

SB 0022

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

Comm. Sub. for Comm. Sub. for
SENATE BILL NO. 22

(By Senator *TOUBIN, MR. PRESIDENT, BY*
REQUEST OF THE EXECUTIVE)



PASSED FEBRUARY 20, 1995
In Effect 704 Passage

ENROLLED

COMMITTEE SUBSTITUTE
FOR

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FOR

Senate Bill No. 22

(SENATOR TOMBLIN, MR. PRESIDENT, BY REQUEST
OF THE EXECUTIVE)

[Passed February 20, 1995; in effect from passage.]

AN ACT to amend article two, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section one-b, relating generally to the closure of the Colin Anderson center; setting forth a closure date; requiring the secretary to prepare care, placement and transfer plans for each resident; setting forth criteria to be followed in developing plans; allowing the transfer of funds; setting limitations on transfer of funds; setting forth reporting requirements regarding transfer of funds; creating "Colin Anderson Transfer Fund"; providing for expenditure from fund; providing for the deposit of savings in medical services trust fund; requiring monthly reports to the joint committee on government and finance on the placement of residents; providing qualified employees with a hiring preference for other state

government positions; requiring a feasibility study regarding the establishment of one or more permanent intermediate care facilities for the mentally retarded that could house up to thirty residents; expediting certificate of need review under specified circumstances; and creating a subcommittee of the joint committee on government and finance to monitor residents transferred from Colin Anderson center.

Be it enacted by the Legislature of West Virginia:

That article two, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section one-b, to read as follows:

ARTICLE 2. MENTAL HEALTH FACILITIES.

§27-2-1b. Deinstitutionalization of residents at Colin Anderson.

1 (a) Notwithstanding any other provisions in this code
2 to the contrary, the secretary of the department of health
3 and human resources shall close the Colin Anderson
4 center on or before the thirty-first day of December, one
5 thousand nine hundred ninety-six: *Provided*, That prior
6 to any transfer of any resident from Colin Anderson
7 center as a result of action taken pursuant to this
8 section, the secretary must design and be able to
9 implement a detailed plan providing for the ongoing
10 appropriate care, placement and transfer of said resident
11 in accordance with subsection (b) of this section.

12 (b) The plan for providing for the ongoing appropriate
13 care, placement and transfer of each resident at Colin
14 Anderson center shall be designed in accordance with
15 the criteria set forth in this subsection. Each resident
16 must have a plan of service developed to meet his or her
17 individual medical, physical and emotional needs. The
18 plan of service shall be developed by a team which shall
19 include, but not be limited to, the following persons: The
20 resident; the immediate family of the resident, if the
21 immediate family of the resident is willing to participate;

22 the guardian of the resident, if the guardian is willing to
23 participate; representatives of the Colin Anderson
24 center; community behavioral health service providers;
25 and such other persons as may be appointed to the team
26 by the secretary of the department. The plan shall not
27 compromise the health, safety and well-being of the
28 resident. The plan will be implemented in a timely
29 manner. However, no plan shall be implemented until
30 the needed services are in place, adequate staff training
31 has been completed and an appropriate transition has
32 been provided. Each resident, or his or her guardian,
33 shall have access to and be informed of the written
34 appeal process which shall be established by the
35 department.

36 (c) In designing and implementing the placement plan
37 the secretary of the department of health and human
38 resources shall transfer funds from the hospital services
39 revenue account created pursuant to section fifteen-a,
40 article one, chapter sixteen of this code and the
41 consolidated medical service fund to a special revenue
42 account created in the state treasury, designated the
43 "Colin Anderson Transfer Fund" for the specific
44 purposes of caring for residents in alternative placement
45 settings: *Provided*, That transfers in excess of a total of
46 ten million dollars in any one fiscal year shall require the
47 prior approval of the governor and shall be reported
48 forthwith to the joint committee on government and
49 finance. Moneys deposited in the "Colin Anderson
50 Transfer Fund" shall be expended directly from the fund
51 for payments related to care of persons affected by the
52 provisions of this section and may be expended by the
53 transfer of moneys from this fund to match the state's
54 share of medicaid payments necessary to effectuate the
55 purposes of this section. The secretary shall prepare a
56 quarterly report of all transfers made from the hospital
57 services revenue account and the consolidated medical
58 service fund explaining the specific reason for the
59 transfer. The reports shall be submitted to the joint
60 committee on government and finance upon their

