

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 232

By Senators Trump and Rucker

[Introduced January 16, 2023; referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §27-6A-12, relating to the creation of a multi-disciplinary study group to make
 3 recommendations regarding the diversion of persons with disabilities from the criminal
 4 justice system, promote appropriate interventions and placements for inmates and
 5 persons with disabilities, and develop a plan to coordinate care, treatment, and placement
 6 for persons with disabilities in the criminal justice system and in the community.

Be it enacted by the Legislature of West Virginia:

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

§27-6A-12. Develop a strategic plan for a Sequential Intercept Model to divert adults and juveniles with mental illness, developmental disabilities, and substance use disorders away from the criminal justice system into treatment and to promote continuity of care and interventions; requesting submission of a report to legislature.

1 (a) The Legislature finds that the state’s adult and juvenile forensic patient populations
 2 continue to increase and that the placement of forensic patients at state health care facilities,
 3 diversion facilities, group homes, transitional living facilities, in the community, and other settings
 4 continues to rapidly escalate. The Legislature further finds that persons with mental illness,
 5 developmental disabilities, and/or substance use disorder are overrepresented in the criminal
 6 justice system, and many of these people would not present a danger to the public if they could
 7 participate in a robust community behavioral health continuum of care. The Legislature further
 8 finds that the increasing adult and juvenile forensic patient populations, the placement and
 9 treatment of adult and juvenile forensic patients, and the release of persons with mental illness,
 10 developmental disabilities, and other disabilities creates significant clinical, public safety, staffing,
 11 and fiscal needs and burdens for the judiciary, law enforcement, state health care facilities,

12 correctional facilities, behavioral health professionals, hospitals, and the public. The Legislature
13 further finds that there is a need for enhanced coordination among the Department of Health and
14 Human Resources, the Division of Corrections and Rehabilitation, and the Division of
15 Rehabilitation Services to promote the identification, safe discharge, and effective community
16 intervention and placement of persons who suffer from mental illness, a development disability,
17 and/or substance use disorder. The Legislature further finds that there is a need to develop
18 enhanced standards and protocols for the identification, management, qualified assessment, and
19 treatment of juvenile forensic patients.

20 (b) The Chairman of the Dangerousness Assessment Advisory Board ("DAAB") shall
21 convene a multi-disciplinary study group of the following persons:

22 (1) The Statewide Forensic Clinical Director;

23 (2) The Statewide Forensic Coordination;

24 (3) The two forensic psychiatrists who are members of DAAB;

25 (4) The two psychologists who are members of DAAB;

26 (5) The Director of the Office of Drug Control Policy;

27 (6) Designee of the Supreme Court of Appeals

28 (7) Designee of the Bureau of Children and Adult Services with experience in juvenile
29 forensic matters;

30 (8) Designee of the Division of Corrections and Rehabilitation;

31 (9) Designee of the Division of Rehabilitation Services;

32 (10) Designee of the Prosecuting Attorney's Institute;

33 (11) Designee of the Public Defender Services;

34 (12) Designee of the West Virginia Behavioral Healthcare Providers Association who is a
35 licensed clinician with forensic patient experience;

36 (13) Designee of the West Virginia Hospital Association;

37 (14) Designee of the West Virginia Housing Development Fund;

38 (15) Designee of Disability Rights of West Virginia; and

39 (16) Designee of the West Virginia Sheriff's Association.

40 (c) The purpose of the multi-disciplinary study group is to provide opinion, guidance, and
41 informed objective expertise to the Legislature regarding each of the following areas:

42 (1) The development and implementation of a Sequential Intercept Model to divert adults
43 and juveniles with mental illness, developmental disabilities, and/or substance use disorders away
44 from the criminal justice system and into community-based treatment or other appropriate
45 settings;

46 (2) The review and recommendation of standards and protocols for the evaluation,
47 treatment, management, and stabilization of adult and juvenile forensic patients;

48 (3) The recommendation of standards and protocols to promote continuity of care and
49 interventions for adult and juvenile forensic patients and inmates released from correctional
50 facilities;

51 (4) The recommendation of a model to coordinate services and interventions among the
52 Department of Health and Human Resources, the Division of Corrections and Rehabilitation, the
53 Division of Rehabilitation Services, behavioral healthcare providers, law enforcement, and the
54 court system to facilitate the proper diversion, identification, evaluation, assessment,
55 management, and placement of adults and juveniles who suffer from mental illness, a
56 development disability, and/or substance use disorder to ensure public safety and the effective
57 clinical management of such persons;

58 (5) The identification of potential funding sources and the scope of resources needed for
59 the implementation of the study group's recommendations: and

60 (6) Such other issues related to addressing the Legislature's findings.

61 (d) The provisions of §6-9A-1 et seq. and §29B-1-1 et seq. of this code are inapplicable to
62 the operation of the study group.

63 (e) The written recommendations of the study group shall be submitted to the President of

64 the Senate and the Speaker of the House of Delegates on or before September 30, 2023.

NOTE: The purpose of this bill is to create a multi-disciplinary study group to make recommendations regarding the diversion of persons with disabilities from the criminal justice system. The bill promotes appropriate interventions and placements for inmates and persons with disabilities. Finally, the bill develops a plan to coordinate care, treatment, and placement for persons with disabilities in the criminal justice system and in the community.

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