

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2018

By Delegates Summers, Tully, and Rohrbach

[Passed February 1, 2023; in effect from passage.]

1 AN ACT to amend and reenact §49-4-405 and §49-4-406 of the Code of West Virginia, 1931, as
2 amended, all relating to designating the managed care case coordinator as a member of
3 the multidisciplinary team.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. COURT ACTIONS.

§49-4-405. Multidisciplinary treatment planning process involving child abuse and neglect; team membership; duties; reports; admissions.

1 (a) Within thirty days of the initiation of a judicial proceeding pursuant to part six, of this
2 article, the department shall convene a multidisciplinary treatment team to assess, plan and
3 implement a comprehensive, individualized service plan for children who are victims of abuse or
4 neglect and their families. The multidisciplinary team shall obtain and utilize any assessments for
5 the children or the adult respondents that it deems necessary to assist in the development of that
6 plan.

7 (b) In a case initiated pursuant to part six of this article, the treatment team consists of:

8 (1) The child or family's case manager in the department;

9 (2) The adult respondent or respondents;

10 (3) The child's parent or parents, guardians, any copetitioners, custodial relatives of the
11 child, foster or preadoptive parents;

12 (4) Any attorney representing an adult respondent or other member of the treatment team;

13 (5) The child's counsel or the guardian ad litem;

14 (6) The prosecuting attorney or his or her designee;

15 (7) A member of a child advocacy center when the child has been processed through the
16 child advocacy center program or programs or it is otherwise appropriate that a member of the
17 child advocacy center participate;

18 (8) Any court-appointed special advocate assigned to a case;

19 (9) Any other person entitled to notice and the right to be heard;

20 (10) An appropriate school official;

21 (11) The managed care case coordinator; and

22 (12) Any other person or agency representative who may assist in providing
23 recommendations for the particular needs of the child and family, including domestic violence
24 service providers.

25 The child may participate in multidisciplinary treatment team meetings if the child's
26 participation is deemed appropriate by the multidisciplinary treatment team. Unless otherwise
27 ordered by the court, a party whose parental rights have been terminated and his or her attorney
28 may not be given notice of a multidisciplinary treatment team meeting and does not have the right
29 to participate in any treatment team meeting.

30 (c) Prior to disposition in each case which a treatment planning team has been convened,
31 the team shall advise the court as to the types of services the team has determined are needed
32 and the type of placement, if any, which will best serve the needs of the child. If the team
33 determines that an out-of-home placement will best serve the needs of the child, the team shall
34 first consider placement with appropriate relatives then with foster care homes, facilities or
35 programs located within the state. The team may only recommend placement in an out-of-state
36 facility if it concludes, after considering the best interests and overall needs of the child, that there
37 are no available and suitable in-state facilities which can satisfactorily meet the specific needs of
38 the child.

39 (d) The multidisciplinary treatment team shall submit written reports to the court as
40 required by the rules governing this type of proceeding or by the court, and shall meet as often as
41 deemed necessary but at least every three months until the case is dismissed from the docket of
42 the court. The multidisciplinary treatment team shall be available for status conferences and
43 hearings as required by the court.

44 (e) If a respondent or copetitioner admits the underlying allegations of child abuse or
45 neglect, or both abuse and neglect, in the multidisciplinary treatment planning process, his or her

46 statements may not be used in any subsequent criminal proceeding against him or her, except for
47 perjury or false swearing.

§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 shall promptly convene a multidisciplinary treatment team and conduct an
3 assessment, utilizing a standard uniform comprehensive assessment instrument or protocol,
4 including a needs assessment, to determine the juvenile's mental and physical condition, maturity
5 and education level, home and family environment, rehabilitative needs and recommended
6 service plan, which shall be provided in writing to the court and team members. Upon completion
7 of the assessment, the treatment team shall prepare and implement a comprehensive,
8 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 to convene a multidisciplinary treatment
12 team and conduct an assessment, utilizing a standard uniform comprehensive assessment
13 instrument or protocol, including a needs assessment, to determine the juvenile's mental and
14 physical condition, maturity and education level, home and family environment, rehabilitative
15 needs and recommended service plan, which shall be provided in writing to the court and team
16 members. A referral to the department to convene a multidisciplinary treatment team and to
17 conduct such an assessment shall be made when the court is considering placing the juvenile in
18 the department's custody or placing the juvenile out-of-home at the department's expense
19 pursuant to §49-4-714 of this code. In any delinquency proceeding in which the court requires the
20 department to convene a multidisciplinary treatment team, the probation officer shall notify the

21 department at least 15 working days before the court proceeding in order to allow the department
22 sufficient time to convene and develop an individualized service plan for the juvenile.

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

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

42 (2) In juvenile proceedings conducted pursuant to §49-4-701 *et seq.* of this code, the
43 following representatives shall serve as members and attend each meeting of the multidisciplinary
44 treatment team, so long as they receive notice at least seven days prior to the meeting:

45 (A) The juvenile;

46 (B) The juvenile's case manager in the department or the Division of Corrections and
47 Rehabilitation;

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

49 (D) The juvenile's attorney;

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

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

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

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

55 (I) The managed care case coordinator; and

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

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

71 for the child for either out-of-home placement or community supervision. The plan may focus on
72 reducing the likelihood of reoffending, requirements for the child to take responsibility for his or her
73 actions, completion of evidence-based services or programs or any other relevant goal for the
74 child. The plan may also include opportunities to incorporate the family, custodian or guardian into
75 the treatment and rehabilitation process.

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

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

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

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2023.

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Governor