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SECRETARY OF STATE

HB 2780

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2013



ENROLLED

House Bill No. 2780

(By Delegate(s) Miley, Skinner, Poore, Manchin, Hunt and Barill)
[By Request of the Supreme Court of Appeals]



Passed April 13, 2013

In effect ninety days from passage.

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E N R O L L E D

H. B. 2780

(BY DELEGATE(S) MILEY, SKINNER, POORE, MANCHIN,
HUNT AND BARILL)

[BY REQUEST OF THE SUPREME COURT OF APPEALS]

[Passed April 13, 2013; in effect ninety days from passage.]

AN ACT to amend and reenact §49-5D-3 and §49-5D-3c of the Code of West Virginia, 1931, as amended, all relating generally to multidisciplinary team meetings for juveniles committed to the custody of the West Virginia Division of Juvenile Services; requiring such meetings be held quarterly; authorizing the directors of detention centers to call such meetings in certain circumstances; requiring assessments be provided in all cases to the court and team members; and requiring that team members be notified that he or she may participate in team meetings electronically.

Be it enacted by the Legislature of West Virginia:

That §49-5D-3 and §49-5D-3c of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 5D. MULTIDISCIPLINARY TEAMS.

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

1 (a) (1) A multidisciplinary treatment planning process for
2 cases initiated pursuant to articles five and six of this chapter
3 shall be established within each county of the state, either
4 separately or in conjunction with a contiguous county, by the
5 secretary of the department with advice and assistance from the
6 prosecutor's advisory council as set forth in section four, article
7 four, chapter seven of this code. The Division of Juvenile
8 Services shall establish a similar treatment planning process for
9 delinquency cases in which the juvenile has been committed to
10 its custody, including those cases in which the juvenile has been
11 committed for examination and diagnosis.

12 (2) The provisions of this section do not require a
13 multidisciplinary team meeting to be held prior to temporarily
14 placing a child or juvenile out-of-home under exigent
15 circumstances or upon a court order placing a juvenile in a
16 facility operated by the Division of Juvenile Services.

17 (b) The case manager in the Department of Health and
18 Human Resources for the child, family or juvenile or the case
19 manager in the Division of Juvenile Services for a juvenile shall
20 convene a treatment team in each case when it is required
21 pursuant to this article.

22 Prior to disposition, in each case in which a treatment
23 planning team has been convened, the team shall advise the court
24 as to the types of services the team has determined are needed
25 and the type of placement, if any, which will best serve the needs
26 of the child. If the team determines that an out-of-home
27 placement will best serve the needs of the child, the team shall
28 first consider placement with appropriate relatives then with
29 foster care homes, facilities or programs located within the state.
30 The team may only recommend placement in an out-of-state
31 facility if it concludes, after considering the best interests and

32 overall needs of the child, that there are no available and suitable
33 in-state facilities which can satisfactorily meet the specific needs
34 of the child.

35 Any person authorized by the provisions of this chapter to
36 convene a multidisciplinary team meeting may seek and receive
37 an order of the circuit court setting such meeting and directing
38 attendance. Members of the multidisciplinary team may
39 participate in team meetings by telephone or video conferencing:
40 *Provided*, That the provisions of this subsection do not prevent
41 the respective agencies from designating a person other than the
42 case manager as a facilitator for treatment team meetings:
43 *Provided however*, That written notice shall be provided to all
44 team members of the availability to participate by
45 videoconferencing.

46 (c) The treatment team shall coordinate its activities and
47 membership with local family resource networks and coordinate
48 with other local and regional child and family service planning
49 committees to assure the efficient planning and delivery of child
50 and family services on a local and regional level.

51 (d) The multidisciplinary treatment team shall be afforded
52 access to information in the possession of the Department of
53 Health and Human Resources, Division of Juvenile Services,
54 law-enforcement agencies and other state, county and local
55 agencies; and the agencies shall cooperate in the sharing of
56 information, as may be provided in sections three(d) and six,
57 article five-d and section one, article seven, all of chapter forty-
58 nine, and any other relevant provision of law. Any
59 multidisciplinary team member who acquires confidential
60 information shall not disclose such information except as
61 permitted by the provisions of this code or court rules.

**§49-5D-3c. Multidisciplinary treatment process for status
offenders or delinquents.**

1 (1) When a juvenile is adjudicated as a status offender
2 pursuant to section eleven-d, article five of this chapter, the

3 Department of Health and Human Resources shall promptly
4 convene a multidisciplinary treatment team and conduct an
5 assessment, utilizing a standard uniform comprehensive
6 assessment instrument or protocol, to determine the juvenile's
7 mental and physical condition, maturity and education level,
8 home and family environment, rehabilitative needs and
9 recommended service plan, which shall be provided in writing
10 to the court and team members. Upon completion of the
11 assessment, the treatment team shall prepare and implement a
12 comprehensive, individualized service plan for the juvenile.

