

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2986

BY DELEGATES SHOTT, FRICH AND HANSHAW

[Introduced March 14, 2017; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §27-5-2 and §27-5-4 of the Code of West Virginia, 1931, as
 2 amended, all relating to involuntary custody of nonresidents for a mental hygiene
 3 examination.

Be it enacted by the Legislature of West Virginia:

1 That §27-5-2 and §27-5-4 of the Code of West Virginia, 1931, as amended, be amended
 2 and reenacted, all to read as follows:

ARTICLE 5. INVOLUNTARY HOSPITALIZATION.

**§27-5-2. Institution of proceedings for involuntary custody for examination; custody;
 probable cause hearing; examination of individual.**

1 (a) Any adult person may make an application for involuntary hospitalization for
 2 examination of an individual when the person making the application has reason to believe that
 3 the individual to be examined is addicted, as defined in section eleven, article one of this chapter,
 4 or is mentally ill and, because of his or her addiction or mental illness, the individual is likely to
 5 cause serious harm to himself, herself or to others if allowed to remain at liberty while awaiting an
 6 examination and certification by a physician or psychologist.

7 Notwithstanding any language in this subsection to the contrary, if the individual to be
 8 examined under the provisions of this section is incarcerated in a jail, prison or other correctional
 9 facility, then only the chief administrative officer of the facility holding the individual may file the
 10 application and the application must include the additional statement that the correctional facility
 11 itself cannot reasonably provide treatment and other services for the individual's mental illness or
 12 addiction.

13 (b) The person making the application shall make the application under oath.

14 (c) Application for involuntary custody for examination may be made to the circuit court or
 15 a mental hygiene commissioner of the county in which the individual resides or of the county in
 16 which he or she may be found: Provided, That for nonresident individuals found within the county,
 17 acts or behaviors supporting the application for involuntary custody for examination must have

18 occurred within the county or state. When no circuit court judge or mental hygiene commissioner
19 is available for immediate presentation of the application, the application may be made to a
20 magistrate designated by the chief judge of the judicial circuit to accept applications and hold
21 probable cause hearings. A designated magistrate before whom an application or matter is
22 pending may, upon the availability of a mental hygiene commissioner or circuit court judge for
23 immediate presentation of an application or pending matter, transfer the pending matter or
24 application to the mental hygiene commissioner or circuit court judge for further proceedings
25 unless otherwise ordered by the chief judge of the judicial circuit.

26 (d) The person making the application shall give information and state facts in the
27 application as may be required by the form provided for this purpose by the Supreme Court of
28 Appeals.

29 (e) The circuit court, mental hygiene commissioner or designated magistrate may enter
30 an order for the individual named in the application to be detained and taken into custody for the
31 purpose of holding a probable cause hearing as provided in subsection (g) of this section for the
32 purpose of an examination of the individual by a physician, psychologist, a licensed independent
33 clinical social worker practicing in compliance with article thirty, chapter thirty of this code, an
34 advanced nurse practitioner with psychiatric certification practicing in compliance with article
35 seven of said chapter, a physician assistant practicing in compliance with article three of said
36 chapter or a physician assistant practicing in compliance with article fourteen-a of said chapter:
37 *Provided,* That a licensed independent clinical social worker, a physician assistant or an advanced
38 nurse practitioner with psychiatric certification may only perform the examination if he or she has
39 previously been authorized by an order of the circuit court to do so, the order having found that
40 the licensed independent clinical social worker, physician assistant or advanced nurse practitioner
41 with psychiatric certification has particularized expertise in the areas of mental health and mental
42 hygiene or addiction sufficient to make the determinations as are required by the provisions of
43 this section. The examination is to be provided or arranged by a community mental health center

