

H. B. 2408

(By Delegate Perdue)

[Introduced January 12, 2011; referred to the
Committee on Health and Human Resources then the
Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new article, designated §27-1B-1, §27-1B-2,
§27-1B-3, §27-1B-4, §27-1B-5 and §27-1B-6, all relating to
treatment for drug and alcohol addiction; setting forth
certain legislative findings; providing a procedure for
extended involuntary treatment programs; setting forth certain
rights of persons subject to involuntary treatment; requiring
certain findings; limiting persons who may petition for
involuntary commitment; requiring guaranteed payment;
providing for a court hearing; and requiring certain reports
to be filed with the Governor and the Legislature.

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 §27-1B-1, §27-1B-2,
§27-1B-3, §27-1B-4, §27-1B-5 and §27-1B-6, all to read as follows:

1 **ARTICLE 1B. INVOLUNTARY TREATMENT FOR ALCOHOL AND OTHER DRUG**

2 **ABUSE.**

3 **§27-1B-1. Legislative findings.**

4 The Legislature hereby finds and declares that drug and
5 alcohol abuse is a pervasive and difficult health problem in this
6 state. The correlation between crime and drug and alcohol abuse is
7 alarming and compelling. The current short-term involuntary
8 treatment program fails to recognize the need for longer therapy
9 treatments and the need to provide families with the tools to
10 ensure proper treatment for family members who may be persistent
11 alcohol and drug abusers who lack the will or because of an
12 addiction they are unable to voluntarily seek long-term treatment.
13 Therefore in order to provide for the health and safety of the
14 citizens of this state and to reduce the incidence of drug and
15 alcohol related criminal activity, a long-term involuntary
16 treatment system is hereby established.

17 **§27-1B-2. Involuntary treatment for alcohol and other drug abuse**

18 **-- Rights of patient.**

19 (1) Involuntary treatment ordered for extended periods of
20 treatment time for a person suffering from alcohol and other drug
21 abuse may be ordered as set forth in this article notwithstanding
22 the provisions of section two, article five of this chapter
23 requiring a finding of danger to self or others as defined in
24 section twelve, article one of this chapter. The provisions of

1 this article are intended to supplement and extend the treatment
 2 for a person suffering from alcohol and other drug abuse that may
 3 be contained in other provisions of this code.

4 (2) Except as otherwise provided in this article, the rights
 5 provided in article five of this chapter for people subject to
 6 involuntarily hospitalization apply to a person ordered to undergo
 7 treatment for alcohol and other drug abuse under the provisions of
 8 this article.

9 **§27-1B-3. Criteria for extended involuntary treatment.**

10 Although the provisions of section twelve, article one of this
 11 chapter require a finding of "likely to cause serious harm" before
 12 a person suffering from addiction may be involuntarily committed,
 13 the provisions of this section apply only to petitions for
 14 involuntary commitment filed in circuit court by a spouse,
 15 relative, friend, or guardian of the individual to be involuntarily
 16 committed. A person suffering from alcohol and other drug abuse
 17 may not be ordered to undergo treatment unless that person:

18 (1) Suffers from alcohol and other drug abuse;

19 (2) Presents an imminent threat of danger to self, family, or
 20 others as a result of alcohol and other drug abuse, or there exists
 21 a substantial likelihood of such a threat in the near future; and

22 (3) Can reasonably benefit from treatment.

23 **§27-1B-4. Petition for Sixty-day and Three Hundred Sixty-day**
 24 **involuntary treatment -- Contents - Guarantee for**

1 **costs.**

2 (1) Proceedings for the commitment of a person suffering from
3 alcohol or drug abuse may be filed requesting involuntary
4 commitment for sixty days or three hundred sixty days of treatment
5 for an individual and shall be initiated by the filing of a
6 verified petition in the circuit court of the county in which the
7 individual resides.

8 (2) The petition and all subsequent court documents shall be
9 entitled: "In the interest of (name of respondent)."

10 (3) The petition shall be filed by a spouse, relative, friend,
11 or guardian of the individual concerning whom the petition is
12 filed.