61 completion. In submitting a budget to the Legislature for
62 the fiscal year following the closure of Colin Anderson,
63 the secretary shall include funding necessary for the
64 continued care of each resident in the appropriate
65 account and the authority of the secretary to transfer
66 funds pursuant to this section shall be void and of no
67 further effect.

68 (d) All savings accruing to the state as a result of
69 actions taken pursuant to this section shall be deposited
70 in the medical services trust fund established by section
71 two-a, article four-a, chapter nine of this code.

72 (e) The secretary of the department of health and
73 human resources shall make monthly reports to the joint
74 committee on government and finance regarding the
75 placement and monitoring of all residents placed from
76 Colin Anderson center pursuant to the provisions of this
77 section. The report shall include, but not be limited to,
78 the following information: (1) The types of financing and
79 start up funds expended for relocation; (2) the costs
80 incurred during the month for the placement, relocation
81 and maintenance of each resident; (3) a description of the
82 transition process planned for each resident and the
83 results of any trial visits by the resident; (4) a description
84 of the facility into which any resident is to be placed; (5)
85 information regarding the dislocation of any individual
86 presently occupying a bed at an intermediate care
87 facility for the mentally retarded and the ultimate
88 placement of the dislocated individual; (6) information
89 regarding the use of day programming and employment;
90 (7) identification of medical providers by type, prior to
91 and following the relocation of each resident from Colin
92 Anderson center; (8) serious injury and mortality, other
93 than from natural cause, reports for relocated residents,
94 provided in a manner to protect the confidentiality of the
95 residents; (9) a comparison of the needs assessment and
96 medical and social resources identified for each resident
97 prior to relocation and after relocation; and (10) such
98 other information the secretary deems appropriate or is
99 specifically requested by the joint committee on

100 government and finance.

101 (f) The department of health and human resources, the
102 bureau of employment programs, the public employees
103 retirement system, the public employees insurance
104 agency, any state agency or local community action
105 agency receiving job training partnership act funds and
106 any other agency of the state involved with benefits or
107 services to the unemployed shall work individually with
108 all employees whose jobs have been terminated by this
109 section in order to recommend benefits, services,
110 training, interagency employment transfer or other
111 employment. The secretary of the department of health
112 and human resources and secretaries of all other state
113 agencies shall use best efforts to employ qualified
114 employees who were employed at the facility
115 immediately prior to its closure: *Provided*, That
116 notwithstanding any other provision of the code to the
117 contrary, in filling vacancies at other facilities or other
118 state agencies the secretary and the directors of other
119 agencies shall, for a period of twelve months after the
120 closure, give preference over all but existing employees
121 to qualified employees who were permanently employed
122 at the facility immediately prior to its closure: *Provided*,
123 *however*, That qualified persons who were permanently
124 employed at Colin Anderson immediately prior to its
125 closure shall not supersede those employees with recall
126 rights in other state agencies. The secretary of the
127 department of health and human resources is directed to
128 encourage vendors providing mental health related
129 services for the department to hire employees who were
130 separated from service as a result of the closure of Colin
131 Anderson.

132 (g) No later than the thirtieth day of November, one
133 thousand nine hundred ninety-five, the department shall
134 report to the joint committee on government and finance
135 regarding the feasibility of establishing one or more
136 permanent intermediate care facilities for the mentally
137 retarded which would house up to thirty residents which
138 is constructed and or operated by a private contractor.