44 designated by the Secretary of the Department of Health and Human Resources to serve the
45 county in which the action takes place. The order is to specify that the hearing be held forthwith
46 and is to provide for the appointment of counsel for the individual: *Provided, however,* That the
47 order may allow the hearing to be held up to twenty-four hours after the person to be examined
48 is taken into custody rather than forthwith if the circuit court of the county in which the person is
49 found has previously entered a standing order which establishes within that jurisdiction a program
50 for placement of persons awaiting a hearing which assures the safety and humane treatment of
51 persons: *Provided further,* That the time requirements set forth in this subsection only apply to
52 persons who are not in need of medical care for a physical condition or disease for which the
53 need for treatment precludes the ability to comply with the time requirements. During periods of
54 holding and detention authorized by this subsection, upon consent of the individual or in the event
55 of a medical or psychiatric emergency, the individual may receive treatment. The medical provider
56 shall exercise due diligence in determining the individual's existing medical needs and provide
57 treatment the individual requires, including previously prescribed medications. As used in this
58 section, "psychiatric emergency" means an incident during which an individual loses control and
59 behaves in a manner that poses substantial likelihood of physical harm to himself, herself or
60 others. Where a physician, psychologist, licensed independent clinical social worker, physician
61 assistant or advanced nurse practitioner with psychiatric certification has within the preceding
62 seventy-two hours performed the examination required by the provisions of this subdivision, the
63 community mental health center may waive the duty to perform or arrange another examination
64 upon approving the previously performed examination. Notwithstanding the provisions of this
65 subsection, subsection (r), section four of this article applies regarding payment by the county
66 commission for examinations at hearings. If the examination reveals that the individual is not
67 mentally ill or addicted or is determined to be mentally ill or addicted but not likely to cause harm
68 to himself, herself or others, the individual shall be immediately released without the need for a
69 probable cause hearing and absent a finding of professional negligence the examiner is not civilly

70 liable for the rendering of the opinion absent a finding of professional negligence. The examiner
71 shall immediately provide the mental hygiene commissioner, circuit court or designated
72 magistrate before whom the matter is pending the results of the examination on the form provided
73 for this purpose by the Supreme Court of Appeals for entry of an order reflecting the lack of
74 probable cause.

75 (f) A probable cause hearing is to be held before a magistrate designated by the chief
76 judge of the judicial circuit, the mental hygiene commissioner or circuit judge of the county of
77 which the individual is a resident or where he or she was found. If requested by the individual or
78 his or her counsel, the hearing may be postponed for a period not to exceed forty-eight hours.

79 The individual must be present at the hearing and has the right to present evidence,
80 confront all witnesses and other evidence against him or her and to examine testimony offered,
81 including testimony by representatives of the community mental health center serving the area.
82 Expert testimony at the hearing may be taken telephonically or via videoconferencing. The
83 individual has the right to remain silent and to be proceeded against in accordance with the Rules
84 of Evidence of the Supreme Court of Appeals, except as provided in section twelve, article one of
85 this chapter. At the conclusion of the hearing, the magistrate, mental hygiene commissioner or
86 circuit court judge shall find and enter an order stating whether or not there is probable cause to
87 believe that the individual, as a result of mental illness or addiction, is likely to cause serious harm
88 to himself or herself or to others.

89 (g) Probable cause hearings may occur in the county where a person is hospitalized. The
90 judicial hearing officer may: Use videoconferencing and telephonic technology; permit persons
91 hospitalized for addiction to be involuntarily hospitalized only until detoxification is accomplished;
92 and specify other alternative or modified procedures that are consistent with the purposes and
93 provisions of this article. The alternative or modified procedures shall fully and effectively
94 guarantee to the person who is the subject of the involuntary commitment proceeding and other
95 interested parties due process of the law and access to the least restrictive available treatment

96 needed to prevent serious harm to self or others.

