

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 481**

5 (SENATORS PALUMBO, UNGER, JENKINS AND TUCKER, *original sponsors*)

6 \_\_\_\_\_  
7 [Passed April 12, 2013; in effect ninety days from passage.]  
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11 AN ACT to amend and reenact §27-4-1 of the Code of West Virginia,  
12 1931, as amended, relating to juvenile mental health,  
13 intellectual disability and addiction; permitting acceptance  
14 of a notarized application in lieu of in-person application  
15 for certain voluntary hospitalization; allowing use of article  
16 five, chapter twenty-seven of said code for juveniles in  
17 certain situations; requiring parents or guardians to  
18 transport minors for voluntary hospitalization; creating  
19 exceptions to that requirement by affidavit to circuit court,  
20 mental hygiene commissioner or magistrate court; requiring  
21 transfer by county sheriff upon order of circuit court, mental  
22 hygiene commissioner or magistrate court; and requiring mental  
23 health facilities to make their application immediately  
24 accessible in certain situations.

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

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

4 **ARTICLE 4. VOLUNTARY HOSPITALIZATION.**

5 **§27-4-1. Authority to receive voluntary patients.**

6       (a) The chief medical officer of a mental health facility,  
7 subject to the availability of suitable accommodations and to the  
8 rules promulgated by the board of health, shall admit for  
9 diagnosis, care and treatment any individual:

10       (1) Eighteen years of age or older who is mentally ill,  
11 intellectually disabled or addicted or who has manifested symptoms  
12 of mental illness, intellectual disability or addiction and who  
13 makes application for hospitalization; or

14       (2) Under eighteen years of age who is mentally ill,  
15 intellectually disabled or addicted or who has manifested symptoms  
16 of mental illness, intellectual disability or addiction and where  
17 there is an application for hospitalization, either made in person  
18 at the time of admission or by a notarized written application  
19 submitted by facsimile, e-mail or in person prior to, or at the  
20 time of, admission, on his or her behalf as follows:

21       (A) By the parents of such person;

22       (B) If only one parent is living, then by such parent;

23       (C) If the parents are living separate and apart, then by the  
24 parent who has the custody of such person; or

1 (D) If there is a guardian who has legal custody of such  
2 person, then by such guardian.

3 (E) If the subject person under eighteen years of age is an  
4 emancipated minor, the admission of that person as a voluntary  
5 patient shall be conditioned upon the consent of the patient.

6 (F) If the application for the subject person under eighteen  
7 years of age does not satisfy one of paragraphs (A) through (E) of  
8 this subdivision, the provisions of article five of this chapter  
9 shall be followed with respect to any hospitalization.

10 (b) For any application for hospitalization made pursuant to  
11 subdivision (2) of subsection (a) of this section, the person  
12 making the application shall transport the minor to the mental  
13 health facility, except as provided in this subsection. If the  
14 minor is violent or combative or the parent or guardian faces other  
15 circumstances that make the parent or guardian unable to transport  
16 the minor to the mental health facility, the parent or guardian may  
17 file an affidavit with the circuit court of the county in which the  
18 minor resides or of the county in which the minor may be found.  
19 The parent or guardian shall give information and state facts in  
20 the affidavit as may be required by the form provided for this  
21 purpose by the Supreme Court of Appeals. Upon ex parte review of  
22 the affidavit, a mental hygiene commissioner or circuit court  
23 judge, or when none are available the magistrate designated  
24 pursuant to article five of this chapter, may determine that the

1 parent or guardian is unable to transport the minor for voluntary  
2 hospitalization and, if such a determination is made, shall enter  
3 an order requiring the sheriff of that county to transport the  
4 minor to the mental health facility.

5 (c) No person under eighteen years of age may be admitted  
6 under this section to any state hospital unless the person has  
7 first been reviewed and evaluated by a local mental health facility  
8 and recommended for admission.

9 (d) If the candidate for voluntary admission is a minor who is  
10 fourteen years of age or older, the admitting health care facility  
11 shall determine if the minor consents to or objects to his or her  
12 admission to the facility. If the parent or guardian who requested  
13 the minor's admission under this section revokes his or her consent  
14 at any time, or if the minor fourteen years of age or older objects  
15 at any time to his or her further treatment, the minor shall be  
16 discharged within ninety-six hours to the custody of the consenting  
17 parent or guardian, unless the chief medical officer of the mental  
18 health facility files a petition for involuntary hospitalization,  
19 pursuant to the provisions of section three of this article, or the  
20 minor's continued hospitalization is authorized as an involuntary  
21 hospitalization pursuant to the provisions of article five of this  
22 chapter: *Provided*, That if the ninety-six hour time period would  
23 result in the minor being discharged and released on a Saturday, a  
24 Sunday or a holiday on which the court is closed, the period of

1 time in which the patient shall be released by the facility shall  
2 be extended until the next day which is not a Saturday, Sunday or  
3 legal holiday on which the court is lawfully closed.

4 (e) Nothing in this section may be construed to obligate the  
5 State of West Virginia for costs of voluntary hospitalizations  
6 permitted by the provisions of this section.

7 (f) For the purposes of this section, all mental health  
8 facilities in this state shall make a blank copy of their  
9 application for admission immediately available to any person or  
10 entity who requests the application. The application is  
11 "immediately available" if it is promptly sent by facsimile or e-  
12 mail to the requesting person or entity, or available through other  
13 immediate electronic means, such as posting the blank application  
14 on the facility's public website.