

H. B. 2481

(By Delegate P. Smith)

[Introduced January 28, 2015; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §27-6A-11 of the Code of West Virginia, 1931, as amended, relating to the competency and criminal responsibility of persons charged or convicted of a crime; and providing forensic evaluators with civil immunity for acts committed by the subject of a dangerous assessment evaluation.

Be it enacted by the Legislature of West Virginia:

That §27-6A-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

§27-6A-11. ~~Payment to forensic~~ Forensic evaluators; civil immunity.

(a) The department shall pay qualified forensic evaluators for all matters related to conducting a court-ordered forensic evaluation. The department shall develop and implement a process for prompt payment to qualified forensic evaluators. The department shall establish policies

1 and procedures for establishing a maximum rate schedule for each of the four evaluation types
2 (competency to stand trial, criminal responsibility, diminished capacity, dangerousness) to include
3 all efforts towards the completion of each evaluation such as scheduling and administrative tasks,
4 record review, psychological and other testing, interviews, report writing, research, preparation and
5 consultation. Such policies and procedures shall include input from provider representatives as
6 necessary and appropriate. Any rate schedule shall be fair and reasonable. The department shall
7 consider requests for payment in excess of established rates or other expenses for good cause shown.
8 (b) A forensic evaluator who performs a dangerous assessment evaluation pursuant to the
9 provisions of section three or section four of this article, may not be held civilly liable for acts
10 committed by the subject of the evaluation.

NOTE: The purpose of this bill is to provide civil immunity for forensic evaluators for acts committed by the subject of a dangerous assessment evaluation. The bill creates parity with other judicial participants.

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