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
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

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

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

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

(1) Collect, compile and analyze crime, justice and overdose data in the state relating to substance abuse, generating statistical and analytical products for criminal justice professionals.
and policy makers to establish a basis for sound policy and practical considerations for the criminal justice system.

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

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

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

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

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

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

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

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

(b) The prosecuting attorney for each county shall compile data, in accordance with subsection (c) of this section, as to the criminal charges, substance, weight, disposition, and other
requested information of each criminal matter involving a violation of the uniform controlled
substances act contained in chapter sixty-a of this code that has been charged in the prosecuting
attorney’s county.

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

(A) Specific statutory violation charged;

(B) The controlled substance(s) involved;

(C) The weight of such controlled substance(s), if known; and

(D) The disposition of such matter, including whether a pre-trial diversion or use of an
alternative sentence was utilized.

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

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

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

(a) Purpose- (1) Both fatal and nonfatal drug overdoses, caused by abuse and misuse of
prescription and illicit drugs, have emerged as a vital health crisis in the State of West Virginia.
The day-to-day response to this crisis is dealt with by a number of entities throughout the state.
including law enforcement agencies, emergency medical services, hospitals and medical examiners. The Legislature finds that the collection of data as to fatal and nonfatal overdoses and collection in a central repository is an important step to combat and reverse this trend.

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

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

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

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

(2) Medical treatment for an overdose;

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

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

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

(1) Hospitals in this state;

(2) Health care providers;

(3) Medical examiners;
(4) Law enforcement agencies, including state, county and local police departments; and

(5) Emergency response providers.

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

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

§15-9C-4. Rulemaking

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