

1 **ENROLLED**

2 **H. B. 2780**

3
4 (By Delegates Miley, Skinner, Poore, Manchin,
5 Hunt and Barill)

6 **[BY REQUEST OF THE SUPREME COURT OF APPEALS]**

7
8 [Passed April 13, 2013; in effect ninety days from passage.]
9

10 AN ACT to amend and reenact §49-5D-3 and §49-5D-3c of the Code of
11 West Virginia, 1931, as amended, all relating generally to
12 multidisciplinary team meetings for juveniles committed to the
13 custody of the West Virginia Division of Juvenile Services;
14 requiring such meetings be held quarterly; authorizing the
15 directors of detention centers to call such meetings in
16 certain circumstances; requiring assessments be provided in
17 all cases to the court and team members; and requiring that
18 team members be notified that he or she may participate in
19 team meetings electronically.

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

21 That §49-5D-3 and §49-5D-3c of the Code of West Virginia,
22 1931, as amended, be amended and reenacted, all to read as follows:

23 **ARTICLE 5D. MULTIDISCLIPINARY TEAMS.**

24 **§49-5D-3. Multidisciplinary treatment planning process.**

1 (a) (1) A multidisciplinary treatment planning process for
2 cases initiated pursuant to articles five and six of this chapter
3 shall be established within each county of the state, either
4 separately or in conjunction with a contiguous county, by the
5 secretary of the department with advice and assistance from the
6 prosecutor's advisory council as set forth in section four, article
7 four, chapter seven of this code. The Division of Juvenile
8 Services shall establish a similar treatment planning process for
9 delinquency cases in which the juvenile has been committed to its
10 custody, including those cases in which the juvenile has been
11 committed for examination and diagnosis.

12 (2) The provisions of this section do not require a
13 multidisciplinary team meeting to be held prior to temporarily
14 placing a child or juvenile out-of-home under exigent circumstances
15 or upon a court order placing a juvenile in a facility operated by
16 the Division of Juvenile Services.

17 (b) The case manager in the Department of Health and Human
18 Resources for the child, family or juvenile or the case manager in
19 the Division of Juvenile Services for a juvenile shall convene a
20 treatment team in each case when it is required pursuant to this
21 article.

22 Prior to disposition, in each case in which a treatment
23 planning team has been convened, the team shall advise the court as
24 to the types of services the team has determined are needed and the

1 type of placement, if any, which will best serve the needs of the
2 child. If the team determines that an out-of-home placement will
3 best serve the needs of the child, the team shall first consider
4 placement with appropriate relatives then with foster care homes,
5 facilities or programs located within the state. The team may only
6 recommend placement in an out-of-state facility if it concludes,
7 after considering the best interests and overall needs of the
8 child, that there are no available and suitable in-state facilities
9 which can satisfactorily meet the specific needs of the child.

10 Any person authorized by the provisions of this chapter to
11 convene a multidisciplinary team meeting may seek and receive an
12 order of the circuit court setting such meeting and directing
13 attendance. Members of the multidisciplinary team may participate
14 in team meetings by telephone or video conferencing: *Provided,*
15 That the provisions of this subsection do not prevent the
16 respective agencies from designating a person other than the case
17 manager as a facilitator for treatment team meetings: *Provided*
18 *however,* That written notice shall be provided to all team members
19 of the availability to participate by videoconferencing.

20 (c) The treatment team shall coordinate its activities and
21 membership with local family resource networks and coordinate with
22 other local and regional child and family service planning
23 committees to assure the efficient planning and delivery of child
24 and family services on a local and regional level.

1 (d) The multidisciplinary treatment team shall be afforded
2 access to information in the possession of the Department of Health
3 and Human Resources, Division of Juvenile Services, law-enforcement
4 agencies and other state, county and local agencies; and the
5 agencies shall cooperate in the sharing of information, as may be
6 provided in sections three(d) and six, article five-d and section
7 one, article seven, all of chapter forty-nine, and any other
8 relevant provision of law. Any multidisciplinary team member who
9 acquires confidential information shall not disclose such
10 information except as permitted by the provisions of this code or
11 court rules.

12 **§49-5D-3c. Multidisciplinary treatment process for status**
13 **offenders or delinquents.**

14 (1) When a juvenile is adjudicated as a status offender
15 pursuant to section eleven-d, article five of this chapter, the
16 Department of Health and Human Resources shall promptly convene a
17 multidisciplinary treatment team and conduct an assessment,
18 utilizing a standard uniform comprehensive assessment instrument or
19 protocol, to determine the juvenile's mental and physical
20 condition, maturity and education level, home and family
21 environment, rehabilitative needs and recommended service plan,
22 which shall be provided in writing to the court and team members.
23 Upon completion of the assessment, the treatment team shall prepare
24 and implement a comprehensive, individualized service plan for the

1 juvenile.

