

FILED

2005 MAY -4 P 11: 05

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 2005

ENROLLED

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 661

(By Senator FOSTER)

PASSED APRIL 9, 2005

In Effect FROM Passage

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 661

(SENATOR FOSTER, *original sponsor*)

[Passed April 9, 2005; in effect from passage.]

AN ACT to amend and reenact §49-5-13a and §49-5-20 of the Code of West Virginia, 1931, as amended; and to amend and reenact §49-5D-3 of said code, all relating to juvenile proceedings and multidisciplinary teams; requiring the Division of Juvenile Services to establish a multidisciplinary team treatment planning process for certain juveniles in its custody; requiring multidisciplinary team to be convened and directed by the Division of Juvenile Services for juveniles committed to its custody by the court for examination and diagnosis; specifying members of the multidisciplinary team; requiring multidisciplinary team to be convened for juveniles prior to discharge from a juvenile correctional facility or mental health facility; and authorizing those who convene a multidisciplinary team meeting to obtain an order of the circuit court setting a hearing and compelling attendance.

Be it enacted by the Legislature of West Virginia:

That §49-5-13a and §49-5-20 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §49-5D-3 of said code be amended and reenacted, all to read as follows:

ARTICLE 5. JUVENILE PROCEEDINGS.

§49-5-13a. Examination, diagnosis and classification; period of custody.

1 (a) As a part of the dispositional proceeding for a
2 juvenile who has been adjudicated delinquent, the court
3 may, upon its own motion or upon request of counsel,
4 order the juvenile to be delivered into the custody of the
5 Director of the Division of Juvenile Services, who shall
6 cause the juvenile to be transferred to a juvenile diagnostic
7 center for a period not to exceed sixty days. During this
8 period, the juvenile shall undergo examination, diagnosis,
9 classification and a complete medical examination and
10 shall at all times be kept apart from the general juvenile
11 inmate population in the Director's custody.

12 (b) During the examination period established by
13 subsection (a) of this section, the Director, or his or her
14 designee, shall convene and direct a multidisciplinary
15 treatment team for the juvenile which team shall include
16 the juvenile, if appropriate, the juvenile's probation
17 officer, the juvenile's social worker, if any, the juvenile's
18 custodial parent or parents, the juvenile's guardian,
19 attorneys representing the juvenile or the parents, the
20 guardian ad litem, if any, the prosecuting attorney and an
21 appropriate school official or representative. The team
22 may also include, where appropriate, a court-appointed
23 special advocate and any other person who may assist in
24 providing recommendations for the particular needs of the
25 juvenile and the family.

26 (c) Not later than sixty days after commitment pursuant
27 to this section the juvenile shall be remanded and deliv-
28 ered to the custody of the Director, an appropriate agency
29 or any other person that the court by its order directs.
30 Within ten days after the end of the examination, diagno-
31 sis and classification, the Director of the Division of
32 Juvenile Services shall make or cause to be made a report
33 to the court containing the results, findings, conclusions

34 and recommendations of the multidisciplinary team with
35 respect to that juvenile.

§49-5-20. After-care plans.

1 (a) At least forty-five days prior to the discharge of a
2 juvenile from any institution or facility to which the
3 juvenile was committed pursuant to subdivision (5) or (6),
4 subsection (b), section thirteen of this article, the Superin-
5 tendent of the institution or facility shall convene a
6 multidisciplinary treatment team and forward a copy of
7 the juvenile's proposed after-care plan to the circuit court
8 which committed the juvenile. A copy of the plan shall
9 also be sent to: (1) The juvenile's parents or legal guardian;
10 (2) the juvenile's lawyer; (3) the juvenile's probation officer
11 or community mental health center professional; (4) the
12 prosecuting attorney of the county in which the original
13 commitment proceedings were held; and (5) the principal
14 of the school which the juvenile will attend. The plan shall
15 have a list of the names and addresses of these persons
16 attached to it.

