WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2003

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2077

(By Mr. Speaker, Mr. Kiss)

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Passed February 18, 2003

In Effect Ninety Days from Passage
AN ACT to amend and reenact section one-b, article two, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to removing the requirement that the Joint Committee on Government and Finance be given reports on the Colin Anderson closure and relocation of patients.

Be it enacted by the Legislature of West Virginia:

That section one-b, article two, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. MENTAL HEALTH FACILITIES.
§27-2-1b. Deinstitutionalization of residents at Colin Anderson.

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

(b) The plan for providing for the ongoing appropriate care, placement and transfer of each resident at Colin Anderson Center shall be designed in accordance with the criteria set forth in this subsection. Each resident must have a plan of service developed to meet his or her individual medical, physical and emotional needs. The plan of service shall be developed by a team which shall include, but not be limited to, the following persons: The resident; the immediate family of the resident, if the immediate family of the resident is willing to participate; the guardian of the resident, if the guardian is willing to participate; representatives of the Colin Anderson Center; community behavioral health service providers; and such other persons as may be appointed to the team by the secretary of the department. The plan shall not compromise the health, safety and well-being of the resident. The plan will be implemented in a timely manner. However, no plan shall be implemented until the needed services are in place, adequate staff training has been completed and an appropriate transition has been provided. Each resident, or his or her guardian, shall have
access to and be informed of the written appeal process which shall be established by the department.

(c) In designing and implementing the placement plan, the secretary of the department of health and human resources shall transfer funds from the hospital services revenue account created pursuant to section fifteen-a, article one, chapter sixteen of this code and the consolidated medical service fund to a special revenue account created in the state treasury, designated the "Colin Anderson Transfer Fund" for the specific purposes of caring for residents in alternative placement settings: Provided, That transfers in excess of a total of ten million dollars in any one fiscal year shall require the prior approval of the governor and shall be reported forthwith to the joint committee on government and finance. Moneys deposited in the "Colin Anderson Transfer Fund" shall be expended directly from the fund for payments related to care of persons affected by the provisions of this section and may be expended by the transfer of moneys from this fund to match the state's share of medicaid payments necessary to effectuate the purposes of this section. The secretary shall prepare a quarterly report of all transfers made from the hospital services revenue account and the consolidated medical service fund explaining the specific reason for the transfer. In submitting a budget to the Legislature for the fiscal year following the closure of Colin Anderson, the secretary shall include funding necessary for the continued care of each resident in the appropriate account and the authority of the secretary to transfer funds pursuant to this section shall be void and of no further effect.

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

(e) The department of health and human resources, the bureau of employment programs, the public employees retirement system, the public employees insurance agency, any state agency or local community action agency receiving job training partnership act funds and any other agency of the state involved with benefits or services to the unemployed shall work individually with all employees whose jobs have been terminated by this section in order to recommend benefits, services, training, interagency employment transfer or other employment. The secretary of the department of health and human resources and secretaries of all other state agencies shall use best efforts to employ qualified employees who were employed at the facility immediately prior to its closure: Provided, That notwithstanding any other provision of this code to the contrary, in filling vacancies at other facilities or other state agencies, the secretary and the directors of other agencies shall, for a period of twelve months after the closure, give preference over all but existing employees to qualified employees who were permanently employed at the facility immediately prior to its closure: Provided, however, That qualified persons who were permanently employed at Colin Anderson immediately prior to its closure shall not supersede those employees with recall rights in other state agencies. The secretary of the department of health and human resources is directed to encourage vendors providing mental health related services for the department to hire employees who were separated from service as a result of the closure of Colin Anderson.

(f) No later than the thirtieth day of November, one thousand nine hundred ninety-five, the department shall
report to the joint committee on government and finance regarding the feasibility of establishing one or more permanent intermediate care facilities for the mentally retarded which would house up to thirty residents which is constructed and/or operated by a private contractor. Prior to preparing the report, the department shall solicit requests for proposals from private contractors who are willing to construct and/or operate such a facility within this state. In formulating the feasibility report, the department shall consider the availability of all necessary equipment at the private facility, the cost to the state of maintaining patients in the private facility and the quality of care available at the privately run facility vis-a-vis the care available at a group home in this state. The department shall also consider, when making its report, the preference of a guardian of any resident at Colin Anderson Center who prefers the more restrictive placement of that resident in an intermediate care facility for the mentally retarded. The department may also consider and report on such other factors which are relevant to the feasibility of permanently maintaining, in this state, one or more intermediate care facilities for the mentally retarded which would house up to an aggregate of thirty residents statewide.

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

(h) The Legislature shall establish a subcommittee of the joint committee on government and finance to monitor the placement and care of residents transferred from Colin Anderson Center as a result of the provisions of this section. The subcommittee shall monitor both state and federal moneys expended as a result of the implementation of this section. The subcommittee, upon approval by the joint committee and when the terms of the visitation are in compliance with any applicable law or regulation regarding confidentiality and privacy of the residents, may visit any facility or placement location.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 27th day of February, 2003.

Governor
PRESENTED TO THE
GOVERNOR
Date 2/25/03
Time 2:45 pm