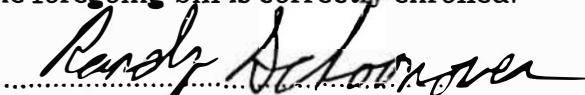
139 Prior to preparing the report, the department shall
140 solicit requests for proposals from private contractors
141 who are willing to construct and or operate such a
142 facility within this state. In formulating the feasibility
143 report, the department shall consider the availability of
144 all necessary equipment at the private facility, the cost
145 to the state of maintaining patients in the private facility
146 and the quality of care available at the privately run
147 facility vis a vis the care available at a group home in
148 this state. The department shall also consider, when
149 making its report, the preference of a guardian of any
150 resident at Colin Anderson center who prefers the more
151 restrictive placement of that resident in an intermediate
152 care facility for the mentally retarded. The department
153 may also consider and report on such other factors which
154 are relevant to the feasibility of permanently
155 maintaining, in this state, one or more intermediate care
156 facilities for the mentally retarded which would house
157 up to an aggregate of thirty residents statewide.

158 (h) In order to assist the department in completing the
159 transfer of residents at Colin Anderson center to some
160 other appropriate placement by the thirty-first day of
161 December, one thousand nine hundred ninety-six, the
162 health care cost review authority is authorized and
163 required to expedite any certificate of need review of
164 group homes or other facilities that are necessitated as a
165 direct result of the required closure of Colin Anderson
166 center. For the purposes of this subsection only, the
167 health care cost review authority may decrease any time
168 limitations or other requirements set forth in section
169 seven, article two-d, chapter sixteen of this code:
170 *Provided*, That in no event may the health care cost
171 review authority fail to follow any other provision of
172 said article. The secretary of the department of health
173 and human resources shall provide the health care cost
174 review authority with a list of the applications that are
175 to be expedited under this subsection.

176 (i) The Legislature shall establish a subcommittee of
177 the joint committee on government and finance to

178 monitor the placement and care of residents transferred
179 from Colin Anderson center as a result of the provisions
180 of this section. The subcommittee shall monitor both
181 state and federal moneys expended as a result of the
182 implementation of this section. The subcommittee, upon
183 approval by the joint committee and when the terms of
184 the visitation are in compliance with any applicable law
185 or regulation regarding confidentiality and privacy of
186 the residents, may visit any facility or placement
187 location.

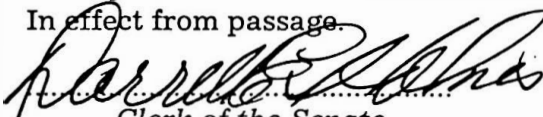
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

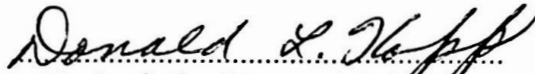

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Chairman Senate Committee

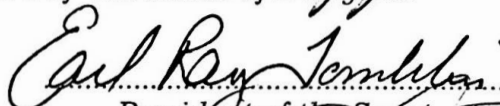

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Chairman House Committee

Originated in the Senate.

In effect from passage.

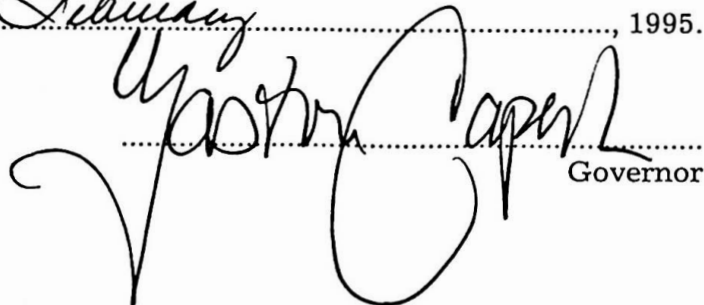

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved..... this the 28th.....
day of February....., 1995.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date 2/25/95

Time 2:35 PM