

# WEST VIRGINIA LEGISLATURE

## 2024 REGULAR SESSION

Introduced

### House Bill 4408

FISCAL  
NOTE

By Delegate Howell and E. Pritt

[Introduced January 10, 2024; Referred  
to the Committee on Health and Human Resources  
then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §16-2D-11a, relating to the development of a specialized intermediate care  
 3 facility for individuals with intellectual and developmental disabilities that have acute  
 4 behaviors that pose imminent risk to themselves and others.

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

**ARTICLE 2D. CERTIFICATE OF NEED.**

**§16-2D-11a. Creation of a specialized intermediate care facility; placements and model;  
 rule.**

1 (a) Legislative findings. – The Legislature finds that there are individuals in this state who  
 2 cannot adequately care for themselves and have had trouble adjusting to already existing medical  
 3 treatment facilities. For this reason, there is need for the development of a specialized  
 4 intermediate care facility for individuals with intellectual and developmental disabilities that have  
 5 acute behaviors that post imminent risk to themselves and others.

6 (b) Definition. – As used in this section, "intermediate care facility" means an institution that  
 7 provides health-related services to individuals with conditions that require services above the level  
 8 of room and board, but do not require the degree of services provided in a hospital or skilled-  
 9 nursing facility.

10 (c) Placements. – Transitional placements shall be uniquely designed to provide support in  
 11 the least restrictive manner for individuals with intellectual and developmental disabilities ("IDD"),  
 12 and specifically, those populations exhibiting acute behavioral issues. West Virginia Behavioral  
 13 Health advocates would be permitted to actively assist in finding a less restrictive setting that  
 14 ensure the safety of the client and others.

15 (d) Model. – The placement model for the specialized intermediate care facility shall have  
 16 the following characteristics:

17 (1) Be large enough to ensure that adequate staff support is available to provide aid when  
 18 behavioral issues need redirected for individuals;

19 (2) Be appropriately sized to allow for staff support for individual clients in crisis;

20 (3) Location may be up to but shall be no greater than 20 beds;

21 (4) Be structured to allow for individual to have appropriate personal space, including  
22 individual bedroom and bathroom;

23 (5) Location would include adequate space to divert individuals that are experiencing crisis  
24 behavior, including separate activity building(s);

25 (6) Facility shall be secured with egress locks and fencing to ensure that clients and public  
26 are protected.

27 (e) Additional provisions. – To the extent necessary to achieve this specialized  
28 intermediate care facility, Medicaid shall seek federal approval so as to sustain operations and  
29 services. The specialized intermediate care facility shall have access to consumer and  
30 developmental disability advocates. Clients shall be permitted to be placed from community  
31 placements, health care settings, the penal system, or psychiatric facilities into the specialized  
32 intermediate care facility.

33 (f) Whistleblower protection. – The following protections are provided for staff of the  
34 specialized intermediate care facility:

35 (1) No employer may discharge, threaten, or otherwise discriminate or retaliate against an  
36 employee by changing the employee's compensation, terms, conditions, location, or privileges of  
37 employment because the employee, acting on his or her own volition, or a person acting on behalf  
38 of or under the direction of the employee, makes a good faith report, or is about to report, verbally  
39 or in writing, to the employer or appropriate authority, an instance of reporting abuse and neglect.

40 (2) No employer may discharge, threaten, or otherwise discriminate or retaliate against an  
41 employee by changing the employee's compensation, terms, conditions, location, or privileges of  
42 employment because the employee is requested or subpoenaed by an appropriate authority to  
43 participate in an investigation, hearing, or inquiry held by an appropriate authority or in a court  
44 action in relation to abuse and neglect.

- 45            (g) *Establishment of legislative rule.* – The Bureau for Behavioral Health shall develop and  
46            submit a legislative rule laying out specific policies to carry out the intent of this section.

NOTE: The purpose of this bill is to allow the development of a specialized intermediate care facility for individuals with intellectual and developmental disabilities.

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