

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 196

By Senators Stuart, Hunt, and Maroney

[Introduced January 13, 2023; 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 §16-66-1, §16-66-2, §16-66-3, §16-66-4, §16-66-5, §16-66-6, and §16-66-7,
 3 all relating to the creation of the Substance Abuse Intervention Act; providing for a short
 4 title; providing for involuntary treatment for a substance use disorder and setting forth the
 5 rights of a patient; establishing criteria for involuntary treatment; creating a petition for 60-
 6 day and 360-day involuntary treatment and a guarantee for costs; providing for
 7 proceedings for involuntary treatment; describing the duties of court and disposition;
 8 setting forth a 72-hour emergency involuntary treatment; describing the failure to attend
 9 examination; setting forth a summons; and describing transportation to hospital or
 10 psychiatric facility.

Be it enacted by the Legislature of West Virginia:

PREAMBLE: THIS BILL SHALL BE KNOWN AS JOEL'S LAW

ARTICLE 66. SUBSTANCE ABUSE INTERVENTION ACT.

§16-66-1. Short title.

1 This article shall be known as the Substance Abuse Intervention Act.

§16-66-2. Involuntary treatment for substance use disorder; rights of patient.

1 (a) Involuntary treatment ordered for a person suffering from substance use disorder shall
 2 follow the procedures set forth in §27-5-2 of this code.

3 (b) Except as otherwise provided, all rights guaranteed to involuntarily hospitalized
 4 mentally ill persons shall be guaranteed to a person ordered to undergo treatment for substance
 5 use disorder.

§16-66-3. Criteria for involuntary treatment.

1 No person suffering from substance use disorder shall be ordered to undergo treatment
 2 unless that person:

3 (1) Suffers from a substance use disorder;

4 (2) Presents an imminent threat of danger to self, family, or others as a result of a

5 substance use disorder, or there exists a substantial likelihood of such a threat in the near future;

6 and

7 (3) Can reasonably benefit from treatment.

§16-66-4. Petition for 60-day and 360-day involuntary treatment; guarantee for costs.

1 (a) Proceedings for 60 days and up to but not to exceed 360 days of treatment for an
2 individual suffering from substance use disorder shall be initiated by the filing of a verified petition
3 in a West Virginia Circuit Court.

4 (b) The petition and all subsequent court documents shall be entitled: "In the interest of
5 (name of respondent)."

6 (c) The petition shall be filed by a spouse, relative, friend, or guardian of the individual
7 concerning whom the petition is filed.

8 (d) The petition shall set forth:

9 (1) Petitioner's relationship to the respondent;

10 (2) Respondent's name, residence, and current location, if known;

11 (3) The name and residence of respondent's parents, if living and if known, or respondent's
12 legal guardian, if any and if known;

13 (4) The name and residence of respondent's husband or wife, if any and if known;

14 (5) The name and residence of the person having custody of the respondent, if any, or if no
15 such person is known, the name and residence of a near relative or that the person is unknown;

16 and

17 (6) Petitioner's belief, including the factual basis therefor, that the respondent is suffering
18 from an alcohol and other drug abuse disorder and presents a danger or threat of danger to self,
19 family, or others if not treated for substance use disorder.

20 (e) Any petition filed pursuant to this subsection shall be accompanied by a guarantee,
21 signed by the petitioner or other person authorized under this section, obligating that person to pay
22 all costs for treatment of the respondent for substance use disorder that is ordered by the court.

§16-66-5. Proceedings for involuntary treatment; duties of court; disposition.

1 (a) Upon receipt of the petition, the court shall examine the petitioner under oath as to the
2 contents of the petition.

3 (b) If, after reviewing the allegations contained in the petition and examining the petitioner
4 under oath, it appears to the court that there is probable cause to believe the respondent should be
5 ordered to undergo treatment, then the court shall:

6 (1) Set a date for a hearing within 14 days to determine if the respondent should be ordered
7 to undergo treatment for a substance use disorder;

8 (2) Notify the respondent, the legal guardian, if any and if known, and the spouse, parents,
9 or nearest relative or friend of the respondent concerning the allegations and contents of the
10 petition and the date and purpose of the hearing; and the name, address, and telephone number
11 of the attorney appointed to represent the respondent; and

12 (3) Cause the respondent to be examined no later than 24 hours before the hearing date by
13 two qualified health professionals, at least one of whom is a physician. The qualified health
14 professionals:

15 (A) Shall certify their findings to the court within 24 hours of the examinations; and

16 (B) May be subject to subpoena for cross-examination at the hearing, either in person, by
17 telephone, or by videoconference.

18 (c) If, upon completion of the hearing, the court finds by proof beyond a reasonable doubt
19 that the respondent should be ordered to undergo treatment, then the court shall order such
20 treatment for a period of at least 60 consecutive days, but, not to exceed, 360 consecutive days
21 from the date of the court order, whatever was the period of time that was requested in the petition
22 or otherwise agreed to at the hearing. Failure of a respondent to undergo treatment ordered
23 pursuant to this subsection may place the respondent in contempt of court.

24 (d) If, at any time after the petition is filed, the court finds that there is no probable cause to
25 continue treatment or if the petitioner withdraws the petition, then the proceedings against the

26 respondent shall be dismissed.

§16-66-6. 72-hour emergency involuntary treatment.

1 (a) Following an examination by a qualified health professional and a certification by that
2 professional that the person meets the criteria specified in §27-5-2 of this code, the court may
3 order the person hospitalized for a period not to exceed 72 hours if the court finds, by clear and
4 convincing evidence, that the respondent presents an imminent threat of danger to self, family, or
5 others as a result of a substance use disorder.

6 (b) Any person who has been admitted to a hospital under this section shall be released
7 from the hospital within 72 hours of admittance.

8 (c) No respondent ordered hospitalized under this section shall be held in jail pending
9 transportation to the hospital or evaluation unless the court has previously found the respondent to
10 be in contempt of court for either failure to undergo treatment or failure to appear at the evaluation
11 ordered pursuant to this article.

§16-66-7. Failure to attend examination; summons; transportation to hospital or psychiatric facility.

1 When the court is authorized to issue an order that the respondent be transported to a
2 hospital, the court may, or if the respondent fails to attend an examination scheduled before the
3 hearing provided for in this article, then the court shall issue a summons. A summons so issued
4 shall be directed to the respondent and shall command the respondent to appear at a time and
5 place therein specified. If a respondent who has been summoned fails to appear at the hospital or
6 the examination, then the court may order the sheriff or other peace officer to transport the
7 respondent to a hospital or psychiatric facility. The sheriff or other peace officer may, upon
8 agreement of a person authorized by the peace officer, authorize the West Virginia Department of
9 Health and Human Resources ("DHHR"), a private agency on contract with the DHHR, or an
10 ambulance service designated by the DHHR to transport the respondent to the hospital. The
11 transportation costs of the sheriff, other peace officer, ambulance service, or other private agency

- 12 on contract with the DHHR shall be included in the costs of treatment for a substance use disorder
- 13 to be paid by the petitioner.

NOTE: The purpose of this bill is to create the Substance Abuse Intervention Act. The bill provides for a short title. The bill provides for involuntary treatment for a substance use disorder and sets forth the rights of a patient. The bill establishes criteria for involuntary treatment. The bill creates a petition for 60-day and 360-day involuntary treatment and a guarantee for costs. The bill provides for proceedings for involuntary treatment, describes the duties of court, and disposition. The bill sets forth a 72-hour emergency involuntary treatment. The bill describes the failure to attend examination, sets forth a summons, and describes transportation to hospital or psychiatric facility. This bill shall be known as "Joel's Law".

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