

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 3306

BY DELEGATES SUMMERS, TULLY AND HECKERT

[Passed March 11, 2023; in effect ninety days from passage.]

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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1 AN ACT to amend and reenact §16-1-13 of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §16-5T-2 and §16-5T-4 of said code; and to amend said code by
3 adding thereto a new section, designated §16-5T-7 of said code; all relating to the
4 department; creating a special revenue account; providing for the appointing of the director
5 of the Office of Drug Control Policy; requiring the creation of a task force; setting forth
6 composition of the taskforce; setting forth areas to be examined by taskforce; requiring
7 reporting; establishing deadlines for reports; continuing data dashboard; adding variables
8 to items that must be collected; amending information technology platform; setting forth
9 items that must be displayed on dashboard; providing for enforcement; providing for
10 imposition of civil monetary penalties for violation of reporting requirements.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

§16-1-13. Hospital services revenue account.

1 (a) Subject to the provisions set forth in §12-2-2 of this code, there is continued in the
2 State Treasury a separate account which shall be designated the “hospital services revenue
3 account.” The secretary shall deposit promptly into the account any fees received by a facility
4 owned and operated by the department from whatever source including the federal government,
5 state government, or other third-party payer or personal payment.

6 (b) The secretary may spend the moneys deposited in the hospital services revenue
7 account in accordance with federal laws and regulations and with the laws of this state. The
8 secretary may spend the moneys deposited in the hospital services revenue account in the
9 amounts the secretary determines necessary for the purpose of improving the delivery of health
10 and mental health services or for the purpose of maintaining or obtaining certification at a state
11 health or mental health facility: *Provided*, That all disproportionate share hospital funds received
12 into the account shall be transferred by intergovernmental transfer to the medical services trust
13 fund created in §9-4A-2a of this code, except for funds appropriated by the Legislature for other

14 purposes within the annual budget bill: *Provided, however,* That during any fiscal year in which
15 the secretary anticipates spending any money from the account, he or she shall submit to the
16 executive department during the budget preparation period prior to the Legislature convening,
17 before that fiscal year for inclusion in the executive budget document and budget bill, his or her
18 recommended capital investments, recommended priorities and estimated costs, as well as
19 requests of appropriations for the purpose of improving the delivery of health and mental health
20 services or for the purpose of maintaining or obtaining certification at a state health facility in the
21 amounts the secretary determines to be necessary.

22 (c) The secretary shall make an annual report to the Legislature on the status of the health
23 services revenue account, including the previous year's expenditures and projected expenditures
24 for the next year.

ARTICLE 5T. OFFICE OF DRUG CONTROL POLICY.

§16-5T-2. Office of Drug Control Policy.

1 (a) The Office of Drug Control Policy is continued within the department. The Director of
2 the Office of Drug Control Policy shall be appointed by the Governor, by and with the advice and
3 consent of the Senate. The director of the office is administratively housed in the Department of
4 Human Services and directly reports to the Office of the Governor, and works in cooperation with
5 the State Health Officer, the Bureau of Public Health, and the Bureau for Behavioral Health.

6 (b) The Office of Drug Control Policy shall create a state drug control policy in coordination
7 with the bureaus of the department and other state agencies. This policy shall include all programs
8 which are related to the prevention, treatment, and reduction of substance abuse use disorder.

9 (c) The Office of Drug Control Policy shall:

10 (1) Develop a strategic plan to reduce the prevalence of drug and alcohol abuse and
11 smoking by at least 10 percent;

12 (2) Monitor, coordinate, and oversee the collection of data and issues related to drug,
13 alcohol, and tobacco access, substance use disorder policies, and smoking cessation and
14 prevention, and their impact on state and local programs;

15 (3) Make policy recommendations to executive branch agencies that work with alcohol
16 and substance use disorder issues, and smoking cessation and prevention, to ensure the greatest
17 efficiency and consistency in practices will be applied to all efforts undertaken by the
18 administration;

19 (4) Identify existing resources and prevention activities in each community that advocate
20 or implement emerging best practice and evidence-based programs for the full substance use
21 disorder continuum of drug and alcohol abuse education and prevention, including smoking
22 cessation or prevention, early intervention, treatment, and recovery;

23 (5) Encourage coordination among public and private, state and local agencies,
24 organizations, and service providers, and monitor related programs;

25 (6) Act as the referral source of information, using existing information clearinghouse
26 resources within the Department of Health and Human Resources, relating to emerging best
27 practice and evidence-based substance use disorder prevention, cessation, treatment and
28 recovery programs, and youth tobacco access, smoking cessation and prevention. The Office of
29 Drug Control Policy will identify gaps in information referral sources;

30 (7) Apply for grant opportunities for existing programs;