13 (4) The petition shall set forth:

14 (a) Petitioner's relationship to the respondent;

15 (b) Respondent's name, residence, and current location, if
16 known;

17 (c) The name and residence of respondent's parents, if living
18 and if known, or respondent's legal guardian, if any and if known;

19 (d) The name and residence of respondent's husband or wife, if
20 any and if known;

21 (e) The name and residence of the person having custody of the
22 respondent, if any, or if no such person is known, the name and
23 residence of a near relative or that the person is unknown; and

24 (f) Petitioner's belief, including the factual basis therefor,

1 that the respondent is suffering from an alcohol and other drug
2 abuse disorder and presents a danger or threat of danger to self,
3 family, or others if not treated for alcohol or other drug abuse.

4 (g) The name of the treatment facility or program agreeing to
5 provide extended drug and alcohol treatment services to the
6 respondent.

7 (h) The estimated cost of the proposed extended treatment.

8 Any petition filed pursuant to this section shall be
9 accompanied by a guarantee, signed by the petitioner or other
10 person authorized under subsection (3) of this section, obligating
11 that person to pay all costs for treatment of the respondent for
12 alcohol and other drug abuse that is ordered by the court.

13 **§27-1B-5. Proceedings for involuntary treatment -- Duties of court**

14 **-- Disposition.**

15 (1) Upon receipt of the petition, the court shall examine the
16 petitioner under oath as to the contents of the petition.

17 (2) If, after reviewing the allegations contained in the
18 petition and examining the petitioner under oath, it appears to the
19 court that there is probable cause to believe the respondent should
20 be ordered to undergo treatment, then the court shall:

21 (a) Set a date for a hearing within fourteen days to determine
22 if there is probable cause to believe the respondent should be
23 ordered to undergo treatment for alcohol and other drug abuse;

24 (b) Notify the respondent, the legal guardian, if any and if

1 known, and the spouse, parents, or nearest relative or friend of
2 the respondent concerning the allegations and contents of the
3 petition and the date and purpose of the hearing; and the name,
4 address, and telephone number of the attorney appointed by the
5 circuit court to represent the respondent; and

6 (c) Cause the respondent to be examined no later than twenty-
7 four hours before the hearing date by two qualified health
8 professionals, at least one of whom is a physician. The qualified
9 health professionals shall certify their findings to the court
10 within twenty-four hours of the examinations.

11 (3) If, upon completion of the hearing, the court finds the
12 respondent should be ordered to undergo treatment, then the court
13 shall order the treatment for a period not to exceed sixty
14 consecutive days from the date of the court order or a period not
15 to exceed three hundred sixty consecutive days from the date of the
16 court order, as the commitment time is set out in the petition or
17 otherwise agreed to at the hearing. Failure of a respondent to
18 undergo treatment ordered pursuant to this subsection may place the
19 respondent in contempt of court.

20 (4) If, at any time after the petition is filed, the court
21 finds that there is no probable cause to continue treatment or if
22 the petitioner withdraws the petition, then the proceedings against
23 the respondent shall be dismissed.

24 **§27-1B-6. Report to Governor and Legislature.**

1 The Secretary of the Department of Health and Human Resources
2 shall annually submit to the Governor and the Legislature, a
3 treatment center evaluation report. The report shall include, but
4 not be limited to, the following information:

5 (1) An inventory of all licensed chemical dependency treatment
6 services in West Virginia;

7 (2) Each chemical dependency treatment center or program shall
8 provide upon the request of the secretary, the information needed
9 to compile the inventory for the secretary to include in his or her
10 report; and

11 (3) The employment, educational, and criminal history of
12 clients in each program that received state or federal funds.

NOTE: The purpose of this bill is to establish a system of extended involuntary treatment for persons addicted to drugs and alcohol. Under the bill, only the parents, a close relative or a friend may file the petition for involuntary commitment. In addition, the petitioner is responsible for the payment of treatment costs. Currently, there is a procedure for involuntary commitment of a person who is addicted to alcohol and drugs, and as a result are a danger to self or others. Under that procedure, a person may be released without undergoing an effective and comprehensive drug and alcohol treatment program. This bill allows families to ensure that a family member will receive that involuntary extended drug and alcohol abuse treatment.

This article is new; therefore, it has been completely underscored.