

Senate Bill No. 481

(By Senators Palumbo, Unger, Jenkins and Tucker)

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[Introduced March 7, 2013; referred to the Committee on Health
and Human Resources; and then to the Committee on the Judiciary.]

10 A BILL to amend and reenact §27-4-1 of the Code of West Virginia,
11 1931, as amended, relating to juvenile mental health,
12 intellectual disability and addiction; permitting acceptance
13 of a notarized application in lieu of in-person application
14 for certain voluntary hospitalization; allowing use of article
15 five; chapter twenty-seven of said code for juveniles in
16 certain situations; requiring parents or guardians to
17 transport minors for voluntary hospitalization; creating
18 exceptions to that requirement by affidavit to circuit court,
19 mental hygiene commissioner or magistrate court; requiring
20 transfer by county sheriff upon order of circuit court, mental
21 hygiene commissioner or magistrate court; providing for
22 payment of voluntary hospitalization for juveniles in certain
23 circumstances; and requiring mental health facilities to make

1 their application immediately accessible in certain
2 situations.

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

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

6 **ARTICLE 4. VOLUNTARY HOSPITALIZATION.**

7 **§27-4-1. Authority to receive voluntary patients.**

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

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

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

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

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

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

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

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

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

13 (b) For any application for hospitalization made pursuant to
14 subdivision (2) of subsection (a) of this section, the person
15 making the application shall transport the minor to the mental
16 health facility, except as provided in this subsection. If the
17 minor is violent or combative or the parent or guardian faces other
18 circumstances that make the parent or guardian unable to transport
19 the minor to the mental health facility, the parent or guardian may
20 file an affidavit with the circuit court of the county in which the
21 minor resides or of the county in which the minor may be found.
22 The parent or guardian shall give information and state facts in
23 the affidavit as may be required by the form provided for this

1 purpose by the Supreme Court of Appeals. Upon ex parte review of
2 the affidavit, a mental hygiene commissioner or circuit court
3 judge, or when none are available the magistrate designated
4 pursuant to article five of this chapter, may determine that the
5 parent or guardian is unable to transport the minor for voluntary
6 hospitalization and, if such a determination is made, shall enter
7 an order requiring the sheriff of that county to transport the
8 minor to the mental health facility.

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

13 (d) If the candidate for voluntary admission is a minor who is
14 fourteen years of age or older, the admitting health care facility
15 shall determine if the minor consents to or objects to his or her
16 admission to the facility. If the parent or guardian who requested
17 the minor's admission under this section revokes his or her consent
18 at any time, or if the minor fourteen years of age or older objects
19 at any time to his or her further treatment, the minor shall be
20 discharged within ninety-six hours to the custody of the consenting
21 parent or guardian, unless the chief medical officer of the mental
22 health facility files a petition for involuntary hospitalization,
23 pursuant to the provisions of section three of this article, or the

1 minor's continued hospitalization is authorized as an involuntary
2 hospitalization pursuant to the provisions of article five of this
3 chapter: *Provided, That, if the ninety-six hour time period would*
4 *result in the minor being discharged and released on a Saturday, a*
5 *Sunday or a holiday on which the court is closed, the period of*
6 *time in which the patient shall be released by the facility shall*
7 *be extended until the next day which is not a Saturday, Sunday or*
8 *legal holiday on which the court is lawfully closed.*

9 (e) In the event a person under the age of eighteen is
10 voluntarily hospitalized pursuant to this section and is, or those
11 legally obligated to pay for the minor's care are, unable to pay
12 for the hospitalization and has no applicable insurance coverage,
13 including, but not limited to, private insurance or Medicaid, the
14 Secretary of the Department of Health and Human Resources shall
15 transfer funds for the purpose of reimbursing the mental health
16 facility for services provided in an amount not to exceed the cost
17 of involuntary hospitalization of an individual. Nothing in this
18 section may be construed to obligate the State of West Virginia for
19 costs of voluntary hospitalizations of persons eighteen years of
20 age or older permitted by the provisions of this section.

21 (f) For the purposes of this section, all mental health
22 facilities in this state shall make a blank copy of their
23 application for admission immediately available to any person or

1 entity who requests the application. The application is
2 "immediately available" if it is promptly sent by facsimile or e-
3 mail to the requesting person or entity, or available through other
4 immediate electronic means, such as posting the blank application
on the facility's public website.

NOTE: The purpose of this bill is to clarify the process for voluntary commitment and transport of juveniles in need of mental health or addiction treatment and provide for payment of juvenile mental health treatment when the individual is not covered by insurance.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.