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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2005



# ENROLLED

## House Bill No. 3293

(By Delegates Staton and Browning)



Passed April 6, 2005

In Effect Ninety Days from Passage

FILED

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**E N R O L L E D**

**H. B. 3293**

(BY DELEGATES STATON AND BROWNING)

[Passed April 6, 2005; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31-20A-1, §31-20A-2, §31-20A-3, §31-20A-4, §31-20A-5, §31-20A-6, §31-20A-7, §31-20A-8, §31-20A-9, §31-20A-10, §31-20A-11, §31-20A-12, §31-20A-13, §31-20A-14 and §31-20A-15, all relating to establishing residential treatment programs for regional jail inmates who are abusers of alcohol and other drugs.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §31-20A-1, §31-20A-2, §31-20A-3, §31-20A-4, §31-20A-5, §31-20A-6, §31-20A-7, §31-20A-8, §31-20A-9, §31-20A-10, §31-20A-11, §31-20A-12, §31-20A-13, §31-20A-14 and §31-20A-15, all to read as follows:

**ARTICLE 20A. REGIONAL JAIL AUTHORITY ALCOHOL AND SUBSTANCE ABUSE TREATMENT ACT.**

**§31-20A-1. Short title.**

1 This article may be cited as “The Regional Jail Authority  
2 Alcohol and Substance Abuse Treatment Act.”

**§31-20A-2. Legislative findings.**

1 The Legislature finds as follows:

2 (1) That West Virginia’s prisons, regional jails and other  
3 correctional facilities are housing large numbers of nonviolent  
4 offenders that far exceed prior inmate populations which have  
5 previously existed in this State;

6 (2) That this increased inmate population has not been  
7 properly anticipated and has found the state ill-equipped to deal  
8 with its accompanying problems;

9 (3) That although the State has completed large-scale  
10 construction projects for prisons, regional jails and other  
11 correctional facilities, it has not kept pace with the burgeoning  
12 correctional populations;

13 (4) That because capital and operational costs have soared  
14 in an expanding correctional system, there is a need for more  
15 effective and less expensive approaches to sanctioning and  
16 supervising nonviolent offenders;

17 (5) That because of the conflicting trends of escalating  
18 demand and dwindling resources, it is in the best interests of the  
19 citizens of the State for the Legislature to develop and evaluate  
20 cost-effective correctional options which reduce reliance on  
21 incarceration while enhancing the reintegration of nonviolent  
22 offenders into the community;

23 (6) That the abuse of alcohol and other drugs is a significant  
24 cause of crimes, a major impediment to the rehabilitation of  
25 persons convicted of crimes, and a prime factor in the rate of  
26 recidivism;

27 (7) That a large majority of the inmates of this State's  
28 regional jails are persons who are alcohol or drug abuse  
29 offenders;

30 (8) That the time during which alcohol or drug abuse  
31 offenders are in custody presents a unique opportunity to  
32 provide them with treatment; and

33 (9) That jail-based residential alcohol and drug treatment  
34 programs, early release programs that include intensive reentry  
35 services and supervision, and combinations of these and other  
36 programs can substantially reduce the reliance on incarceration  
37 as the sole or primary means of sanctioning nonviolent offend-  
38 ers.

**§31-20A-3. Applicability of definitions.**

1 For purposes of this article, the words or terms explicitly  
2 defined in this article, and any variation of those words or terms  
3 required by the context, have the meanings ascribed to them.  
4 These definitions are applicable unless a different meaning  
5 clearly appears from the context.

**§31-20A-4. Abuser defined.**

1 "Abuser" means a person who overindulges in, and is  
2 dependent on an addictive substance, especially alcohol or other  
3 drugs.

**§31-20A-5. Alcohol or drug abuse offender defined.**

1 "Alcohol or drug abuse offender" means a person convicted  
2 of a criminal offense directly or indirectly involving the  
3 person's use or consumption of alcohol or other drugs.