97 (h) If the magistrate, mental hygiene commissioner or circuit court judge at a probable
98 cause hearing or at a final commitment hearing held pursuant to the provisions of section four of
99 this article finds that the individual, as a result of mental illness or addiction, is likely to cause
100 serious harm to himself, herself or others and because of mental illness or addiction requires
101 treatment, the magistrate, mental hygiene commissioner or circuit court judge may consider
102 evidence on the question of whether the individual's circumstances make him or her amenable to
103 outpatient treatment in a nonresidential or nonhospital setting pursuant to a voluntary treatment
104 agreement. The agreement is to be in writing and approved by the individual, his or her counsel
105 and the magistrate, mental hygiene commissioner or circuit court judge. If the magistrate, mental
106 hygiene commissioner or circuit court judge determines that appropriate outpatient treatment is
107 available in a nonresidential or nonhospital setting, the individual may be released to outpatient
108 treatment upon the terms and conditions of the voluntary treatment agreement. The failure of an
109 individual released to outpatient treatment pursuant to a voluntary treatment agreement to comply
110 with the terms of the voluntary treatment agreement constitutes evidence that outpatient treatment
111 is insufficient and, after a hearing before a magistrate, mental hygiene commissioner or circuit
112 judge on the issue of whether or not the individual failed or refused to comply with the terms and
113 conditions of the voluntary treatment agreement and whether the individual as a result of mental
114 illness or addiction remains likely to cause serious harm to himself, herself or others, the entry of
115 an order requiring admission under involuntary hospitalization pursuant to the provisions of
116 section three of this article may be entered. In the event a person released pursuant to a voluntary
117 treatment agreement is unable to pay for the outpatient treatment and has no applicable insurance
118 coverage, including, but not limited to, private insurance or Medicaid, the Secretary of the
119 Department of Health and Human Resources may transfer funds for the purpose of reimbursing
120 community providers for services provided on an outpatient basis for individuals for whom
121 payment for treatment is the responsibility of the department: *Provided*, That the department may

122 not authorize payment of outpatient services for an individual subject to a voluntary treatment
123 agreement in an amount in excess of the cost of involuntary hospitalization of the individual. The
124 secretary shall establish and maintain fee schedules for outpatient treatment provided in lieu of
125 involuntary hospitalization. Nothing in the provisions of this article regarding release pursuant to
126 a voluntary treatment agreement or convalescent status may be construed as creating a right to
127 receive outpatient mental health services or treatment or as obligating any person or agency to
128 provide outpatient services or treatment. Time limitations set forth in this article relating to periods
129 of involuntary commitment to a mental health facility for hospitalization do not apply to release
130 pursuant to the terms of a voluntary treatment agreement: *Provided, however,* That release
131 pursuant to a voluntary treatment agreement may not be for a period of more than six months if
132 the individual has not been found to be involuntarily committed during the previous two years and
133 for a period of no more than two years if the individual has been involuntarily committed during
134 the preceding two years. If in any proceeding held pursuant to this article the individual objects to
135 the issuance or conditions and terms of an order adopting a voluntary treatment agreement, then
136 the circuit judge, magistrate or mental hygiene commissioner may not enter an order directing
137 treatment pursuant to a voluntary treatment agreement. If involuntary commitment with release
138 pursuant to a voluntary treatment agreement is ordered, the individual subject to the order may,
139 upon request during the period the order is in effect, have a hearing before a mental hygiene
140 commissioner or circuit judge where the individual may seek to have the order canceled or
141 modified. Nothing in this section affects the appellate and habeas corpus rights of any individual
142 subject to any commitment order.

143 (i) If the certifying physician or psychologist determines that a person requires involuntary
144 hospitalization for an addiction to a substance which, due to the degree of addiction, creates a
145 reasonable likelihood that withdrawal or detoxification from the substance of addiction will cause
146 significant medical complications, the person certifying the individual shall recommend that the
147 individual be closely monitored for possible medical complications. If the magistrate, mental

148 hygiene commissioner or circuit court judge presiding orders involuntary hospitalization, he or she
149 shall include a recommendation that the individual be closely monitored in the order of
150 commitment.

151 (j) The Supreme Court of Appeals and the Secretary of the Department of Health and
152 Human Resources shall specifically develop and propose a statewide system for evaluation and
153 adjudication of mental hygiene petitions which shall include payment schedules and
154 recommendations regarding funding sources. Additionally, the Secretary of the Department of
155 Health and Human Resources shall also immediately seek reciprocal agreements with officials in
156 contiguous states to develop interstate/intergovernmental agreements to provide efficient and
157 efficacious services to out-of-state residents found in West Virginia and who are in need of mental
158 hygiene services.

