

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2620**

BY DELEGATES FRICH, ELLINGTON, SHOTT, HOWELL,  
HOUSEHOLDER, STORCH, HANSHAW, KESSINGER,  
HOLLEN, SOBONYA AND MR. SPEAKER, (MR. ARMSTEAD)

[Introduced February 21, 2017; Referred  
to the Committee on Prevention and Treatment of  
Substance Abuse then the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §9-10-1, §9-10-2, §9-10-3, §9-10-4, §9-10-5 and §9-10-6, all relating to the  
 3 creation of a central repository of drug overdose information in West Virginia; establishing  
 4 the program and purpose; establishing the reporting system requirements; establishing  
 5 responsibility of entities to report information; establishing information required to be  
 6 reported; providing for data collection and reporting; providing for rule-making authority;  
 7 and providing criminal and administrative penalties for noncompliance.

*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 article, designated §9-10-1, §9-10-2, §9-10-3, §9-10-4, §9-10-5 and §9-10-6, all to read as follows:

**ARTICLE 10. WEST VIRGINIA DRUG OVERDOSE MONITORING ACT.**

**§9-10-1. Short Title.**

1 This article shall be referred to as the West Virginia Drug Overdose Monitoring Act.

**§9-10-2. Establishment of program; purpose.**

1 (a) There is hereby established a West Virginia Drug Overdose Monitoring Act, the  
 2 purpose of which is to require the recordation and retention of information regarding drug  
 3 overdose in a single repository.

4 (b) Both fatal and nonfatal drug overdoses, caused by abuse and misuse of prescription  
 5 and illicit drugs, have emerged as a vital health crisis in the State of West Virginia. The day-to-  
 6 day response to this crisis is dealt with by a number of entities throughout the state, including law-  
 7 enforcement agencies, emergency medical services, hospitals, medical examiners, and  
 8 pharmacies.

9 (c) In order to combat and reverse this trend, a central repository agency must obtain  
 10 relevant data regarding emergency medical service responses, the provision of opioid  
 11 antagonists, emergency room visits, hospitalizations for overdoses, and causes of mortality. The  
 12 Department of Health and Human Resources will provide and maintain a central location for

13 receiving data regarding drug overdoses within the state, and “affected entities” must provide  
14 information to this central repository. Once the DHHR receives this information, it can compile,  
15 evaluate and report the information to make recommendations and provide advice to state and  
16 local officials in order to coordinate an effective response to this problem.

**§9-10-3. Reporting system requirements; implementation; central repository requirement.**

1 (a) The DHHR shall implement a program in which a central repository is established and  
2 maintained that shall contain information required by this article. In implementing this program,  
3 the DHHR shall consult with all affected entities, including law-enforcement agencies, health care  
4 providers, emergency response providers, pharmacies, and medical examiners.

5 (b) The program authorized by subsection (a) of this section shall be designed to minimize  
6 inconvenience to all entities maintaining possession of the relevant information while effectuating  
7 the collection and storage of the required information. The DHHR shall allow reporting of the  
8 required information by electronic data transfer where feasible, and where not feasible, on  
9 reporting forms promulgated by the DHHR. The information required to be submitted by the  
10 provisions of this article shall be required to be filed no more frequently than on a quarterly basis.

**§9-10-4. Entities required to report; required information.**

1 (a) To fulfill the purposes of this article, the following information shall be reported to the  
2 DHHR:

3 (1) An emergency medical or law-enforcement response to a suspected or reported  
4 overdose, or a response in which an overdose is identified by the responders;

5 (2) Medical treatment for an overdose;

6 (3) The dispensation or provision of an opioid antagonist; and

7 (4) Death attributed to overdose or “drug poisoning”.

8 (b) The following entities shall be required to report information contained in subsection

9 (a):

10 (1) Pharmacies operating in the state;

- 11           (2) Health care providers;
- 12           (3) Medical examiners;
- 13           (4) Law-enforcement agencies, including state, county and local police departments; and
- 14           (5) Emergency response providers.

**§9-10-5. Promulgation of rules.**

1           The DHHR shall promulgate legislative rules to effectuate the purposes of this article in  
2 accordance with the provisions of chapter twenty-nine-a of this code.

**§9-10-6. Criminal penalties; Administrative violations.**

1           (a) Any person who is required to submit information to the DHHR pursuant to the  
2 provisions of this article and fails to do so is guilty of a misdemeanor and, upon conviction thereof,  
3 shall be fined not less than \$100 nor more than \$500.

4           (b) Any person who is required to submit information to the DHHR pursuant to the  
5 provisions of this article and knowingly and willfully refuses to submit the information required by  
6 this article is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county  
7 or regional jail not more than six months or fined not more than \$1,000, or both confined and  
8 fined.

9           (c) Any person who is required by the provisions of this article to submit information to the  
10 DHHR and knowingly submits false or fraudulent information is guilty of a misdemeanor and, upon  
11 conviction, shall be confined in a county or regional jail not more than one year or fined not more  
12 than \$5,000, or both confined and fined.

NOTE: The purpose of this bill is to create a central repository of drug overdose information in West Virginia; establish the program and purpose; establish the reporting system requirements; establish reporting requirements of entities; establish information required to be reported; provide for data collection and reporting; provide for rule-making authority; and provide criminal and administrative penalties for noncompliance.

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