

SB 122 (veto)

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

ENROLLED

Senate Bill No. 122

(BY SENATOR BROWNING)

[Passed March 13, 2010; in effect ninety days from passage.]

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SECRETARY OF STATE

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Senate Bill No. 122

(BY SENATOR BROWNING)

[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §27-4-1 and §27-4-3 of the Code of West Virginia, 1931, as amended, all relating to the voluntary hospitalization at mental health facilities; relating to the voluntary admission of minors into a mental health facility for mental illness, intellectual disability or addiction; removing the requirement that the minor's consent be secured before they are voluntarily admitted to a mental health facility if the minor is twelve years of age or older; requiring the consent of an emancipated minor before he or she is voluntarily committed; providing that the release of any minor from a voluntary hospitalization may be conditioned on the approval of the person or persons who applied for their admission; clarifying that the state is not obligated to pay for voluntary hospitalization; and requiring a provider to release an unemancipated minor's drug addiction and treatment records to a parent or legal guardian without the unemancipated minor's written consent.

Be it enacted by the Legislature of West Virginia:

That §27-4-1 and §27-4-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 4. VOLUNTARY HOSPITALIZATION.

§27-4-1. Authority to receive voluntary patients.

1 The chief medical officer of a mental health facility,
2 subject to the availability of suitable accommodations and
3 to the rules promulgated by the board of health, shall
4 admit for diagnosis, care and treatment any individual:

5 (a) Over eighteen years of age who is mentally ill,
6 intellectually disabled or addicted or who has manifested
7 symptoms of mental illness, mental retardation intellectu-
8 ally disabled or addiction and who makes application for
9 hospitalization; or

10 (b) Under eighteen years of age who is mentally ill,
11 intellectually disabled or addicted or who has manifested
12 symptoms of mental illness, intellectual disability or
13 addiction and there is application for hospitalization
14 therefor in his or her behalf: (1) By the parents of such
15 person; or (2) if only one parent is living, then by such
16 parent; or (3) if the parents are living separate and apart,
17 by the parent who has the custody of such person; or (4) if
18 there is a guardian who has custody of such person, then
19 by such guardian. Such admission shall be conditioned
20 upon the consent of the prospective patient if he or she is
21 an emancipated minor.

22 (c) No person under eighteen years of age shall be
23 admitted under this section to any state hospital unless
24 said person has first been reviewed and evaluated by a
25 local mental health facility and recommended for admis-
26 sion.

27 (d) If the candidate for voluntary admission is a minor
28 who is fourteen years of age or older, the admitting health

29 care facility shall determine if the minor consents to or
30 objects to his or her admission to the facility. If the parent
31 or guardian who requested the minor's admission under
32 this section revokes his or her consent at any time, or if the
33 minor fourteen years of age or older objects at any time to
34 his or her further treatment, the minor shall be discharged
35 within ninety-six hours to the custody of the consenting
36 parent or guardian, unless the chief medical officer of the
37 mental health facility files a petition for involuntary
38 hospitalization, pursuant to the provisions of section three
39 of this article, or the minor's continued hospitalization is
40 authorized as an involuntary hospitalization pursuant to
41 the provisions of article five of this chapter: *Provided,*
42 *That, if the ninety-six hour time period would result in the*
43 *minor being discharged and released on a Saturday, a*
44 *Sunday or a holiday on which the court is closed, the*
45 *period of time in which the patient shall be released by the*
46 *facility shall be extended until the next day which is not*
47 *a Saturday, Sunday or legal holiday on which the court is*
48 *lawfully closed.*

49 (e) Nothing in this section may be construed to obligate
50 the State of West Virginia for costs of voluntary hospital-
51 izations permitted by the provisions of this section.

52 (f) Any provider must release an unemancipated minor's
53 drug addiction and treatment records to a parent or legal
54 guardian without the unemancipated minor's written
55 consent.

§27-4-3. Right to release on application.

1 A voluntary patient who requests his or her release or
2 whose release is requested in writing by his or her parents,
3 parent, guardian, spouse or adult next of kin shall be
4 released forthwith except that:

5 (a) If the patient was admitted on his or her own appli-
6 cation, and request for release is made by a person other

7 than the patient, release shall be conditioned upon the
8 agreement of the patient thereto;

9 (b) If the patient is under eighteen years of age, his or
10 her release prior to becoming eighteen years of age may be
11 conditioned upon the consent of the person or persons who
12 applied for his or her admission; or

13 (c) If, within ninety-six hours of the receipt of the
14 request, the chief medical officer of the mental health
15 facility in which the patient is hospitalized files with the
16 clerk of the circuit court or mental hygiene commissioner
17 of the county where the facility is situated an application
18 for involuntary hospitalization as provided in section four,
19 article five of this chapter, release may be postponed for
20 twenty days pending a finding in accordance with the
21 legal proceedings prescribed therein.

22 Legal proceedings for involuntary hospitalization shall
23 not be commenced with respect to a voluntary patient
24 unless release of the patient has been requested by him or
25 her or the individual or individuals who applied for his or
26 her admission.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
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Clerk of the Senate

[Signature]
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Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
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Speaker House of Delegates

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GOVERNOR'S OFFICE
SECRETARIAT OF STATE

The within *is approved* this the *1st*
April
Day of, 2010.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 30 2010

Time 4:20 pm