§27-5-4. Institution of final commitment proceedings; hearing requirements; release.

1 (a) *Involuntary commitment.* -- Except as provided in section three of this article, no
2 individual may be involuntarily committed to a mental health facility except by order entered of
3 record at any time by the circuit court of the county in which the person resides or was found, or
4 if the individual is hospitalized in a mental health facility located in a county other than where he
5 or she resides or was found, in the county of the mental health facility and then only after a full
6 hearing on issues relating to the necessity of committing an individual to a mental health facility.
7 If the individual objects to the hearing being held in the county where the mental health facility is
8 located, the hearing shall be conducted in the county of the individual's residence.

9 (b) *How final commitment proceedings are commenced.* -- Final commitment proceedings
10 for an individual may be commenced by the filing of a written application under oath by an adult
11 person having personal knowledge of the facts of the case. The certificate or affidavit is filed with
12 the clerk of the circuit court or mental hygiene commissioner of the county where the individual is
13 a resident or where he or she may be found or the county of a mental health facility if he or she
14 is hospitalized in a mental health facility located in a county other than where he or she resides

15 or may be found: Provided, That for nonresident individuals found within the county, acts or
16 behaviors supporting the application for involuntary custody for examination must have occurred
17 within the county or state: Provided, however, That this jurisdictional limitation does not apply to
18 individuals who are nonresidents and hospitalized in a mental health facility within the county.

19 (c) *Oath; contents of application; who may inspect application; when application cannot*
20 *be filed. --*

21 (1) The person making the application shall do so under oath.

22 (2) The application shall contain statements by the applicant that the individual is likely to
23 cause serious harm to self or others due to what the applicant believes are symptoms of mental
24 illness or addiction. The applicant shall state in detail the recent overt acts upon which the belief
25 is based.

26 (3) The written application, certificate, affidavit and any warrants issued pursuant thereto,
27 including any related documents, filed with a circuit court, mental hygiene commissioner or
28 designated magistrate for the involuntary hospitalization of an individual are not open to inspection
29 by any person other than the individual, unless authorized by the individual or his or her legal
30 representative or by order of the circuit court. The records may not be published unless authorized
31 by the individual or his or her legal representative. Disclosure of these records may, however, be
32 made by the clerk, circuit court, mental hygiene commissioner or designated magistrate to provide
33 notice to the Federal National Instant Criminal Background Check System established pursuant
34 to section 103(d) of the Brady Handgun Violence Prevention Act, 18 U.S.C. §922, and the central
35 state mental health registry, in accordance with article seven-a, chapter sixty-one of this code.
36 Disclosure may also be made to the prosecuting attorney and reviewing court in an action brought
37 by the individual pursuant to section five, article seven-a, chapter sixty-one of this code to regain
38 firearm and ammunition rights.

39 (4) Applications may not be accepted for individuals who only have epilepsy, a mental
40 deficiency or senility.

41 (d) *Certificate filed with application; contents of certificate; affidavit by applicant in place*
42 *of certificate. --*

43 (1) The applicant shall file with his or her application the certificate of a physician or a
44 psychologist stating that in his or her opinion the individual is mentally ill or addicted and that
45 because of the mental illness or addiction, the individual is likely to cause serious harm to self or
46 others if allowed to remain at liberty and, therefore, should be hospitalized. The certificate shall
47 state in detail the recent overt acts on which the conclusion is based.

48 (2) A certificate is not necessary when an affidavit is filed by the applicant showing facts
49 and the individual has refused to submit to examination by a physician or a psychologist.

