

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 481**

4 (By Senators Palumbo, Unger, Jenkins and Tucker)

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6 [Originating in the Committee on Health and Human Resources ;
7 reported March 29, 2013.]

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

14 ~~(b)~~ (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, therefor in on his or her behalf as follows:

21 ~~(1)~~ (A) By the parents of such person;

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

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

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

3 ~~(5)~~ (E) If the subject person under eighteen years of age is
4 an 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 of
6 persons eighteen years of age or older permitted by the provisions
7 of this section.

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