

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3346

By Delegates Howell, Clark, Summers, Ellington,
Tully, Gearheart, Maynor, Zatezalo, Skaff, Miller and
Honaker

[Introduced February 08, 2023; Referred to the
Committee on Health and Human Resources then the
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §27-18-1, §27-18-2, and §27-18-3, all relating to the creation of the Mental
 3 Hygiene Reform Act; providing for a short title; providing for legislative findings; providing
 4 for a new classification system; setting guidelines; and providing for regional
 5 commissioners to be appointed by the West Virginia Supreme Court.

Be it enacted by the Legislature of West Virginia:

ARTICLE 18. MENTAL HYGIENE REFORM ACT.

§27-18-1. Short title.

1 This article shall be cited as the "Mental Hygiene Reform Act".

§27-18-2. Legislative findings.

1 The Legislature finds that the current mental hygiene process has inconsistent outcomes
 2 across West Virginia. This is especially true in terms of the time it takes for mental hygiene
 3 commissioners to make a ruling. Some cases are ruled upon in a few hours, while others can take
 4 over 24 hours. These latter cases place a tremendous burden on the already understaffed
 5 medical and behavioral health infrastructure of the state. It also places an undue burden on law
 6 enforcement and jail authorities. This process also places citizens in harm's way. Either an
 7 individual needs an appropriate psychiatric placement, or someone is in limbo awaiting their due
 8 process rights to be properly followed. The lack of uniformity from jurisdiction to jurisdiction means
 9 that two citizens with the same case may experience significantly different processes depending
 10 on where they live in West Virginia. Additionally, reforms to the mental hygiene system will
 11 alleviate pressure on the state's already overwhelmed psychiatric hospitals and ensure that
 12 individuals are not improperly warehoused in psychiatric hospitals when a more appropriate
 13 placement may be a nursing home, substance use disorder inpatient/ crisis stabilization unit, or an
 14 intermediate care facility for those with intellectual and/or developmental disabilities. For these
 15 reasons, proposed reforms to the mental hygiene process are necessary to alleviate these
 16 problems.

§27-18-3.**Enactment.**

1 (a) The mental hygiene system is hereby restructured, so that specialized mental health
2 issues can be evaluated by regional mental hygiene commissioners. The specialized populations
3 shall be categorized as follows:

4 (1) Acute Psychiatric cases;

5 (2) Geriatric or Alzheimer's/ Dementia cases;

6 (3) Intellectual and/or Developmental Disability cases; and

7 (4) Substance Use Disorder cases.

8 (b) Prior to designation to one of these pathways, behavioral health comprehensives shall
9 be engaged in the process to determine whether or not the behavioral health comprehensives
10 concur that the mental hygiene process should be continued. Behavioral health comprehensives
11 presently exist across the state and are regionally disbursed. If the behavioral health
12 comprehensive recommends continuing the process, that provider shall designate if the citizen
13 falls into one of the above stated specialized areas.

14 (c) Upon designation, specialized and properly trained regionalized mental hygiene
15 commissioners shall take up the case. If it is determined that the individual is a danger to
16 themselves, or to others, then the citizen shall be recommended for appropriate placement.

17 (d) The regional mental hygiene commissioners shall have unique training and a deeper
18 understanding of placement options for those that do have need for such care. Regional
19 commissioners shall also be tasked with the responsibility of working with prosecutors,
20 comprehensives, and other treatment providers in their region and, as appropriate, across the
21 state that support the specialized mental health issue. These regional commissioners shall be
22 appointed by the Supreme Court. Finally, the regional commissioners shall develop a redundancy
23 process so that commissioners from one region may be backed up by commissioners in another
24 region to mitigate problems with delayed rulings.

25 (e) Mental hygiene determinations shall be expedited under this new classification system.

NOTE: The purpose of this bill is to create the Mental Hygiene Reform Act. The bill provides for a short title. The bill provides for legislative findings. The bill provides for a new classification system. The bill sets guidelines. Finally, the bill provides for regional commissioners to be appointed by the West Virginia Supreme Court.

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