

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2013



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 481

(SENATORS PALUMBO, UNGER, JENKINS AND TUCKER,
ORIGINAL SPONSORS)

[PASSED APRIL 12, 2013; IN EFFECT NINETY DAYS FROM PASSAGE.]

E N R O L L E D

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Senate Bill No. 481

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

[Passed April 12, 2013; in effect ninety days from passage.]

AN ACT to amend and reenact §27-4-1 of the Code of West Virginia, 1931, as amended, relating to juvenile mental health, intellectual disability and addiction; permitting acceptance of a notarized application in lieu of in-person application for certain voluntary hospitalization; allowing use of article five, chapter twenty-seven of said code for juveniles in certain situations; requiring parents or guardians to transport minors for voluntary hospitalization; creating exceptions to that requirement by affidavit to circuit court, mental hygiene commissioner or magistrate court; requiring transfer by county sheriff upon order of circuit court, mental hygiene commissioner or magistrate court; and requiring mental health facilities to make their application immediately accessible in certain situations.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4. VOLUNTARY HOSPITALIZATION.

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

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

5 (1) Eighteen years of age or older who is mentally ill,
6 intellectually disabled or addicted or who has manifested
7 symptoms of mental illness, intellectual disability or
8 addiction and who makes application for hospitalization; or

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

17 (A) By the parents of such person;

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

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

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

23 (E) If the subject person under eighteen years of age is
24 an emancipated minor, the admission of that person as a

25 voluntary patient shall be conditioned upon the consent of the
26 patient.

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

32 (b) For any application for hospitalization made pursuant
33 to subdivision (2) of subsection (a) of this section, the person
34 making the application shall transport the minor to the mental
35 health facility, except as provided in this subsection. If the
36 minor is violent or combative or the parent or guardian faces
37 other circumstances that make the parent or guardian unable
38 to transport the minor to the mental health facility, the parent
39 or guardian may file an affidavit with the circuit court of the
40 county in which the minor resides or of the county in which
41 the minor may be found. The parent or guardian shall give
42 information and state facts in the affidavit as may be required
43 by the form provided for this purpose by the Supreme Court
44 of Appeals. Upon ex parte review of the affidavit, a mental
45 hygiene commissioner or circuit court judge, or when none
46 are available the magistrate designated pursuant to article five
47 of this chapter, may determine that the parent or guardian is
48 unable to transport the minor for voluntary hospitalization
49 and, if such a determination is made, shall enter an order
50 requiring the sheriff of that county to transport the minor to
51 the mental health facility.

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

56 (d) If the candidate for voluntary admission is a minor
57 who is fourteen years of age or older, the admitting health
58 care facility shall determine if the minor consents to or
59 objects to his or her admission to the facility. If the parent or
60 guardian who requested the minor's admission under this
61 section revokes his or her consent at any time, or if the minor
62 fourteen years of age or older objects at any time to his or her
63 further treatment, the minor shall be discharged within
64 ninety-six hours to the custody of the consenting parent or
65 guardian, unless the chief medical officer of the mental health
66 facility files a petition for involuntary hospitalization,
67 pursuant to the provisions of section three of this article, or
68 the minor's continued hospitalization is authorized as an
69 involuntary hospitalization pursuant to the provisions of
70 article five of this chapter: *Provided*, That if the ninety-six
71 hour time period would result in the minor being discharged
72 and released on a Saturday, a Sunday or a holiday on which
73 the court is closed, the period of time in which the patient
74 shall be released by the facility shall be extended until the
75 next day which is not a Saturday, Sunday or legal holiday on
76 which the court is lawfully closed.

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

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the

Day of, 2013.

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Governor