31 (8) Observe programs in other states;

32 (9) Make recommendations and provide training, technical assistance, and consultation
33 to local service providers;

34 (10) Review existing research on programs related to substance use disorder prevention
35 and treatment and smoking cessation and prevention, and provide for an examination of the
36 prescribing and treatment history, including court-ordered treatment, or treatment within the
37 criminal justice system, of persons in the state who suffered fatal or nonfatal opiate overdoses;

38 (11) Establish a mechanism to coordinate the distribution of funds to support any local
39 prevention, treatment, and education program based on the strategic plan that could encourage
40 smoking cessation and prevention through efficient, effective, and research-based strategies;

41 (12) Establish a mechanism to coordinate the distribution of funds to support a local
42 program based on the strategic plan that could encourage substance use prevention, early
43 intervention, treatment, and recovery through efficient, effective and research-based strategies;

44 (13) Oversee a school-based initiative that links schools with community-based agencies
45 and health departments to implement school-based anti-drug and anti-tobacco programs;

46 (14) Coordinate media campaigns designed to demonstrate the negative impact of
47 substance use disorder, smoking and the increased risk of tobacco addiction and the
48 development of other diseases;

49 (15) Review Drug Enforcement Agency and the West Virginia scheduling of controlled
50 substances and recommend changes that should be made based on data analysis;

51 (16) Develop recommendations to improve communication between health care providers
52 and their patients about the risks and benefits of opioid therapy for acute pain, improve the safety
53 and effectiveness of pain treatment, and reduce the risks associated with long-term opioid
54 therapy, including opioid use disorder and overdose;

55 (17) Develop and implement a program, in accordance with the provisions of §16-5T-3 of
56 this code, to collect data on fatal and nonfatal drug overdoses caused by abuse and misuse of
57 prescription and illicit drugs, from law enforcement agencies, emergency medical services, health
58 care facilities and the Office of the Chief Medical Examiner;

59 (18) Develop and implement a program that requires the collection of data on the
60 dispensing and use of an opioid antagonist from law enforcement agencies, emergency medical
61 services, health care facilities, the Office of the Chief Medical Examiner and other entities as
62 required by the office;

63 (19) Develop a program that provides assessment of persons who have been
64 administered an opioid antagonist;

65 (20) Create a Sober Living Home/Recovery Residence Taskforce comprised of the
66 following stakeholders:

67 (A) The Executive Director of the West Virginia Prosecuting Attorney Institute, or designee;

68 (B) The Secretary of Department of Homeland Security, or designee;

69 (C) The West Virginia Attorney General, or designee;

70 (D) The Director of the West Virginia Alliance of Recovery Residences, or designee;

71 (E) The State Health Officer, or designee;

72 (F) The Commissioner for the Bureau for Behavioral Health, or designee; and

73 (G) The West Virginia Inspector General, or designee.

74 (i) The purpose of the taskforce is to review existing West Virginia law, the laws of other
75 states, and any developed case law regarding sober living homes/recovery residences and make
76 recommendations to the Legislature regarding any revisions needed to West Virginia law
77 regarding sober living homes/recovery residences. At a minimum the following areas shall be
78 examined: insurance fraud, human trafficking, success of programs, and any other relevant
79 issues.

80 (ii) These recommendations shall be presented to the Legislative Oversight Commission
81 on Health and Human Resources Accountability no later than December 15, 2023. A
82 representative of the Taskforce shall provide the Commission with an update regarding the status
83 of the taskforce, including any preliminary findings by October 1, 2023.

84 (21) Report semi-annually to the Joint Committee on Health on the status of the Office of
85 Drug Control Policy.

86 (d) Notwithstanding any other provision of this code to the contrary, and to facilitate the
87 collection of data and issues, the Office of Drug Control Policy may exchange necessary data and
88 information with the bureaus within the department, the Department of Military Affairs and Public

89 Safety, the Department of Administration, the Administrator of Courts, the Poison Control Center,
90 Office of National Drug Control Policy and the Board of Pharmacy. The data and information may
91 include, but is not limited to: data from the Controlled Substance Monitoring Program; the criminal
92 offender record information database; and the court activity record information;

§16-5T-4. Entities required to report; required information; Continuation of data dashboard.

1 (a) To fulfill the purposes of this article, the following information shall be reported, within
2 24 hours after the provider responds to the incident and via an appropriate information technology
3 platform, to the Office of Drug Control Policy:

4 (1) The date and time of the overdose;

5 (2) The approximate address of where the person was picked up or where the overdose
6 took place;

7 (3) Whether an opioid antagonist was administered;

8 (4) Whether the overdose was fatal or nonfatal;

9 (5) The gender and approximate age of the person receiving attention or treatment;

10 (6) The suspected controlled substance involved in the overdose;

11 (7) Whether the individual has a history of a prior overdose, if known; and

12 (8) The type of drug used in the overdose.