17 (b) The after-care plan shall contain a detailed descrip-
18 tion of the education, counseling and treatment which the
19 juvenile received while at the institution or facility and it
20 shall also propose a plan for education, counseling and
21 treatment for the juvenile upon the juvenile's discharge.
22 The plan shall also contain a description of any problems
23 the juvenile has, including the source of those problems,
24 and it shall propose a manner for addressing those prob-
25 lems upon discharge.

26 (c) Within twenty-one days of receiving the plan, the
27 juvenile's probation officer or community mental health
28 center professional shall submit written comments upon
29 the plan to the circuit court which committed the juvenile.
30 Any other person who received a copy of the plan pursuant
31 to subsection (a) of this section may submit written
32 comments upon the plan to the circuit court which com-
33 mitted the juvenile. Any person who submits comments

34 upon the plan shall send a copy of those comments to every
35 other person who received a copy of the plan.

36 (d) Within twenty-one days of receiving the plan, the
37 juvenile's probation officer or community mental health
38 center professional shall contact all persons, organizations
39 and agencies which are to be involved in executing the
40 plan to determine whether they are capable of executing
41 their responsibilities under the plan and to further deter-
42 mine whether they are willing to execute their responsibil-
43 ities under the plan.

44 (e) If adverse comments or objections regarding the plan
45 are submitted to the circuit court, it shall, within forty-
46 five days of receiving the plan, hold a hearing to consider
47 the plan and the adverse comments or objections. Any
48 person, organization or agency which has responsibilities
49 in executing the plan, or their representatives, may be
50 required to appear at the hearing unless they are excused
51 by the circuit court. Within five days of the hearing, the
52 circuit court shall issue an order which adopts the plan as
53 submitted or as modified in response to any comments or
54 objections.

55 (f) If no adverse comments or objections are submitted,
56 a hearing need not be held. In that case, the circuit court
57 shall consider the plan as submitted and shall, within
58 forty-five days of receiving the plan, issue an order which
59 adopts the plan as submitted.

60 (g) Notwithstanding the provisions of subsections (e) and
61 (f) of this section, the plan which is adopted by the circuit
62 court shall be in the best interests of the juvenile and shall
63 also be in conformity with West Virginia's interest in
64 youth as embodied in subsection (b), section thirteen of
65 this article.

66 (h) The circuit court which committed the juvenile shall
67 appoint the juvenile's probation officer or community
68 mental health center professional to act as supervisor of

69 the plan. The supervisor shall report the juvenile's prog-
70 ress under the plan to the circuit court every sixty days, or
71 until the circuit court determines that no report or no
72 further care is necessary.

ARTICLE 5D. MULTIDISCIPLINARY TEAMS.

§49-5D-3. Multidisciplinary treatment planning process.

1 (a) (1) A multidisciplinary treatment planning process
2 shall be established within each county of the state, either
3 separately or in conjunction with a contiguous county, by
4 the Secretary of the Department with advice and assis-
5 tance from the Prosecutor's Advisory Council as set forth
6 in section four, article four, chapter seven of this code.
7 The Division of Juvenile Services shall establish a similar
8 treatment planning process for delinquency cases in which
9 the juvenile has been committed to the custody of the
10 Director of the Division.

11 (2) Treatment teams shall assess, plan and implement a
12 comprehensive, individualized service plan for children
13 who are victims of abuse or neglect and their families
14 when a judicial proceeding has been initiated involving the
15 child or children for juveniles and their families involved
16 in status offense or delinquency proceedings when, in a
17 status offense proceeding, the court refers the juvenile for
18 services pursuant to sections eleven and eleven-a, article
19 five of this chapter and when, in a delinquency proceeding,
20 the court is considering placing the juvenile in the Depart-
21 ment's custody or placing the juvenile out-of-home at the
22 Department's expense pursuant to the provisions of
23 section thirteen of said article or into the custody of the
24 Division of Juvenile Services. In any such status offense
25 or delinquency case, the juvenile probation officer shall
26 notify the local office of the Department of Health and
27 Human Resources and the Division of Juvenile Services at
28 least five working days before the court proceeding in
29 order to allow the multidisciplinary treatment team to
30 convene and develop a comprehensive individualized

