1	H. B. 3258
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3	(By Delegate Smith)
4	[Introduced February 21, 2011; referred to the
5	Committee on the Judiciary.]
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10	A BILL to amend and reenact $\$27\text{-}6A\text{-}11$ of the Code of West Virginia,
11	1931, as amended, relating to providing forensic evaluators
12	with civil immunity for acts committed by the subject of the
13	evaluation.
14	Be it enacted by the Legislature of West Virginia:
15	That §27-6A-11 of the Code of West Virginia, 1931, as amended,
16	be amended and reenacted to read as follows:
17	ARTICLE 6A. COMPETENCY AND CRIMINAL RESPONSIBILITY OF PERSONS
18	CHARGED OR CONVICTED OF A CRIME.
19	<pre>§27-6A-11. Payment to forensic Forensic evaluators; civil</pre>
20	immunity.
21	(a) The department shall pay qualified forensic evaluators for
22	all matters related to conducting a court-ordered forensic
23	evaluation. The department shall develop and implement a process
24	for prompt payment to qualified forensic evaluators. The

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1 department shall establish policies and procedures for establishing 2 a maximum rate schedule for each of the four evaluation types 3 (competency to stand trial, criminal responsibility, diminished 4 capacity, dangerousness) to include all efforts towards the 5 completion of each evaluation such as scheduling and administrative 6 tasks, record review, psychological and other testing, interviews, 7 report writing, research, preparation and consultation. Such 8 policies and procedures shall include input from provider 9 representatives as necessary and appropriate. Any rate schedule 10 shall be fair and reasonable. The department shall consider 11 requests for payment in excess of established rates or other 12 expenses for good cause shown.

13 (b) A forensic evaluator that performs a dangerous assessment 14 evaluation pursuant to the provisions of section three or section 15 four of this article, may not be held civilly liable for acts 16 committed by the subject of the evaluation.

NOTE: The purpose of this bill is to provide civil immunity for forensic evaluators for acts committed by the subject of the evaluation. The bill creates parity with other judicial participants.

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

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