13 (b) The following entities shall be required to report information contained in §16-5T-4(a)
14 of this code:

15 (1) Health care providers;

16 (2) Medical examiners;

17 (3) Law-enforcement agencies, including, state, county, and local police departments;

18 (4) Emergency response providers; and

19 (5) Hospital emergency rooms.

20 (c) The data collected by the office pursuant to this subsection shall be made available to
21 law enforcement, local health departments, and emergency medical service agencies in each
22 county.

23 (d) Entities who are required to report information to or from the office pursuant to this
24 section in good faith are not subject to civil or criminal liability for making the report.

25 (e) For the purposes of this section:

26 "Information technology platform" means a dashboard constructed for or by the state to
27 allow input, collection, data analysis, and display of the required data within 24 hours. The
28 dashboard shall be scalable for additional future requirements with minimum engineering and
29 development time. There is a preference that the dashboard be compatible with artificial
30 intelligence to maintain monitoring.

31 "Overdose" means an acute condition, including, but not limited to, extreme physical
32 illness, decreased level of consciousness, respiratory depression, coma, or death believed to be
33 caused by abuse and misuse of prescription or illicit drugs or by substances that a layperson
34 would reasonably believe to be a drug.

35 "Opioid antagonist" means a federal Food and Drug Administration-approved drug for the
36 treatment of an opiate-related overdose, such as naloxone hydrochloride or other substance that,
37 when administered, negates or neutralizes, in whole or in part, the pharmacological effects of an
38 opioid in the body.

39 (f) Office of Drug Control Policy shall continue to compile the data that is reported, or that
40 it otherwise has access to, in a public facing data dashboard. This dashboard shall also include
41 the following:

42 (1) Every project that receives state funding, federal funding, opioid settlement funds, and
43 other relevant funding sources for substance use disorder beginning in fiscal year 2024;

44 (2) Data on the outcomes of funded community-based outreach programs, harm reduction
45 programs, criminal justice substance use disorder programs, harm prevention programs, and
46 other funded program, to evaluate program effectiveness and inform program improvement;

47 (3) A comparison of program effectiveness by county, region, rural or urban, and
48 demographics to identify best practices and areas for improvement and share these findings with
49 stakeholders to support evidence-based decision making;

50 (4) Alerts to a rise in fatal and non-fatal overdoses in a given area or region to enable
51 resources to be deployed to the area;

52 (5) Track and interact with medication assisted treatment providers, including the number
53 of patients in and out of treatment, to support the coordination of care and effective care for
54 individuals with substance use disorder;

55 (6) Public facing information, including maps, charts, and other visualizations, to increase
56 transparency and engagement with stakeholders

57 (7) The location of every substance use disorder provider on a statewide basis to provide
58 individuals linkage to care;

59 (8) Non-fatal overdoses within 24 hours of the incident, with data collected from multiple
60 sources, including hospitals, first responders, and law enforcement agencies;

61 (9) Fatal overdoses with data collected from multiple sources including hospitals, first
62 responders, and law enforcement agencies;

63 (10) Identification of trends from the data that has been collected, including but not limited
64 to fatal and non-fatal overdoes, use of opioid antagonist, trends in illicit drugs causing overdoses,
65 and other relevant data that can be used to inform the allocation of resources in an area;

66 (11) Emergency department visits and first responder calls for fatal and non-fatal
67 overdoses, and use this data to identify trends and hotspots and inform resource allocation;

68 (12) Data regarding program effectiveness in both the short-term and long-term with both
69 immediate and long-term outcomes for individuals receiving services and support for ongoing
70 program improvement and refinement; and

71 (13) The dashboard shall be updated daily to reflect current data, changes in provider
72 location, and any other updates as needed.

§16-5T-7. Enforcement.

1 (a) The Office of Drug Control Policy may assess a civil penalty for violation of the reporting
2 requirements set forth in §16-5T-4 of this code. If the Office of Drug Control Policy determines
3 that an entity is in violation of the reporting requirements, then a civil penalty of not less than \$500
4 no more than \$1000 per occurrence may be assessed.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

Steve Harris

Clerk of the House of Delegates

Joe Ginn
Clerk of the Senate

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

2023 MAR 28 P 4: 49

FILED

Originated in the House of Delegates.

In effect ninety days from passage.

Les Hershey

Speaker of the House of Delegates

C. P. Blawie
President of the Senate

The within is approved this the 28th
Day of March, 2023.

James O. Eastman
Governor

PRESENTED TO THE GOVERNOR

MAR 27 2023

Time 2:52pm