:

43 (1) The development and implementation of a Sequential Intercept Model to divert adults
44 and juveniles with mental illness, developmental disabilities, and/or substance use disorders away
45 from the criminal justice system and into community-based treatment or other settings where
46 appropriate;

47 (2) The review and recommendation of standards and protocols for the evaluation,
48 treatment, management, and stabilization of adult and juvenile forensic patients;

49 (3) A recommendation regarding standards and protocols to promote continuity of care
50 and interventions for adult and juvenile forensic patients and inmates released from correctional
51 facilities;

52 (4) The recommendation of a model to coordinate services and interventions among the
53 Department of Health and Human Resources, the Division of Corrections and Rehabilitation, the
54 Division of Rehabilitation Services, behavioral healthcare providers, law enforcement, and the
55 court system to facilitate the appropriate diversion, identification, evaluation, assessment,
56 management, and placement of adults and juveniles who suffer from mental illness, a
57 development disability, and/or substance use disorder to ensure public safety and the effective
58 clinical management of such persons;

59 (5) The identification of potential funding sources and the scope of resources needed for
60 the implementation of the study group's recommendations; and

61 (6) Any other issues related to addressing the Legislature's findings.

62 (d) The provisions of §6-9A-1 et seq. and §29B-1-1 et seq. of this code are inapplicable to
63 the operation of the study group.

64 (e) The written recommendations of the study group shall be submitted to the President
65 of the Senate and the Speaker of the House of Delegates on or before November 30, 2023.

66 (f) Each member of the multi-disciplinary study group whose regular salary is not paid by
67 the State of West Virginia shall be paid the same compensation and expense reimbursement that
68 is paid to members of the Legislature for their interim duties as recommended by the Citizens
69 Legislative Compensation Commission and authorized by law for each day or portion thereof
70 engaged in the discharge of official duties. Reimbursement for expenses shall not be made,
71 except upon an itemized account, properly certified by the members of the study group. All
72 reimbursement for expenses shall be paid out of the State Treasury upon a requisition upon the
73 State Auditor.