

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

Senate Bill 232

By Senators Trump and Rucker

[Passed March 11, 2023; in effect from passage]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §27-6A-12, relating to creating a multi-disciplinary study group to make
3 recommendations regarding the diversion of persons with mental illness, developmental
4 disabilities, cognitive disabilities, substance abuse problems, and other disabilities from
5 the criminal justice system; setting forth findings; listing the membership makeup of the
6 study group; promoting appropriate interventions and placements for inmates and persons
7 with disabilities; developing a plan to coordinate care, treatment, and placement for
8 persons with disabilities in the criminal justice system and in the community; directing a
9 report be made to Legislature on or before November 30, 2023; and authorizing per diem
10 expenses for nongovernmental members.

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. Development of a strategic plan for a Sequential Intercept Model to divert adults
and juveniles with mental illness, developmental disabilities, cognitive disabilities,
and substance use disorders away from the criminal justice system into treatment
and to promote continuity of care and interventions; directing submission of a
report to the Legislature.**

11 (a) The Legislature finds that the state's adult and juvenile forensic patient populations
12 continue to increase and that the placement of forensic patients at state health care facilities,
13 diversion facilities, group homes, transitional living facilities, in the community, and other settings
14 continues to rapidly escalate. The Legislature further finds that persons with mental illness,
15 developmental disabilities, cognitive disabilities, and/or substance use disorder may be
16 overrepresented in the criminal justice system, and many of these people might not present a
17 danger to the public if they could participate in a functioning community behavioral health

18 continuum of care. The Legislature further finds that the increasing adult and juvenile forensic
19 patient populations, the placement and treatment of adult and juvenile forensic patients, and the
20 release of persons with mental illness, developmental disabilities, and other disabilities creates
21 significant clinical, public safety, staffing, and fiscal needs and burdens for the judiciary, law
22 enforcement, state health care facilities, correctional facilities, behavioral health professionals,
23 hospitals, and the public. The Legislature further finds that there is a need for improved
24 coordination among the Department of Health and Human Resources, the Division of Corrections
25 and Rehabilitation, and the Division of Rehabilitation Services to promote the identification, safe
26 discharge, and effective community intervention and placement of persons who suffer from mental
27 illness, a developmental disability, a cognitive disability, and/or substance use disorder. The
28 Legislature further finds that there is a need to develop functional standards and protocols for the
29 identification, management, qualified assessment, and treatment of adult and juvenile forensic
30 patients.

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

- 33 (1) The Statewide Forensic Clinical Director;
- 34 (2) The Statewide Forensic Coordinator;
- 35 (3) The two forensic psychiatrists who are members of the board;
- 36 (4) The two psychologists who are members of the board;
- 37 (5) The Director of the Office of Drug Control Policy;
- 38 (6) A designee of the Supreme Court of Appeals;
- 39 (7) A designee of the Bureau of Children and Families with experience in juvenile forensic
40 matters;
- 41 (8) A designee of the Division of Corrections and Rehabilitation;
- 42 (9) A designee of the Division of Rehabilitation Services;
- 43 (10) A designee of the Prosecuting Attorneys Institute;

44 (11) A designee of the Public Defender Services;

45 (12) A designee of the West Virginia Behavioral Healthcare Providers Association who is a
46 licensed clinician with forensic patient experience;

47 (13) A designee of the West Virginia Hospital Association;

48 (14) A designee of the West Virginia Housing Development Fund;

49 (15) A designee of Disability Rights of West Virginia;

50 (16) A designee of the West Virginia Sheriff's Association;

51 (17) A designee of the Juvenile Justice Commission; and

52 (18) A designee of the West Virginia University Center for Excellence in Disabilities.

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

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

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

61 (3) A recommendation regarding standards and protocols to promote continuity of care
62 and interventions for adult and juvenile forensic patients and inmates released from correctional
63 facilities;

64 (4) The recommendation of a model to coordinate services and interventions among the
65 Department of Health and Human Resources, the Division of Corrections and Rehabilitation, the
66 Division of Rehabilitation Services, behavioral healthcare providers, law enforcement, and the
67 court system to facilitate the appropriate diversion, identification, evaluation, assessment,
68 management, and placement of adults and juveniles who suffer from mental illness, a
69 development disability, a cognitive disability, and/or substance use disorder to ensure public safety

70 and the effective clinical management of such persons;

71 (5) The identification of potential funding sources and the scope of resources needed for
72 the implementation of the study group's recommendations; and

73 (6) Any other issues related to addressing the Legislature's findings.

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

76 (e) The written recommendations of the study group shall be submitted to the President of
77 the Senate and the Speaker of the House of Delegates on or before November 30, 2023.

78 (f) Each member of the multi-disciplinary study group whose regular salary is not paid by
79 the State of West Virginia shall be paid the same compensation and expense reimbursement that
80 is paid to members of the Legislature for their interim duties as recommended by the Citizens
81 Legislative Compensation Commission and authorized by law for each day or portion thereof
82 engaged in the discharge of official duties. Reimbursement for expenses shall not be made,
83 except upon an itemized account, properly certified by the members of the study group. All
84 reimbursement for expenses shall be paid out of the State Treasury upon a requisition upon the
85 State Auditor.