13 (2) When a juvenile is adjudicated as a delinquent or has
14 been granted an improvement period pursuant to section nine,
15 article five of this chapter, the court, either upon its own motion
16 or motion of a party, may require the Department of Health and
17 Human Resources to convene a multidisciplinary treatment team
18 and conduct an assessment, utilizing a standard uniform
19 comprehensive assessment instrument or protocol, to determine
20 the juvenile's mental and physical condition, maturity and
21 education level, home and family environment, rehabilitative
22 needs and recommended service plan, which shall be provided
23 in writing to the court and team members. A referral to the
24 Department of Health and Human Resources to convene a
25 multidisciplinary treatment team and to conduct such an
26 assessment shall be made when the court is considering placing
27 the juvenile in the department's custody or placing the juvenile
28 out-of-home at the department's expense pursuant to section
29 thirteen, article five of this chapter. In any delinquency
30 proceeding in which the court requires the Department of Health
31 and Human Resources to convene a multidisciplinary treatment
32 team, the probation officer shall notify the department at least
33 fifteen working days before the court proceeding in order to
34 allow the department sufficient time to convene and develop an
35 individualized service plan for the juvenile.

36 (3) When a juvenile has been adjudicated and committed to
37 the custody of the Director of the Division of Juvenile Services,

38 including those cases in which the juvenile has been committed
39 for examination and diagnosis, the Division of Juvenile Services
40 shall promptly convene a multidisciplinary treatment team and
41 conduct an assessment, utilizing a standard uniform
42 comprehensive assessment instrument or protocol, to determine
43 the juvenile's mental and physical condition, maturity and
44 education level, home and family environment, rehabilitative
45 needs and recommended service plan. Upon completion of the
46 assessment, the treatment team shall prepare and implement a
47 comprehensive, individualized service plan for the juvenile,
48 which shall be provided in writing to the court and team
49 members. In cases where the juvenile is committed as a post-
50 sentence disposition to the custody of the Division of Juvenile
51 Services, the plan shall be reviewed quarterly by the
52 multidisciplinary treatment team. Where a juvenile has been
53 detained in a facility operated by the Division of Juvenile
54 Services without an active service plan for more than sixty days,
55 the director of the facility may call a multidisciplinary team
56 meeting to review the case and discuss the status of the service
57 plan.

58 (4) (A) The rules of juvenile procedure shall govern the
59 procedure for obtaining an assessment of a juvenile, preparing an
60 individualized service plan and submitting the plan and
61 assessment to the court.

62 (B) In juvenile proceedings conducted pursuant to article
63 five of this chapter, the treatment team shall consist of the
64 juvenile, the juvenile's case manager in the Department of
65 Health and Human Resources or the Division of Juvenile
66 Services, the juvenile's parent or parents, guardian or guardians
67 or custodial relatives, the juvenile's attorney, any attorney
68 representing a member of the treatment team, the prosecuting
69 attorney or his or her designee, an appropriate school official and
70 any other person or agency representative who may assist in
71 providing recommendations for the particular needs of the
72 juvenile and family, including domestic violence service

73 providers. In delinquency proceedings, the probation officer
74 shall be a member of a treatment team. When appropriate, the
75 juvenile case manager in the Department of Health and Human
76 Resources and the Division of Juvenile Services shall cooperate
77 in conducting multidisciplinary treatment team meetings when
78 it is in the juvenile's best interest.

79 (C) Prior to disposition, in each case in which a treatment
80 planning team has been convened, the team shall advise the court
81 as to the types of services the team has determined are needed
82 and type of placement, if any, which will best serve the needs of
83 the child. If the team determines that an out-of-home placement
84 will best serve the needs of the child, the team shall first
85 consider placement at facilities or programs located within the
86 state. The team may only recommend placement in an out-of-
87 state facility if it concludes, after considering the best interests
88 and overall needs of the child, that there are no available and
89 suitable in-state facilities which can satisfactorily meet the
90 specific needs of the child.

91 (D) The multidisciplinary treatment team shall submit
92 written reports to the court as required by applicable law or by
93 the court, shall meet with the court at least every three months,
94 as long as the juvenile remains in the legal or physical custody
95 of the state, and shall be available for status conferences and
96 hearings as required by the court.

97 (E) In any case in which a juvenile has been placed out of his
98 or her home except for a temporary placement in a shelter or
99 detention center, the multidisciplinary treatment team shall
100 cooperate with the state agency in whose custody the juvenile is
101 placed to develop an after-care plan. The rules of juvenile
102 procedure and section twenty, article five, chapter forty-nine of
103 the code shall govern the development of an after-care plan for
104 a juvenile, the submission of the plan to the court and any
105 objection to the after-care plan.

106 (F) If a juvenile respondent admits the underlying allegations
107 of the case initiated pursuant to article five, chapter forty-nine of
108 this code in the multidisciplinary treatment planning process, his
109 or her statements shall not be used in any juvenile or criminal
110 proceedings against the juvenile, except for perjury or false
111 swearing.

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

Jimmy Wells
Chairman, House Committee

Member *Roby Ferguson*
~~Chairman, Senate Committee~~

Originating in the House.

In effect ninety days from passage.

Gregory R. Seal
Clerk of the House of Delegates

Joseph M. Minard
Clerk of the Senate

R. J.
Speaker of the House of Delegates

[Signature]
President of the Senate

The within *is approved* this the *1st*
day of *May*, 2013.

Earl Ray Tomblin
Governor

PRESENTED TO THE GOVERNOR

MAY - 1 2013

Time 10:20 am