

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 632

By Senators Trump, Deeds, and Rucker

[Introduced February 5, 2024; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §27-6A-12 of the Code of West Virginia, 1931, as amended, relating
 2 to continuing the study group on competency and criminal responsibility; adding brain
 3 injuries to the subjects to be studied; amending the membership of the study group;
 4 establishing a steering committee within the study group; setting a deadline for the report
 5 to be presented and to which offices and committees the report should be submitted; and
 6 enabling the steering committee to seek funding.

Be it enacted by the Legislature of West Virginia:

CHAPTER 27. MENTALLY ILL PERSONS.

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

**§27-6A-12. Development of a strategic plan for a Sequential Intercept Model to divert adults
 and juveniles with mental illness, developmental disabilities, cognitive disabilities,
 and substance use disorders away from the criminal justice system into treatment
 and to promote continuity of care and interventions; directing submission of a
 report to the Legislature.**

1 (a) The Legislature finds that the state’s adult and juvenile forensic patient populations
 2 continue to increase and that the placement of forensic patients at state health care facilities,
 3 diversion facilities, group homes, transitional living facilities, in the community, and other settings
 4 continues to rapidly escalate. The Legislature further finds that persons with mental illness,
 5 developmental disabilities, cognitive disabilities including, but not limited to, brain injuries, and/or
 6 substance use disorder may be overrepresented in the criminal justice system, and many of these
 7 people might not present a danger to the public if they could participate in a functioning community
 8 behavioral health continuum of care. The Legislature further finds that the increasing adult and
 9 juvenile forensic patient populations, the placement and treatment of adult and juvenile forensic
 10 patients, and the release of persons with mental illness, developmental disabilities, and other

11 disabilities creates significant clinical, public safety, staffing, and fiscal needs and burdens for the
12 judiciary, law enforcement, state health care facilities, correctional facilities, behavioral health
13 professionals, hospitals, and the public. The Legislature further finds that there is a need for
14 improved coordination among the Department of Health and Human Resources, the Division of
15 Corrections and Rehabilitation, and the Division of Rehabilitation Services to promote the
16 identification, safe discharge, and effective community intervention and placement of persons who
17 suffer from mental illness, a developmental disability, a cognitive disability including, but not limited
18 to, a brain injury, and/or substance use disorder. The Legislature further finds that there is a need
19 to develop functional standards and protocols for the identification, management, qualified
20 assessment, and treatment of adult and juvenile forensic patients.

21 (b) The Chairman of the Dangerousness Assessment Advisory Board (DAAB) shall
22 convene a multi-disciplinary study group of the following persons:

- 23 (1) The Statewide Forensic Clinical Director;
- 24 (2) The Statewide Forensic Coordinator;
- 25 (3) The two forensic psychiatrists who are members of the board;
- 26 (4) The two psychologists who are members of the board;
- 27 (5) The Director of the Office of Drug Control Policy;
- 28 (6) A designee of the Supreme Court of Appeals;
- 29 (7) A designee of the Bureau of Children and Families with experience in juvenile forensic
30 matters;
- 31 (8) A designee of the Division of Corrections and Rehabilitation;
- 32 (9) A designee of the Division of Rehabilitation Services;
- 33 (10) A designee of the Prosecuting Attorneys Institute;
- 34 (11) A designee of the Public Defender Services;
- 35 (12) A designee of the West Virginia Behavioral Healthcare Providers Association who is a
36 licensed clinician with forensic patient experience;

- 37 (13) A designee of the West Virginia Hospital Association;
- 38 (14) A designee of the West Virginia Housing Development Fund;
- 39 (15) A designee of Disability Rights of West Virginia;
- 40 (16) A designee of the West Virginia Sheriff's Association;
- 41 (17) A designee of the Juvenile Justice Commission; and
- 42 (18) A designee of the West Virginia University Center for Excellence in Disabilities;
- 43 (19) A designee of the Department of Veterans Assistance;
- 44 (20) A designee of the Department of Health Facilities;
- 45 (21) A designee of the Department of Human Services;
- 46 (22) A senator appointed by the President of the Senate, who shall be an ex officio member
- 47 of the study group; and
- 48 (23) A senator appointed by the Speaker of the House, who shall be an ex officio member
- 49 of the study group.

