

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 4386**

BY DELEGATES ELLINGTON, ROHRBACH AND STANSBURY

[BY REQUEST OF THE DEPARTMENT OF HEALTH AND  
HUMAN RESOURCES]

[Introduced February 3, 2016; Referred  
to the Committee on Health and Human Resources  
then the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new a section,  
 2 designated §27-6A-2a, relating to requiring the Department of Health and Human  
 3 Resources to be notified of hearings involving criminal defendants to be placed in state  
 4 inpatient mental health facilities; and requiring the court to give deference to any  
 5 recommendations made by the department.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 section, designated §27-6A-2a, to read as follows:

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

**§27-6A-2a Department of Health and Human Resources notice and recommendation  
 regarding placement in mental health facility; deference given.**

1 Effective July 1, 2016, whenever a court of competent jurisdiction determines that a  
 2 hearing is necessary for purposes of adjudicating whether a criminal defendant shall be placed in  
 3 a state inpatient mental health facility in accordance with any section of this article, the  
 4 Department of Health and Human Resources shall be provided with notice of the hearing and an  
 5 opportunity to set forth any applicable recommendations concerning placement of the defendant  
 6 within the department's system of care. Upon a determination that a criminal defendant will be  
 7 placed in a state inpatient mental health facility, the recommendations of the department as to  
 8 placement, if offered, shall be afforded deference by the court of competent jurisdiction.

NOTE: The purpose of this bill is to require the Department of Health and Human Resources to be notified of hearings involving criminal defendants to be placed in state inpatient mental health facilities. The bill requires the court to give deference to any recommendations made by the department.

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