

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 438

BY SENATOR FERNS

[Introduced February 1, 2016;

Referred to the Committee on Health and Human
Resources; and then to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §27-6A-2a, relating to notification and recommendation of Department of
3 Health and Human Resources with regard to placement of criminal defendants committed
4 to the department's care and custody.

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.**

1 Whenever a court of competent jurisdiction determines a hearing is necessary for
2 purposes of adjudicating whether a criminal defendant shall be placed in an inpatient mental
3 health facility operated by the state in accordance with this article, the Department of Health and
4 Human Resources shall be given notice of the hearing and an opportunity to provide
5 recommendations concerning placement of the defendant with the department. Upon a
6 determination that a criminal defendant shall be placed in an inpatient mental health facility
7 operated by the state, the recommendations of the Department of Health and Human Resources
8 as to placement, if offered, shall be afforded deference by the court.

NOTE: The purpose of this bill is to require that a representative of the Department of Health and Human Resources be in attendance at any judicial proceeding in which a mental hygiene commissioner, magistrate court and/or circuit court may commit an individual to the care and custody of the department for purposes of psychiatric evaluation and/or treatment. The bill would further require that presiding judicial officer give deference to the representative's recommendation as to the appropriate placement for the individual once committed.

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