2 (2) When a juvenile is adjudicated as a delinquent or has been
3 granted an improvement period pursuant to section nine, article
4 five of this chapter, the court, either upon its own motion or
5 motion of a party, may require the Department of Health and Human
6 Resources to convene a multidisciplinary treatment team and conduct
7 an assessment, utilizing a standard uniform comprehensive
8 assessment instrument or protocol, to determine the juvenile's
9 mental and physical condition, maturity and education level, home
10 and family environment, rehabilitative needs and recommended
11 service plan, which shall be provided in writing to the court and
12 team members. A referral to the Department of Health and Human
13 Resources to convene a multidisciplinary treatment team and to
14 conduct such an assessment shall be made when the court is
15 considering placing the juvenile in the department's custody or
16 placing the juvenile out-of-home at the department's expense
17 pursuant to section thirteen, article five of this chapter. In any
18 delinquency proceeding in which the court requires the Department
19 of Health and Human Resources to convene a multidisciplinary
20 treatment team, the probation officer shall notify the department
21 at least fifteen working days before the court proceeding in order
22 to allow the department sufficient time to convene and develop an
23 individualized service plan for the juvenile.

24 (3) When a juvenile has been adjudicated and committed to the

1 custody of the Director of the Division of Juvenile Services,
2 including those cases in which the juvenile has been committed for
3 examination and diagnosis, the Division of Juvenile Services shall
4 promptly convene a multidisciplinary treatment team and conduct an
5 assessment, utilizing a standard uniform comprehensive assessment
6 instrument or protocol, to determine the juvenile's mental and
7 physical condition, maturity and education level, home and family
8 environment, rehabilitative needs and recommended service plan.
9 Upon completion of the assessment, the treatment team shall prepare
10 and implement a comprehensive, individualized service plan for
11 the juvenile, which shall be provided in writing to the court and
12 team members. In cases where the juvenile is committed as a post-
13 sentence disposition to the custody of the Division of Juvenile
14 Services, the plan shall be reviewed quarterly by the
15 multidisciplinary treatment team. Where a juvenile has been
16 detained in a facility operated by the Division of Juvenile
17 Services without an active service plan for more than sixty days,
18 the director of the facility may call a multidisciplinary team
19 meeting to review the case and discuss the status of the service
20 plan.

21 (4) (A) The rules of juvenile procedure shall govern the
22 procedure for obtaining an assessment of a juvenile, preparing an
23 individualized service plan and submitting the plan and assessment
24 to the court.

1 (B) In juvenile proceedings conducted pursuant to article five
2 of this chapter, the treatment team shall consist of the juvenile,
3 the juvenile's case manager in the Department of Health and Human
4 Resources or the Division of Juvenile Services, the juvenile's
5 parent or parents, guardian or guardians or custodial relatives,
6 the juvenile's attorney, any attorney representing a member of the
7 treatment team, the prosecuting attorney or his or her designee, an
8 appropriate school official and any other person or agency
9 representative who may assist in providing recommendations for the
10 particular needs of the juvenile and family, including domestic
11 violence service providers. In delinquency proceedings, the
12 probation officer shall be a member of a treatment team. When
13 appropriate, the juvenile case manager in the Department of Health
14 and Human Resources and the Division of Juvenile Services shall
15 cooperate in conducting multidisciplinary treatment team meetings
16 when it is in the juvenile's best interest.

17 (C) Prior to disposition, in each case in which a treatment
18 planning team has been convened, the team shall advise the court as
19 to the types of services the team has determined are needed and
20 type of placement, if any, which will best serve the needs of the
21 child. If the team determines that an out-of-home placement will
22 best serve the needs of the child, the team shall first consider
23 placement at facilities or programs located within the state. The
24 team may only recommend placement in an out-of-state facility if it

1 concludes, after considering the best interests and overall needs
2 of the child, that there are no available and suitable in-state
3 facilities which can satisfactorily meet the specific needs of the
4 child.

5 (D) The multidisciplinary treatment team shall submit written
6 reports to the court as required by applicable law or by the court,
7 shall meet with the court at least every three months, as long as
8 the juvenile remains in the legal or physical custody of the state,
9 and shall be available for status conferences and hearings as
10 required by the court.

11 (E) In any case in which a juvenile has been placed out of his
12 or her home except for a temporary placement in a shelter or
13 detention center, the multidisciplinary treatment team shall
14 cooperate with the state agency in whose custody the juvenile is
15 placed to develop an after-care plan. The rules of juvenile
16 procedure and section twenty, article five, chapter forty-nine of
17 the code shall govern the development of an after-care plan for a
18 juvenile, the submission of the plan to the court and any objection
19 to the after-care plan.

20 (F) If a juvenile respondent admits the underlying allegations
21 of the case initiated pursuant to article five, chapter forty-nine
22 of this code in the multidisciplinary treatment planning process,
23 his or her statements shall not be used in any juvenile or criminal
24 proceedings against the juvenile, except for perjury or false

1 swearing.