

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2481

2015 Carryover

(BY DELEGATE P. SMITH)

[Introduced January 13, 2016; referred to the
Committee on the Judiciary.]

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

Be it enacted by the Legislature of West Virginia:

1 That §27-6A-11 of the Code of West Virginia, 1931, as amended, be amended and
 2 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.

1 (a) The department shall pay qualified forensic evaluators for all matters related to
 2 conducting a court-ordered forensic evaluation. The department shall develop and implement a
 3 process for prompt payment to qualified forensic evaluators. The department shall establish
 4 policies and procedures for establishing a maximum rate schedule for each of the four evaluation
 5 types (competency to stand trial, criminal responsibility, diminished capacity, dangerousness) to
 6 include all efforts towards the completion of each evaluation such as scheduling and
 7 administrative tasks, record review, psychological and other testing, interviews, report writing,
 8 research, preparation and consultation. Such policies and procedures shall include input from
 9 provider representatives as necessary and appropriate. Any rate schedule shall be fair and
 10 reasonable. The department shall consider requests for payment in excess of established rates
 11 or other expenses for good cause shown.

12 (b) A forensic evaluator who performs a dangerous assessment evaluation pursuant to
 13 the provisions of section three or section four of this article, may not be held civilly liable for acts
 14 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.