

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2620**

BY DELEGATES FRICH, ELLINGTON, SHOTT, HOWELL,  
HOUSEHOLDER, STORCH, HANSHAW, KESSINGER,  
HOLLEN, SOBONYA AND MR. SPEAKER, (MR. ARMSTEAD)

[Originating in the Committee on Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-9C-1, §15-9C-2, §15-9C-3 and §15-9C-4, all relating to the collection of data pertaining to the prosecutions and overdoses of controlled substances; establishing an office of drug control policy; establishing the purpose and responsibilities of the office; declaring the office to be a law enforcement entity capable of receiving and sharing law enforcement information; directing that the office be operated, supervised and controlled by the Director of the Division of Justice and Community Services; setting for the staffing of the office, including the availability of future staffing, resources and equipment upon obtaining grant funding, federal funds, or other funding; setting forth the executive and administrative responsibilities of the office of drug control policy; establishing a reporting program for collection of criminal statistics; setting forth legislative purpose for collection of data; requiring the prosecuting attorney for each county to compile data relating to the criminal matters involving a violation of the uniform controlled substances act; directing the Division of Justice and Community Services to establish a reporting form to allow for reporting of information; setting forth information required to be reported; providing for data collection and reporting to the Division of Justice and Community Services; requiring that certain personally identifiable information about a specific defendant not be reported; establishing a reporting program for collection of data on overdoses; setting forth legislative purpose for collection of data; establishing a reporting program for collection of fatal and nonfatal overdoses in the state; directing the office of drug control policy establish a central repository for collection of data; directing the office to consult with affected entities in implementing the data collection program; establishing information required to be reported; directing the Division of Justice and Community Services to establish a reporting form to allow for reporting of information; setting forth information required to be reported; setting forth the entities required to report information; providing for data collection and reporting to the Division of Justice and Community Services through

legislative rule; requiring that certain personally identifiable information about a specific defendant not be reported; and providing for rule-making authority.

*Be it enacted by the Legislature of West Virginia*

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §15-9C-1, §15-9C-2, §15-9C-3 and §15-9C-4, all to read as follows:

## **CHAPTER 15. PUBLIC SAFETY**

### **ARTICLE 9C. CONTROLLED SUBSTANCES DATA COLLECTION.**

#### **§15-9C-1. Office of Drug Control Policy**

1           (a) Within the Division of Justice and Community Services, there shall be a designated  
2 office known as the Office of Drug Control Policy. The purpose of the office is to provide  
3 administrative support, research, coordination, planning, and management of funding relating to  
4 the prevention, prosecution, reduction and treatment of substance abuse in the state. As an office  
5 within the Division of Justice and Community Services, the office shall be deemed a law  
6 enforcement entity capable to receive and share law enforcement information.

7           (b) The office shall be operated, supervised and controlled by the Director of the Division  
8 of Justice and Community Services and shall utilize staff of the Division, as needed, to perform  
9 its functions, including, but not limited to its office of research and strategic planning: *Provided,*  
10 That if grant funding, federal funds or other funding is obtained in furtherance of the purposes of  
11 the office of drug control policy, such funds may be utilized to hire additional staff, including but  
12 not limited to an Executive Director, and other resources and equipment as may be necessary for  
13 the efficient operation of the office.

14           (c) The Office of Drug Control Policy shall be charged with executive and administrative  
15 responsibility to:

16           (1) Collect, compile and analyze crime, justice and overdose data in the state relating to  
17 substance abuse, generating statistical and analytical products for criminal justice professionals

18 and policy makers to establish a basis for sound policy and practical considerations for the  
19 criminal justice system.

20 (2) Apply for, receive, and disburse grants and other funding from federal or state  
21 programs, foundations, corporations and organizations consistent with the purpose of the office;

22 (3) Establish mechanisms to administer, coordinate, and oversee the distribution of grant  
23 funding to support prevention, treatment, reduction, prosecution, or education programs in  
24 furtherance of the purpose of the office;

25 (4) Annually, on or before the first day of February, publish a public report of the data  
26 collected provide a copy of the report and analysis to the Governor and to the Joint Committee  
27 on Government and Finance: *Provided*, That nothing shall prevent the publication of such data  
28 with greater frequency than annually;

29 (5) Provide recommendations to the Governor and Legislature as to policies and statutory  
30 changes in furtherance of the purpose of the office of drug control policy;

31 (6) Enter into agreements and memorandums of understanding with other entities for the  
32 purpose of data collection, data analysis, data sharing, research and law enforcement needs in  
33 furtherance of the purpose of the office; and

34 (7) Propose legislative rules for legislative approval pursuant to article three, chapter  
35 twenty-nine-a of this code which may be necessary to fulfill the functions and responsibilities of  
36 the office.

