WEST virginia legislature

**FISCAL NOTE**

2024 regular session

Introduced

House Bill 4408

By Delegate Howell and E. Pritt

[Introduced January 10, 2024; Referred

to the Committee on Health and Human Resources then Finance]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) *Establishment of legislative rule*. – The Bureau for Behavioral Health shall develop and 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.