

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2018

By Delegates Summers, Tully, and Rohrbach

[Introduced January 11, 2023; Referred to the
Committee on Health and Human Resources]

1 A BILL to amend and reenact §49-4-406 of the Code of West Virginia, 1931, as amended, relating
2 to permitting the managed care case coordinator to attend the multidisciplinary team
3 meeting.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. COURT ACTIONS.

**§49-4-406. Multidisciplinary treatment process for status offenders or delinquents;
requirements; custody; procedure; reports; cooperation; inadmissibility of certain
statements.**

1 (a) When a juvenile is adjudicated as a status offender pursuant to §49-4-711 of this code,
2 the Department of Health and Human Resources shall promptly convene a multidisciplinary
3 treatment team and conduct an assessment, utilizing a standard uniform comprehensive
4 assessment instrument or protocol, including a needs assessment, to determine the juvenile's
5 mental and physical condition, maturity and education level, home and family environment,
6 rehabilitative needs and recommended service plan, which shall be provided in writing to the court
7 and team members. Upon completion of the assessment, the treatment team shall prepare and
8 implement a comprehensive, individualized service plan for the juvenile.

9 (b) When a juvenile is adjudicated as a delinquent or has been granted a pre-adjudicatory
10 community supervision period pursuant to §49-4-708 of this code, the court, either upon its own
11 motion or motion of a party, may require the Department of Health and Human Resources to
12 convene a multidisciplinary treatment team and conduct an assessment, utilizing a standard
13 uniform comprehensive assessment instrument or protocol, including a needs assessment, to
14 determine the juvenile's mental and physical condition, maturity and education level, home and
15 family environment, rehabilitative needs and recommended service plan, which shall be provided
16 in writing to the court and team members. A referral to the Department of Health and Human
17 Resources to convene a multidisciplinary treatment team and to conduct such an assessment
18 shall be made when the court is considering placing the juvenile in the department's custody or

19 placing the juvenile out-of-home at the department's expense pursuant to §49-4-714 of this code.
20 In any delinquency proceeding in which the court requires the Department of Health and Human
21 Resources to convene a multidisciplinary treatment team, the probation officer shall notify the
22 department at least 15 working days before the court proceeding in order to allow the department
23 sufficient time to convene and develop an individualized service plan for the juvenile.

24 (c) When a juvenile has been adjudicated and committed to the custody of the Director of
25 the Division of Corrections and Rehabilitation, including those cases in which the juvenile has
26 been committed for examination and diagnosis, or the court considers commitment for
27 examination and diagnosis, the Division of Corrections and Rehabilitation shall promptly convene
28 a multidisciplinary treatment team and conduct an assessment, utilizing a standard uniform
29 comprehensive assessment instrument or protocol, including a needs assessment, to determine
30 the juvenile's mental and physical condition, maturity and education level, home and family
31 environment, rehabilitative needs and recommended service plan. Upon completion of the
32 assessment, the treatment team shall prepare and implement a comprehensive, individualized
33 service plan for the juvenile, which shall be provided in writing to the court and team members. In
34 cases where the juvenile is committed as a post-sentence disposition to the custody of the Division
35 of Corrections and Rehabilitation, the plan shall be reviewed quarterly by the multidisciplinary
36 treatment team. Where a juvenile has been detained in a facility operated by the Division of
37 Corrections and Rehabilitation without an active service plan for more than 60 days, the director of
38 the facility may call a multidisciplinary team meeting to review the case and discuss the status of
39 the service plan.

40 (d)(1) The rules of juvenile procedure shall govern the procedure for obtaining any
41 assessment of a juvenile, preparing an individualized service plan and submitting the plan and any
42 assessment to the court.

43 (2) In juvenile proceedings conducted pursuant to §49-4-701 *et seq.* of this code, the
44 following representatives shall serve as members and attend each meeting of the multidisciplinary

45 treatment team, so long as they receive notice at least seven days prior to the meeting:

46 (A) The juvenile;

47 (B) The juvenile's case manager in the Department of Health and Human Resources or the
48 Division of Corrections and Rehabilitation;

49 (C) The juvenile's parent, guardian or custodian;

50 (D) The juvenile's attorney;

51 (E) Any attorney representing a member of the multidisciplinary treatment team;

52 (F) The prosecuting attorney or his or her designee;

53 (G) The county school superintendent or the superintendent's designee;

54 (H) A treatment or service provider with training and clinical experience coordinating
55 behavioral or mental health treatment; and

56 (I) The managed care case coordinator; and

57 (J) Any other person or agency representative who may assist in providing
58 recommendations for the particular needs of the juvenile and family, including domestic violence
59 service providers. In delinquency proceedings, the probation officer shall be a member of a
60 multidisciplinary treatment team. When appropriate, the juvenile case manager in the Department
61 of Health and Human Resources and the Division of Corrections and Rehabilitation shall
62 cooperate in conducting multidisciplinary treatment team meetings when it is in the juvenile's best
63 interest.

64 (3) Prior to disposition, in each case in which a treatment planning team has been
65 convened, the team shall advise the court as to the types of services the team has determined are
66 needed and type of placement, if any, which will best serve the needs of the child. If the team
67 determines that an out-of-home placement will best serve the needs of the child, the team shall
68 first consider placement at facilities or programs located within the state. The team may only
69 recommend placement in an out-of-state facility if it concludes, after considering the best interests
70 and overall needs of the child, that there are no available and suitable in-state facilities which can

71 satisfactorily meet the specific needs of the child. The multidisciplinary treatment team shall also
72 determine and advise the court as to the individual treatment and rehabilitation plan recommended
73 for the child for either out-of-home placement or community supervision. The plan may focus on
74 reducing the likelihood of reoffending, requirements for the child to take responsibility for his or her
75 actions, completion of evidence-based services or programs or any other relevant goal for the
76 child. The plan may also include opportunities to incorporate the family, custodian or guardian into
77 the treatment and rehabilitation process.

78 (4) The multidisciplinary treatment team shall submit written reports to the court as
79 required by applicable law or by the court, shall meet with the court at least every three months, as
80 long as the juvenile remains in the legal or physical custody of the state, and shall be available for
81 status conferences and hearings as required by the court. The multidisciplinary treatment team
82 shall monitor progress of the plan identified in subdivision (3) of this subsection and review
83 progress of the plan at the regular meetings held at least every three months pursuant to this
84 section, or at shorter intervals, as ordered by the court, and shall report to the court on the
85 progress of the plan or if additional modification is necessary.

86 (5) In any case in which a juvenile has been placed out of his or her home except for a
87 temporary placement in a shelter or detention center, the multidisciplinary treatment team shall
88 cooperate with the state agency in whose custody the juvenile is placed to develop an after-care
89 plan. The rules of juvenile procedure and §49-4-409 of this code govern the development of an
90 after-care plan for a juvenile, the submission of the plan to the court and any objection to the after-
91 care plan.

92 (6) If a juvenile respondent admits the underlying allegations of the case initiated pursuant
93 to §49-4-701 through §49-4-725 of this code, in the multidisciplinary treatment planning process,
94 his or her statements may not be used in any juvenile or criminal proceedings against the juvenile,
95 except for perjury or false swearing.

NOTE: The purpose of this bill is to permit the managed care case coordinator to attend the multidisciplinary treatment meetings.

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