**§31-20A-6. Assessment defined.**

1       “Assessment” means a comprehensive assessment for  
2 alcohol or other drug abuse treatment. It is a thorough evalua-  
3 tion of the individual, using multiple procedures and sources of  
4 information, to establish the presence or absence of a  
5 diagnosable disorder or disease and lay the clinical foundation  
6 for treatment. Assessment shall include the use of the Addiction  
7 Severity Index (ASI), available from the National Institute on  
8 Drug Abuse.

**§31-20A-7. Regional Jail Authority defined.**

1       “Regional Jail Authority” or "Authority" means the West  
2 Virginia Regional Jail and Correctional Facilities Authority  
3 created pursuant to the provisions of section three, article  
4 twenty, chapter thirty-one of this code.

**§31-20A-8. Residential treatment program defined.**

1       “Residential treatment program” or “treatment program”  
2 means a jail-based program established and utilized by the  
3 Regional Jail Authority for incarcerated alcohol or drug abusing  
4 offenders in the Regional Jail setting. The focus of a residential  
5 treatment program is to prepare the participating inmates for  
6 continued treatment on the outside, giving the participants the  
7 message that the program is the beginning of a treatment  
8 commitment, and that continuing care will be arranged upon  
9 release.

**§31-20A-9. Screening defined.**

1       “Screening” means a process used to determine whether an  
2 individual is a likely candidate for participation in a jail-based  
3 residential treatment program. As used in this article, screening  
4 is used to identify individuals who:

5       (1) Have alcohol or other drug abuse problems that may  
6 warrant treatment;

7 (2) Have infectious diseases including, but not limited to,  
8 tuberculosis, HIV/AIDS, or sexually transmitted diseases; and

9 (3) Fit within the target population of the treatment pro-  
10 gram in terms of criminal justice criteria, such as current  
11 charges pending, or prior criminal records.

**§31-20A-10. Establishment of residential treatment programs in regional jails.**

1 (a) Within the limitations of available appropriations and  
2 other funding sources, the Regional Jail Authority shall  
3 establish one or more pilot projects, aimed at developing and  
4 implementing residential treatment programs in the regional  
5 jails of this state.

**§31-20A-11. General program requirements.**

1 A residential treatment program established pursuant to this  
2 article will provide individual and group treatment activities for  
3 misdemeanor offenders confined in a regional jail. A residential  
4 treatment program shall:

5 (1) Last at least three months;

6 (2) To the extent possible, segregate alcohol or drug  
7 abusers who are participating in treatment from the general  
8 inmate population, so as to permit the establishment of a  
9 supportive social environment within the jail that will allow  
10 abusers to participate in a structured program and form support-  
11 ive bonds with others in treatment and with treatment staff;

12 (3) Focus on the inmates' abuse of alcohol or other drugs;

13 (4) Develop the inmates' cognitive, behavioral, social,  
14 vocational, and other skills to solve alcohol or drug abuse and  
15 related problems; and

16 (5) Be science-based and effective.

**§31-20A-12. Goals of a residential treatment program.**

1 Goals of a residential treatment program within a regional  
2 jail are intended to prepare an offender who is an abuser of  
3 alcohol or other drugs for treatment and a return to the commu-  
4 nity by:

5 (1) Providing education about recovery;

6 (2) Increasing the offender's self-awareness regarding the  
7 abuse of alcohol or other drugs and the detrimental effects that  
8 the abuse of alcohol or other drugs has on an abuser individu-  
9 ally, on an abuser's family, on an abuser's employment and  
10 income status; and on an abuser's other societal relationships;

11 (3) Providing an understanding of the need for treatment;

12 (4) Increasing awareness about solutions and resources; and

13 (5) Generating treatment motivation.

**§31-20A-13. Design and planning of treatment programs in regional jails.**

1 (a) Treatment programs established by the regional jail  
2 Authority for alcohol and drug abusers shall be specifically  
3 designed for use in a regional jail facility.

