

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Originating

Senate Bill 851

BY SENATORS AZINGER, BALDWIN, BEACH, CLEMENTS,
CLINE, HARDESTY, JEFFRIES, LINDSAY, MAYNARD,
PITSENBARGER, ROMANO, RUCKER, SMITH, TAKUBO,
WELD, WOELFEL, AND TRUMP

[Originating in the Committee on the Judiciary;
reported on February 24, 2020]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §15-9-7, relating to requiring the Governor's Committee on Crime,
3 Delinquency, and Correction to propose a legislative rule in coordination with law
4 enforcement and certain medical boards; developing policies and protocols for law
5 enforcement and medical professionals to create treatment referral programs for persons
6 suffering from substance use disorder; setting forth requirements for policies and
7 protocols; providing that existing criminal charges not affected; providing civil immunity for
8 law-enforcement officers and medical professionals; and requiring proposal of legislative
9 and emergency rules.

Be it enacted by the Legislature of West Virginia:

CHAPTER 15. PUBLIC SAFETY

ARTICLE 9. GOVERNOR'S COMMITTEE ON CRIME, DELIQUENCY, AND CORRECTION.

§15-9-7 Coordinated program for substance abuse treatment referral.

1 (a) The committee shall, on or before December 31, 2020, establish a program to
2 coordinate with state, county, and local law enforcement, the Board of Medicine, the Board of
3 Osteopathic Medicine, and the Board of Pharmacy to develop policies and protocols for law
4 enforcement and medical professionals to create treatment referral programs for persons
5 suffering from substance use disorder which:

6 (1) Allow for the surrender of illegal controlled substances or unlawfully possessed
7 controlled substances to law enforcement or medical professionals for destruction; and

8 (2) Establish a confidential treatment referral program for persons presenting themselves
9 as suffering from substance use disorder.

10 (b) A person voluntarily seeking assistance through a program developed pursuant to this
11 section shall:

12 (1) Not be placed under arrest;

13 (2) Not be prosecuted for the possession of any controlled substance or drug
14 paraphernalia already ingested or surrendered; and

15 (3) Be promptly referred to a community-based mental health center, medical provider, or
16 other entity in substance use treatment.

17 (c) Nothing in this section may be construed to effect criminal charges which may exist
18 independent of the controlled substance ingested or surrendered or paraphernalia surrendered.

19 (d) Except for willful misconduct, any law-enforcement officer or medical professional
20 providing services or a referral under this section is immune from criminal or civil liability.

21 (e) The committee and the medical professional boards referenced in this section shall
22 propose rules for legislative approval pursuant to §29A-3-1 et seq. of this code and may
23 promulgate emergency rules pursuant to §29A-3-15 of this code to effectuate the purposes of this
24 section.