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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2006

ENROLLED

Committee Substitute for
SENATE BILL NO. 517

(By Senator Foster, et al)

PASSED March 11, 2006

In Effect from Passage

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 517

(SENATORS FOSTER, UNGER AND HUNTER, *originals sponsors*)

[Passed March 11, 2006; in effect from passage.]

AN ACTL 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; authorizing those who convene a multidisciplinary team meeting to obtain an order of the circuit court setting a hearing and compelling attendance; and exceptions to team meeting requirement.

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, a member of a child advocacy center and
24 any other person who may assist in providing recommen-
25 dations for the particular needs of the juvenile and the
26 family.

27 (c) Not later than sixty days after commitment pursuant
28 to this section the juvenile shall be remanded and deliv-
29 ered to the custody of the director, an appropriate agency

30 or any other person that the court by its order directs.
31 Within ten days after the end of the examination, diagno-
32 sis and classification, the Director of the Division of
33 Juvenile Services shall make or cause to be made a report
34 to the court containing the results, findings, conclusions
35 and recommendations of the multidisciplinary team with
36 respect to that juvenile.

§49-5-20. After-care plans.

1 (a) Prior to the discharge of a juvenile from any institu-
2 tion or facility to which the juvenile was committed
3 pursuant to subdivision (5) or (6), subsection (b), section
4 thirteen of this article, the superintendent of the institu-
5 tion or facility shall call a meeting of the multidisciplinary
6 treatment team to which the child has been referred or, if
7 no referral has been made, convene a multidisciplinary
8 treatment team for any child for which a multidisciplinary
9 treatment plan is required by the provisions of section
10 three, article five-d of this chapter and forward a copy of
11 the juvenile's proposed after-care plan to the circuit court
12 which committed the juvenile. A copy of the plan shall
13 also be sent to: (1) The juvenile's parents or legal guardian;
14 (2) the juvenile's lawyer; (3) the juvenile's probation officer
15 or community mental health center professional; (4) the
16 prosecuting attorney of the county in which the original
17 commitment proceedings were held; and (5) the principal
18 of the school which the juvenile will attend. The plan shall
19 have a list of the names and addresses of these persons
20 attached to it.

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

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

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

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

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

64 (g) Notwithstanding the provisions of subsections (e) and
65 (f) of this section, the plan which is adopted by the circuit

66 court shall be in the best interests of the juvenile and shall
67 also be in conformity with West Virginia's interest in
68 youth as embodied in subsection (b), section thirteen of
69 this article.

70 (h) The circuit court which committed the juvenile shall
71 appoint the juvenile's probation officer or community
72 mental health center professional to act as supervisor of
73 the plan. The supervisor shall report the juvenile's prog-
74 ress under the plan to the circuit court every sixty days or
75 until the circuit court determines that no report or no
76 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 assistance
5 from the prosecutor's advisory council as set forth in
6 section four, article four, chapter seven of this code. The
7 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 section

23 thirteen of said article. In any such status offense or
24 delinquency case, the juvenile probation officer shall
25 notify the local office of the Department of Health and
26 Human Resources and the Division of Juvenile Services at
27 least five working days before the court proceeding in
28 order to allow the multidisciplinary treatment team to
29 convene and develop a comprehensive individualized
30 service plan for the child: *Provided*, That such notice is not
31 required in cases where the child is already in state
32 custody or there exist exigent circumstances which justify
33 taking the child immediately into custody without a
34 judicial proceeding. In developing an individualized
35 service plan for a child, the team shall utilize a uniform
36 comprehensive assessment of the child. The department
37 shall adopt a standard uniform comprehensive assessment
38 instrument or protocol to be used by treatment teams.

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

52 (b) Each treatment team shall be convened and directed
53 by the child's or family's case manager in the Department
54 of Health and Human Resources or the Division of Juve-
55 nile Services if the juvenile has been ordered into its
56 custody for examination and diagnosis pursuant to section
57 thirteen, article five of this chapter. The treatment team
58 shall consist of the child's custodial parent or parents,
59 guardian or guardians, other immediate family members,

60 the attorney or attorneys representing the child, the parent
61 or parents of the child, the child's attorney, the guardian
62 ad litem, if any, the prosecuting attorney or his or her
63 designee and where appropriate to the particular case
64 under consideration and available, a court-appointed
65 special advocate, a member of a child advocacy center, an
66 appropriate school official and any other person or an
67 agency representative who may assist in providing recom-
68 mendations for the particular needs of the child and
69 family. The child may participate in multidisciplinary
70 treatment team meetings if such is deemed appropriate by
71 the multidisciplinary treatment team. For purposes of
72 delinquency proceedings, the juvenile probation officer
73 shall be a member of the treatment team. Any person
74 authorized by the provisions of this chapter to convene a
75 multidisciplinary team meeting may seek and receive an
76 order of the circuit court setting such meeting and direct-
77 ing attendance. Members of the multidisciplinary team
78 may participate in team meetings by telephone or video
79 conferencing.

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

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

97 (e) Nothing in this section may be construed to require a
98 multidisciplinary team meeting to be held prior to tempo-
99 rarily placing a child out-of-home under exigent circum-
100 stances or upon a court order placing the juvenile in a
101 juvenile facility operated by the Division of Juvenile
102 Services.

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

Chandhoke
.....
Chairman Senate Committee

Brown
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

David Elders
.....
Clerk of the Senate

Gregory M. Bay
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Robert K.
.....
Speaker House of Delegates

The within *is approved* this the *4th*
Day of *April*, 2006.

Paul Marshall
.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 27 2006

Time 9:15 AM