50 (e) *Notice requirements; eight days notice required. --* Upon receipt of an application, the
51 mental hygiene commissioner or circuit court shall review the application and if it is determined
52 that the facts alleged, if any, are sufficient to warrant involuntary hospitalization, forthwith fix a
53 date for and have the clerk of the circuit court give notice of the hearing:

54 (1) To the individual;

55 (2) To the applicant or applicants;

56 (3) To the individual's spouse, one of the parents or guardians, or, if the individual does
57 not have a spouse, parents or parent or guardian, to one of the individual's adult next of kin if the
58 next of kin is not the applicant;

59 (4) To the mental health authorities serving the area;

60 (5) To the circuit court in the county of the individual's residence if the hearing is to be held
61 in a county other than that of the individual's residence; and

62 (6) To the prosecuting attorney of the county in which the hearing is to be held.

63 (f) The notice shall be served on the individual by personal service of process not less
64 than eight days prior to the date of the hearing and shall specify:

65 (1) The nature of the charges against the individual;

66 (2) The facts underlying and supporting the application of involuntary commitment;

67 (3) The right to have counsel appointed;

68 (4) The right to consult with and be represented by counsel at every stage of the
69 proceedings; and

70 (5) The time and place of the hearing.

71 The notice to the individual's spouse, parents or parent or guardian, the individual's adult
72 next of kin or to the circuit court in the county of the individual's residence may be by personal
73 service of process or by certified or registered mail, return receipt requested, and shall state the
74 time and place of the hearing.

75 (g) *Examination of individual by court-appointed physician or psychologist; custody for*
76 *examination; dismissal of proceedings. --*

77 (1) Except as provided in subdivision (3) of this subsection, within a reasonable time after
78 notice of the commencement of final commitment proceedings is given, the circuit court or mental
79 hygiene commissioner shall appoint a physician or psychologist to examine the individual and
80 report to the circuit court or mental hygiene commissioner his or her findings as to the mental
81 condition or addiction of the individual and the likelihood of causing serious harm to self or others.

82 (2) If the designated physician or psychologist reports to the circuit court or mental hygiene
83 commissioner that the individual has refused to submit to an examination, the circuit court or
84 mental hygiene commissioner shall order him or her to submit to the examination. The circuit court
85 or mental hygiene commissioner may direct that the individual be detained or taken into custody
86 for the purpose of an immediate examination by the designated physician or psychologist. All
87 such orders shall be directed to the sheriff of the county or other appropriate law-enforcement
88 officer. After the examination has been completed, the individual shall be released from custody
89 unless proceedings are instituted pursuant to section three of this article.

90 (3) If the reports of the appointed physician or psychologist do not confirm that the
91 individual is mentally ill or addicted and might be harmful to self or others, then the proceedings
92 for involuntary hospitalization shall be dismissed.

93 (h) *Rights of the individual at the final commitment hearing; seven days' notice to counsel*
94 *required. --*

95 (1) The individual shall be present at the final commitment hearing and he or she, the
96 applicant and all persons entitled to notice of the hearing shall be afforded an opportunity to testify
97 and to present and cross-examine witnesses.

98 (2) In the event the individual has not retained counsel, the court or mental hygiene
99 commissioner, at least six days prior to hearing, shall appoint a competent attorney and shall
100 inform the individual of the name, address and telephone number of his or her appointed counsel.

101 (3) The individual has the right to have an examination by an independent expert of his or
102 her choice and to present testimony from the expert as a medical witness on his or her behalf.
103 The cost of the independent expert is paid by the individual unless he or she is indigent.

104 (4) The individual may not be compelled to be a witness against himself or herself.

105 (i) *Duties of counsel representing individual; payment of counsel representing indigent. -*

106 (1) Counsel representing an individual shall conduct a timely interview, make investigation
107 and secure appropriate witnesses, be present at the hearing and protect the interests of the
108 individual.

109 (2) Counsel representing an individual is entitled to copies of all medical reports,
110 psychiatric or otherwise.

111 (3) The circuit court, by order of record, may allow the attorney a reasonable fee not to
112 exceed the amount allowed for attorneys in defense of needy persons as provided in article
113 twenty-one, chapter twenty-nine of this code.