4 (b) Planning and design of a treatment program shall give  
5 consideration to:

6 (1) The problems created by short stays, varying lengths of  
7 stay, frequent disruptions, overcrowding and understaffing of  
8 regional jails;

9 (2) Programs in other jurisdictions that have been shown to  
10 be effective in jails or other correctional facilities by producing  
11 positive results in such categories as reduced recidivism;

12 (3) The recognition that an effective treatment program  
13 developed for a regional jail population will address familial,  
14 vocational, and social issues that will help support treatment  
15 goals, minimize the risk of relapse, and decrease the risk of  
16 criminal behavior; and

17 (4) Funding that is or may be available from legislative  
18 appropriations, federal grants, private foundations or entities,  
19 and other sources.

#### **§31-20A-14. Elements of designing and planning.**

1 Design and planning of a treatment program in a regional  
2 jail facility shall include consideration of the following ele-  
3 ments:

4 (1) Program admission criteria and procedures that may be  
5 in addition to those set forth in this article;

6 (2) Screening of incoming regional jail inmates;

7 (3) Assessment of each participating regional jail inmate,  
8 designed to determine the drug and alcohol abuse and addiction  
9 needs of a participant and to address other issues essential to a  
10 participant's successful reintegration into the community;

11 (4) Recognition that flexible programming and the involve-  
12 ment of courts and other community agencies and providers are  
13 critical to any preparation for joint program strategies and  
14 interactions among the justice system, the alcohol and drug  
15 abuse treatment system, and the community;



16 (5) Determination of which categories of care and compo-  
17 nents of treatment may be critical to engaging individuals in  
18 treatment;

19 (6) Division of curricula into flexible units, recognizing that  
20 no single approach to treatment works for all persons;

21 (7) Supervision of the participant's progress in treatment;

22 (8) Guidance to help incarcerated abusers make the  
23 transition from being inmates to being participants in alcohol  
24 and drug abuse treatment programs when they become avail-  
25 able;

26 (9) Staffing and cross-system liaison;

27 (10) Management of information; and

28 (11) Program monitoring.

**§31-20A-15. Consideration for early release.**

1 (a) An inmate who was sentenced to a term of confinement  
2 in a regional jail, who is determined to be an abuser of alcohol  
3 or other drugs, and who successfully completes the residential  
4 alcohol or drug abuse treatment program during his or her  
5 current commitment may be eligible, in accordance with the  
6 provisions of this section, for early release by a period not to  
7 exceed thirty days.

8 (b) The following categories of inmates are not eligible for  
9 early release:

10 (A) Pretrial inmates;

11 (B) Contractual boarders (for example, federal or military  
12 inmates); or

13 (C) Inmates who have a prior felony or misdemeanor  
14 conviction for homicide, forcible rape, robbery, or aggravated  
15 assault, or child sexual abuse offenses;

16 (c) Eligible inmates currently enrolled in a residential drug  
17 abuse treatment program shall automatically be considered for  
18 early release.

19 (d)(1) Except as specified in subdivisions (2) and (3) of this  
20 subsection, an inmate who is approved for early release may  
21 receive a reduction of sentence of up to thirty days.

22 (2) If the inmate has less than thirty days to serve after  
23 completion of all required transitional services, the amount of  
24 reduction may not exceed the amount of time left on service of  
25 sentence.


That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

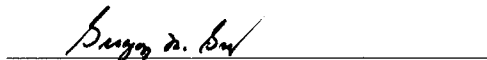
  
Chairman Senate Committee

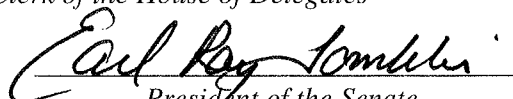
  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

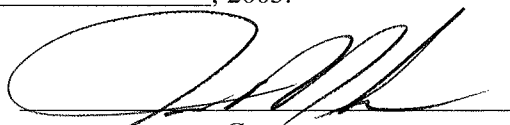
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within disapproved this the 18th  
day of April, 2005.

  
Governor

PRESENTED TO THE  
GOVERNOR

Date 4/12/05

Time 3:10 pm