50 (c) The purpose of the multi-disciplinary study group is to provide opinion, guidance, and
51 informed objective expertise to the Legislature regarding each of the following areas:

52 (1) The development and implementation of a Sequential Intercept Model to divert adults
53 and juveniles with mental illness, developmental disabilities, cognitive disabilities, and/or
54 substance use disorders away from the criminal justice system and into community-based
55 treatment or other settings where appropriate;

56 (2) The review and recommendation of standards and protocols for the evaluation,
57 treatment, management, and stabilization of adult and juvenile forensic patients;

58 (3) A recommendation regarding standards and protocols to promote continuity of care
59 and interventions for adult and juvenile forensic patients and inmates released from correctional
60 facilities;

61 (4) The recommendation of a model to coordinate services and interventions among the
62 Department of Health and Human Resources, the Division of Corrections and Rehabilitation, the

63 Division of Rehabilitation Services, behavioral healthcare providers, law enforcement, and the
64 court system to facilitate the appropriate diversion, identification, evaluation, assessment,
65 management, and placement of adults and juveniles who suffer from mental illness, a
66 development disability, a cognitive disability including, but not limited to, a brain injury, and/or
67 substance use disorder to ensure public safety and the effective clinical management of such
68 persons;

69 (5) The identification of potential funding sources and the scope of resources needed for
70 the implementation of the study group's recommendations; and

71 (6) Any other issues related to addressing the Legislature's findings.

72 (d) The provisions of §6-9A-1 *et seq.* and §29B-1-1 *et seq.* of this code are inapplicable to
73 the operation of the study group.

74 (e) ~~The written recommendations of the study group shall be submitted to the President of~~
75 ~~the Senate and the Speaker of the House of Delegates on or before November 30, 2023~~ The study
76 group established in this section is hereby continued. The study group shall submit a
77 supplementary report containing its findings and recommendations to the President of the Senate
78 and the Speaker of the House of Delegates on or before November 30, 2024. Thereafter, the study
79 group shall submit an annual report to the President and the Speaker updating its findings and
80 recommendations on topics specified by the Joint Standing Committee on the Judiciary, the Joint
81 Standing Committee on Finance, the Joint Standing Committee on Health, or the Legislative
82 Oversight Committee on Regional Jail and Correctional Facility Authority.

83 (f) Each member of the multi-disciplinary study group whose regular salary is not paid by
84 the State of West Virginia shall be paid the same compensation and expense reimbursement that
85 is paid to members of the Legislature for their interim duties as recommended by the Citizens
86 Legislative Compensation Commission and authorized by law for each day or portion thereof
87 engaged in the discharge of official duties. Reimbursement for expenses shall not be made,
88 except upon an itemized account, properly certified by the members of the study group. All

89 reimbursement for expenses shall be paid out of the State Treasury upon a requisition upon the
90 State Auditor.

91 (g) The study group shall form a steering committee, consisting of the Chairman of the
92 Dangerousness Assessment Advisory Board, the Statewide Forensic Clinical Director, and the
93 Statewide Forensic Coordinator.

94 (1) The steering committee may enter into any contract for administrative support services
95 as may be necessary to accomplish the purposes of this section: *Provided*, That such services
96 may only be paid for through grant funding.

97 (2) The steering committee may enter into any memorandum of understanding with and
98 between any of the members of the study group as may be necessary to accomplish the purposes
99 of this section.

100 (3) The steering committee may seek grant funding to accomplish the purposes of this
101 section.

NOTE: The purpose of this bill is to continue the study group on competency and criminal responsibility, add brain injuries to the subjects to be studied, amend the membership of the study group, establish a steering committee within the study group, setting a deadline for the report to be presented and to which offices and committees the report should be submitted, and permitting the steering committee to seek funding.

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