114 (j) *Conduct of hearing; receipt of evidence; no evidentiary privilege; record of hearing. --*

115 (1) The circuit court or mental hygiene commissioner shall hear evidence from all
116 interested parties in chamber including testimony from representatives of the community mental
117 health facility.

118 (2) The circuit court or mental hygiene commissioner shall receive all relevant and material

119 evidence which may be offered.

120 (3) The circuit court or mental hygiene commissioner is bound by the rules of evidence
121 promulgated by the Supreme Court of Appeals except that statements made to physicians or
122 psychologists by the individual may be admitted into evidence by the physician's or psychologist's
123 testimony, notwithstanding failure to inform the individual that this statement may be used against
124 him or her. A psychologist or physician testifying shall bring all records pertaining to the individual
125 to the hearing. The medical evidence obtained pursuant to an examination under this section, or
126 section two or three of this article, is not privileged information for purposes of a hearing pursuant
127 to this section.

128 (4) All final commitment proceedings shall be reported or recorded, whether before the
129 circuit court or mental hygiene commissioner, and a transcript made available to the individual,
130 his or her counsel or the prosecuting attorney within thirty days if requested for the purpose of
131 further proceedings. In any case where an indigent person intends to pursue further proceedings,
132 the circuit court shall, by order entered of record, authorize and direct the court reporter to furnish
133 a transcript of the hearings.

134 (k) *Requisite findings by the court.* --

135 (1) Upon completion of the final commitment hearing and the evidence presented in the
136 hearing, the circuit court or mental hygiene commissioner shall make findings as to the following:

137 (A) Whether the individual is mentally ill or addicted;

138 (B) Whether, because of illness or addiction, the individual is likely to cause serious harm
139 to self or others if allowed to remain at liberty;

140 (C) Whether the individual is a resident of the county in which the hearing is held or
141 currently is a patient at a mental health facility in the county; and

142 (D) Whether there is a less restrictive alternative than commitment appropriate for the
143 individual. The burden of proof of the lack of a less restrictive alternative than commitment is on
144 the person or persons seeking the commitment of the individual.(2) The findings of fact shall be

145 incorporated into the order entered by the circuit court and must be based upon clear, cogent and
146 convincing proof.

147 (l) *Orders issued pursuant to final commitment hearing; entry of order; change in order of*
148 *court; expiration of order.* -- (1) Upon the requisite findings, the circuit court may order the
149 individual to a mental health facility for an indeterminate period or for a temporary observatory
150 period not exceeding six months.

151 (2) The individual may not be detained in a mental health facility for a period in excess of
152 ten days after a final commitment hearing pursuant to this section unless an order has been
153 entered and received by the facility.

154 (3) If the order pursuant to a final commitment hearing is for a temporary observation
155 period, the circuit court or mental hygiene commissioner may, at any time prior to the expiration
156 of such period on the basis of a report by the chief medical officer of the mental health facility in
157 which the patient is confined, hold another hearing pursuant to the terms of this section and in the
158 same manner as the hearing was held as if it were an original petition for involuntary
159 hospitalization to determine whether the original order for a temporary observation period should
160 be modified or changed to an order of indeterminate hospitalization of the patient. At the
161 conclusion of the hearing, the circuit court shall order indeterminate hospitalization of the patient
162 or dismissal of the proceedings.

163 (4) An order for an indeterminate period expires of its own terms at the expiration of two
164 years from the date of the last order of commitment unless prior to the expiration, the Department
165 of Health and Human Resources, upon findings based on an examination of the patient by a
166 physician or a psychologist, extends the order for indeterminate hospitalization. If the patient or
167 his or her counsel requests a hearing, a hearing shall be held by the mental hygiene commissioner
168 or by the circuit court of the county as provided in subsection (a) of this section.

169 (m) *Dismissal of proceedings.* -- If the circuit court or mental hygiene commissioner finds
170 that the individual is not mentally ill or addicted, the proceedings shall be dismissed. If the circuit

171 court or mental hygiene commissioner finds that the individual is mentally ill or addicted but is not,
172 because of the illness or addiction, likely to cause serious harm to self or others if allowed to
173 remain at liberty, the proceedings shall be dismissed.