31 service plan for the child: *Provided*, That such notice is not
32 required in cases where the child is already in state
33 custody or there exist exigent circumstances which justify
34 taking the child immediately into custody without a
35 judicial proceeding. In developing an individualized
36 service plan for a child, the team shall utilize a uniform
37 comprehensive assessment of the child. The Department
38 shall adopt a standard uniform comprehensive assessment
39 instrument or protocol to be used by treatment teams.

40 (3) Prior to disposition, in each case in which a treatment
41 planning team has been convened, the team shall advise
42 the court as to the types of services the team has deter-
43 mined are needed and the type of placement, if any, which
44 will best serve the needs of the child. If the team deter-
45 mines that an out-of-home placement will best serve the
46 needs of the child, the team shall first consider placement
47 at facilities or programs located within the state. The
48 team may only recommend placement in an out-of-state
49 facility if it concludes, after considering the best interests
50 and overall needs of the child, that there are no available
51 and suitable in-state facilities which can satisfactorily
52 meet the specific needs of the child.

53 (b) Each treatment team shall be convened and directed
54 by the child's or family's case manager in the Department
55 of Health and Human Resources, or the Division of
56 Juvenile Services, if the juvenile has been ordered into its
57 custody for examination and diagnosis pursuant to section
58 thirteen, article five of this chapter. The treatment team
59 shall consist of the child's custodial parent or parents,
60 guardian or guardians, other immediate family members,
61 the attorney or attorneys representing the child, the parent
62 or parents of the child, the child's attorney, the guardian
63 ad litem, if any, the prosecuting attorney or his or her
64 designee and where appropriate to the particular case
65 under consideration and available, a court-appointed
66 special advocate, an appropriate school official and any
67 other person or an agency representative who may assist

68 in providing recommendations for the particular needs of
69 the child and family. The child may participate in
70 multidisciplinary treatment team meetings if such is
71 deemed appropriate by the multidisciplinary treatment
72 team. For purposes of delinquency proceedings in which
73 the juvenile is not in the custody of the Division of Juve-
74 nile Services, the Juvenile Services Division case manager
75 or representative and the juvenile probation officer shall
76 be members of the treatment team. Any person authorized
77 by the provisions of this chapter to convene a
78 multidisciplinary team meeting may seek and receive an
79 order of the circuit court setting such meeting and direct-
80 ing attendance.

81 (c) The treatment team shall coordinate its activities and
82 membership with local family resource networks and
83 coordinate with other local and regional child and family
84 service planning committees to assure the efficient plan-
85 ning and delivery of child and family services on a local
86 and regional level.

87 (d) State, county and local agencies shall provide the
88 multidisciplinary treatment teams with any information
89 requested in writing by the team as allowable by law or
90 upon receipt of a certified copy of the circuit court's order
91 directing said agencies to release information in its
92 possession relating to the child. The team shall assure that
93 all information received and developed in connection with
94 the provisions of this article remain confidential. For
95 purposes of this section, the term "confidential" shall be
96 construed in accordance with the provisions of section one,
97 article seven of this chapter.

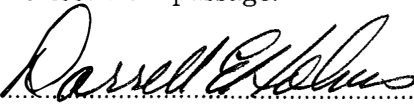
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

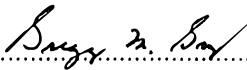

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Chairman Senate Committee


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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 disapproved* this the *4th*
Day of *May*, 2005.


.....
Governor

PRESENTED TO THE
GOVERNOR

APR 27 2005

Time *2:15 pm*