

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 589**

4 (By Senator Palumbo)

5 _____
6 [Originating in the Committee on the Judiciary;

7 reported February 23, 2011.]

8 _____
9
10
11 A BILL to amend and reenact §27-4-1 and §27-4-3 of the Code of West
12 Virginia, 1931, as amended; and to amend said code by adding
13 thereto a new section, designated §27-5-2a, all relating to
14 mental hygiene and voluntary and involuntary commitments
15 generally; increasing the age at which a minor may refuse
16 treatment from twelve to seventeen; requiring parental
17 permission when releasing children under eighteen from a
18 treatment facility; permitting the Supreme Court of Appeals to
19 hire full-time and part-time mental hygiene commissioners
20 where it is economically feasible; and clarifying that the
21 state is not obligated to pay hospitalization costs for
22 voluntary commitments.

23 *Be it enacted by the Legislature of West Virginia:*

24 That §27-4-1 and §27-4-3 of the Code of West Virginia, 1931,
25 as amended, be amended and reenacted; and that said code be amended
26 by adding thereto a new section, designated §27-5-2a, all to read

1 as follows:

2 **ARTICLE 4. VOLUNTARY HOSPITALIZATION.**

3 **§27-4-1. Authority to receive voluntary patients.**

4 The chief medical officer of a mental health facility, subject
5 to the availability of suitable accommodations and to the rules and
6 regulations promulgated by the ~~board of health~~ Department of Health
7 and Human Resources, shall admit for diagnosis, care and treatment
8 any individual:

9 (a) Over eighteen years of age who is mentally ill, mentally
10 retarded or addicted or who has manifested symptoms of mental
11 illness, mental retardation or addiction and who makes application
12 for hospitalization; or

13 (b) Under eighteen years of age who is mentally ill, mentally
14 retarded or addicted or who has manifested symptoms of mental
15 illness, mental retardation or addiction and there is application
16 for hospitalization ~~therefor in~~ on his or her behalf (1) by the
17 parents of such person, or (2) if only one parent is living, then
18 by such parent, or (3) if the parents are living separate and
19 apart, by the parent who has the custody of ~~such~~ the person, or (4)
20 if there is a guardian who has custody of ~~such~~ the person, then by
21 ~~such~~ the guardian. ~~Such admission shall be~~ Admission is conditioned
22 upon the consent of the prospective patient if he or she is ~~twelve~~
23 under eighteen years of age ~~or over~~.

24 (c) No person under eighteen years of age shall be admitted
25 under this section to any state hospital unless ~~said~~ the person has
26 first been reviewed and evaluated by a local mental health ~~facility~~

1 professional and recommended for admission.

2 (d) Nothing in this section may be construed to obligate the
3 State of West Virginia to pay costs for hospitalizations permitted
4 by the provisions of this section.

5 **§27-4-3. Right to release on application.**

6 A voluntary patient who requests his or her release or whose
7 release is requested in writing by his or her parents, parent,
8 guardian, spouse or adult next of kin shall be released forthwith
9 except that:

10 (a) If the patient was admitted on his or her own application,
11 and request for release is made by a person other than the patient,
12 release shall be conditioned upon the agreement of the patient
13 thereto;

14 (b) If the patient is under ~~twelve~~ eighteen years of age, his
15 or her release prior to becoming ~~twelve~~ eighteen years of age may
16 be conditioned upon the consent of the person or persons who
17 applied for his or her admission; or

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

26 Legal proceedings for involuntary hospitalization shall not be

1 commenced with respect to a voluntary patient unless release of the
2 patient has been requested by him or her or the individual or
3 individuals who applied for his or her admission.

4 **ARTICLE 5. INVOLUNTARY HOSPITALIZATION.**

5 **§27-5-2a. Full-time and part-time mental hygiene commissioners.**

6 (a) The Supreme Court of Appeals, in consultation with the
7 chief judge of a particular circuit, may hire permanent full-time
8 or part-time mental hygiene commissioners in judicial circuits that
9 have extensive mental hygiene and guardianship and conservatorship
10 caseloads that the employment of salaried full-time as part-time is
11 economically advisable. The salary, benefits and job description
12 are to be determined by the Supreme Court of Appeals and shall be
13 commensurate with legal professionals of similar experience and
14 stature.

15 (b) Notwithstanding the creation of full-time and part-time
16 mental hygiene commissioners in this section, the remaining
17 provisions of this article apply to mental hygiene commissioners.

NOTE: §27-5-2a is new; therefore, strike-throughs and
underscoring have been omitted.