174 (n) *Immediate notification of order of hospitalization.* -- The clerk of the circuit court in
175 which an order directing hospitalization is entered, if not in the county of the individual's residence,
176 shall immediately upon entry of the order forward a certified copy of the order to the clerk of the
177 circuit court of the county of which the individual is a resident.

178 (o) *Consideration of transcript by circuit court of county of individual's residence; order of*
179 *hospitalization; execution of order.* --

180 (1) If the circuit court or mental hygiene commissioner is satisfied that hospitalization
181 should be ordered but finds that the individual is not a resident of the county in which the hearing
182 is held and the individual is not currently a resident of a mental health facility, a transcript of the
183 evidence adduced at the final commitment hearing of the individual, certified by the clerk of the
184 circuit court, shall forthwith be forwarded to the clerk of the circuit court of the county of which the
185 individual is a resident. The clerk shall immediately present the transcript to the circuit court or
186 mental hygiene commissioner of the county.

187 (2) If the circuit court or mental hygiene commissioner of the county of the residence of
188 the individual is satisfied from the evidence contained in the transcript that the individual should
189 be hospitalized as determined by the standard set forth above, the circuit court shall order the
190 appropriate hospitalization as though the individual had been brought before the circuit court or
191 its mental hygiene commissioner in the first instance.

192 (3) This order shall be transmitted forthwith to the clerk of the circuit court of the county in
193 which the hearing was held who shall execute the order promptly.

194 (p) *Order of custody to responsible person.* -- In lieu of ordering the patient to a mental
195 health facility, the circuit court may order the individual delivered to some responsible person who
196 will agree to take care of the individual and the circuit court may take from the responsible person

197 a bond in an amount to be determined by the circuit court with condition to restrain and take proper
198 care of the individual until further order of the court.

199 (q) *Individual not a resident of this state.* -- If the individual found to be mentally ill or
200 addicted by the circuit court or mental hygiene commissioner is a resident of another state, this
201 information shall be forthwith given to the Secretary of the Department of Health and Human
202 Resources, or to his or her designee, who shall make appropriate arrangements for transfer of
203 the individual to the state of his or her residence conditioned on the agreement of the individual
204 except as qualified by the interstate compact on mental health.

205 (r) *Report to the Secretary of the Department of Health and Human Resources.* --

206 (1) The chief medical officer of a mental health facility admitting a patient pursuant to
207 proceedings under this section shall forthwith make a report of the admission to the Secretary of
208 the Department of Health and Human Resources or to his or her designee.

209 (2) Whenever an individual is released from custody due to the failure of an employee of
210 a mental health facility to comply with the time requirements of this article, the chief medical officer
211 of the mental health facility shall forthwith, after the release of the individual, make a report to the
212 Secretary of the Department of Health and Human Resources or to his or her designee of the
213 failure to comply.

214 (s) *Payment of some expenses by the state; mental hygiene fund established; expenses*
215 *paid by the county commission.* --

216 (1) The state shall pay the commissioner's fee and the court reporter fees that are not paid
217 and reimbursed under article twenty-one, chapter twenty-nine of this code out of a special fund to
218 be established within the Supreme Court of Appeals to be known as the Mental Hygiene Fund.

219 (2) The county commission shall pay out of the county treasury all other expenses incurred
220 in the hearings conducted under the provisions of this article whether or not hospitalization is
221 ordered, including any fee allowed by the circuit court by order entered of record for any physician,
222 psychologist and witness called by the indigent individual. The copying and mailing costs

- 223 associated with providing notice of the final commitment hearing and issuance of the final order
- 224 shall be paid by the county where the involuntary commitment petition was initially filed.

NOTE: The purpose of this bill is to limit applications for involuntary examination of nonresidents to nonresidents found within the county whose acts or behaviors supporting the application for involuntary custody have occurred within the state and nonresidents hospitalized in a mental health facility within the county.

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