

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4711

BY DELEGATE ROHRBACH

[Introduced February 05, 2020; Referred to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §16-47A-1, relating to requiring the Superintendent of the West Virginia State
 3 Police to develop a program for individuals suffering from a substance abuse disorder who
 4 voluntarily seek treatment for that abuse; providing that those individuals have a qualified
 5 immunity from prosecution for possession or use of a controlled substance; and identifying
 6 those who are ineligible to participate in the program.

Be it enacted by the Legislature of West Virginia:

ARTICLE 47A. SUBSTANCE ABUSE IMMUNITY PROGRAM.

§16-47A-1. Immunity for individuals voluntarily presenting themselves to the West Virginia State Police seeking assistance for substance abuse; exceptions.

1 (a) On or before June 1, 2020, the Superintendent of the West Virginia State Police shall
 2 develop and implement a program for individuals suffering from a substance abuse disorder who
 3 voluntarily presents themselves at a West Virginia State Police office, detachment or post seeking
 4 treatment for that abuse. Those individuals may not, at that time, be arrested or prosecuted for
 5 the possession or use of a controlled substance.

6 (b) If available, the following documents shall be collected by the State Police:

7 (1) A valid photo ID; and

8 (2) A valid insurance card, if applicable.

9 (c) The following individuals are disqualified from the rights and protections set forth in
 10 subsection (a) of this section:

11 (1) Those who are subject to a court-ordered treatment program that fulfills a sentencing
 12 obligation;

13 (2) Those who have outstanding arrest warrants;

14 (3) Those who have nonextraditable arrest warrants in another jurisdiction;

15 (4) Those who are registered sex-offenders in any state;

16 (5) Those whom the intake officer can document a reasonable belief that the person may

- 17 harm others;
18 (6) Unaccompanied minors; and
19 (7) Those who have no photo ID or other means to demonstrate their identity.
20 (d) At any point during the intake process an individual identified in subsection (a) of this
21 section chooses not to proceed, he or she may do so without legal consequence for the
22 possession or use of a controlled substance.

NOTE: The purpose of this bill is to require the Superintendent of the West Virginia State Police to develop a program for individuals suffering from a substance abuse disorder who voluntarily seek treatment for that abuse. The bill provides that those individuals have a qualified immunity from prosecution for possession or use of a controlled substance. The bill identifies those who are ineligible to participate in the program.

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