**§15-9C-2. Collection of criminal statistics**

1 (a) *Purpose*- In order to timely and effectively address the growing abuse of controlled  
2 substances in this state, as well as to develop data-driven policies and responses to the abuse of  
3 controlled substances, the Legislature finds that the collection of data as to criminal charges and  
4 the dispositions of prosecutions is important and necessary information.

5 (b) The prosecuting attorney for each county shall compile data, in accordance with  
6 subsection (c) of this section, as to the criminal charges, substance, weight, disposition, and other

7 requested information of each criminal matter involving a violation of the uniform controlled  
8 substances act contained in chapter sixty-a of this code that has been charged in the prosecuting  
9 attorney's county.

10 (c)(1) On or before July 1, 2017, the Division of Justice and Community Services shall  
11 establish a reporting form to allow the county prosecuting attorney to provide, at a minimum, the  
12 following information for each criminal charge involving a violation of the controlled substances  
13 act contained in chapter sixty-a of this code that has been charged in the prosecuting attorney's  
14 county:

- 15 (A) Specific statutory violation charged;
- 16 (B) The controlled substance(s) involved;
- 17 (C) The weight of such controlled substance(s), if known; and
- 18 (D) The disposition of such matter, including whether a pre-trial diversion or use of an  
19 alternative sentence was utilized.

20 (2) A form shall be completed for each criminal matter and shall be submitted to the Office  
21 of Drug Control Policy no later than thirty days after disposition of the criminal matter. The Division  
22 of Justice and Community Services shall allow reporting of the required information by electronic  
23 data transfer where feasible, and where not feasible, on reporting forms promulgated by the  
24 Division.

25 (3) The form shall not require, nor shall the prosecuting attorney provide, the name, social  
26 security number, or other personally identifiable information about the specific defendant. The  
27 form may request information that does not contain the specific name or identity of the defendant  
28 if such information is collected for data or research purposes.

**§15-9C-3. Collection of overdose statistics**

1 (a) Purpose- (1) Both fatal and nonfatal drug overdoses, caused by abuse and misuse of  
2 prescription and illicit drugs, have emerged as a vital health crisis in the State of West Virginia.  
3 The day-to- day response to this crisis is dealt with by a number of entities throughout the state,

4 including law enforcement agencies, emergency medical services, hospitals and medical  
5 examiners. The Legislature finds that the collection of data as to fatal and nonfatal overdoses and  
6 collection in a central repository is an important step to combat and reverse this trend.

7 (b) The Office of Drug Control Policy shall implement a program in which a central  
8 repository is established and maintained that shall contain information required by this section. In  
9 implementing this program, the Office of Drug Control Policy shall consult with affected entities,  
10 including law-enforcement agencies, health care providers, emergency response providers,  
11 hospitals, and medical examiners.

12 (c) The program authorized by this section shall be designed to minimize inconvenience  
13 to all entities maintaining possession of the relevant information while effectuating the collection  
14 and storage of the required information. The Office of Drug Control Policy shall allow reporting of  
15 the required information by electronic data transfer where feasible, and where not feasible, on  
16 reporting forms promulgated by the Division of Justice and Community Services.

17 (d) On or before July 1, 2017, the Division of Justice and Community Services shall  
18 establish a form or mechanism whereby the following shall be reported to the Office of Drug  
19 Control Policy:

20 (1) An emergency medical or law-enforcement response to a suspected or reported  
21 overdose, or a response in which an overdose is identified by the responders;

22 (2) Medical treatment for an overdose;

23 (3) The dispensation or provision of an opioid antagonist; and

24 (4) Death attributed to overdose or “drug poisoning”.

25 (e) The following entities shall be required to report information contained in subsection  
26 (d) of this section:

27 (1) Hospitals in this state;

28 (2) Health care providers;

29 (3) Medical examiners;

30 (4) Law enforcement agencies, including state, county and local police departments; and

31 (5) Emergency response providers.

32 (f) The Division of Justice and Community Services shall provide by rule the manner and  
33 mechanism in which reporting is to take place: *Provided*, That the rule shall require that if an  
34 opioid antagonist is administered upon a person by a law enforcement officer or first responder  
35 and such person thereafter refuses medical treatment, the officer or first responder shall be  
36 required to report the administration of the antagonist.

37 (g) Any reporting made pursuant to this section shall not require, nor shall the person  
38 making the report provide, the name, social security number, or other personally identifiable  
39 information about the specific individual involved in the overdose incident. The form may request  
40 information that does not contain the specific name or identity of the defendant if such information  
41 is collected for data or research purposes.

**§15-9C-4. Rulemaking**

1 The Division of Justice and Community Service may promulgate such additional legislative  
2 rules to effectuate the purposes of this article in accordance with the provisions of chapter twenty-  
3 nine-a of this code.