

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 3194**

4  
5 (By Delegates L. Phillips and Hall)

6 (Originating in the Committee on the Judiciary)

7  
8 [February 24, 2011]

9  
10 A BILL to amend and reenact §27-4-1 and §27-4-3 of the Code of West  
11 Virginia, 1931, as amended, all relating to the voluntary  
12 hospitalization at mental health facilities; relating to the  
13 voluntary admission of minors into a mental health facility  
14 for mental illness, intellectual disability or addiction;  
15 removing the requirement that the minor's consent be secured  
16 before they are voluntarily admitted to a mental health  
17 facility if the minor is twelve years of age or older;  
18 requiring the consent of an emancipated minor before he or she  
19 is voluntarily committed; standards and procedures for  
20 releasing a minor who is fourteen years of age or older from  
21 voluntary hospitalization, when the minor objects to the  
22 admission or treatment; standards and procedures for the  
23 releasing a minor from voluntary hospitalization when the  
24 adult who sponsored the admission withdraws his or her  
25 consent; relating to the release of the unemancipated minor's  
26 drug addiction and treatment records to a parent or legal

1 guardian; and clarifying that the state is not obligated to  
2 pay for voluntary hospitalization.

3 *Be it enacted by the Legislature of West Virginia:*

4 That §27-4-1 and §27-4-3 of the Code of West Virginia, 1931,  
5 as amended, be amended and reenacted, all to read as follows:

6 **ARTICLE 4. VOLUNTARY HOSPITALIZATION.**

7 **§27-4-1. Authority to receive voluntary patients.**

8 The chief medical officer of a mental health facility, subject  
9 to the availability of suitable accommodations and to the rules ~~and~~  
10 ~~regulations~~ promulgated by the board of health, shall admit for  
11 diagnosis, care and treatment any individual:

12 (a) Over eighteen years of age who is mentally ill, mentally  
13 retarded or addicted or who has manifested symptoms of mental  
14 illness, mental retardation or addiction and who makes application  
15 for hospitalization; or

16 (b) Under eighteen years of age who is mentally ill, mentally  
17 retarded or addicted or who has manifested symptoms of mental  
18 illness, mental retardation or addiction and there is application  
19 for hospitalization therefor in his or her behalf: (1) By the  
20 parents of such person; or (2) if only one parent is living, then  
21 by such parent; or (3) if the parents are living separate and  
22 apart, by the parent who has the custody of such person; or (4) if  
23 there is a guardian who has custody of such person, then by such  
24 guardian. ~~Such admission shall be conditioned upon the consent of~~  
25 ~~the prospective patient if he or she is twelve eighteen years of~~  
26 ~~age or over.~~ Such admission shall be conditioned upon the consent

1 of the prospective patient if he or she is an emancipated minor.

2 (c) No person under eighteen years of age shall be admitted  
3 under this section to any state hospital unless said person has  
4 first been reviewed and evaluated by a local mental health facility  
5 and recommended for admission.

6 (d) If the candidate for voluntary admission is a minor who is  
7 fourteen years of age or older, the admitting health care facility  
8 shall determine if the minor consents to or objects to his or her  
9 admission to the facility. If the parent or guardian who requested  
10 the minor's admission under this section revokes his or her consent  
11 at any time, or if the minor fourteen years of age or older objects  
12 at any time to his or her further treatment, the minor shall be  
13 discharged within ninety-six hours to the custody of the consenting  
14 parent or guardian, unless the chief medical officer of the mental  
15 health facility files a petition for involuntary hospitalization,  
16 pursuant to the provisions of section three of this article, or the  
17 minor's continued hospitalization is authorized as an involuntary  
18 hospitalization pursuant to the provisions of article five of this  
19 chapter: *Provided, That, if the ninety-six hour time period would*  
20 result in the minor being discharged and released on a Saturday, a  
21 Sunday or a holiday on which the court is closed, the period of  
22 time in which the patient shall be released by the facility shall  
23 be extended until the next day which is not a Saturday, Sunday or  
24 legal holiday on which the court is lawfully closed.

25 (e) Nothing in this section may be construed to obligate the  
26 State of West Virginia for costs of voluntary hospitalizations

1 permitted by the provisions of this section.

2 (f) Any provider may release an unemancipated minor's drug  
3 addiction and treatment records to a parent or legal guardian  
4 without the unemancipated minor's written consent when such  
5 disclosure will reduce the threat to the life or physical well  
6 being of the unemancipated minor.

7 **§27-4-3. Right to release on application.**

8 A voluntary patient who requests his or her release or whose  
9 release is requested in writing by his or her parents, parent,  
10 guardian, spouse or adult next of kin shall be released forthwith  
11 except that:

12 (a) If the patient was admitted on his or her own application,  
13 and request for release is made by a person other than the patient,  
14 release shall be conditioned upon the agreement of the patient  
15 thereto;

16 (b) If the patient is under ~~twelve~~ eighteen years of age, his  
17 or her release prior to becoming ~~twelve~~ eighteen years of age may  
18 be conditioned upon the consent of the person or persons who  
19 applied for his or her admission; or

20 (c) If, within ninety-six hours of the receipt of the request,  
21 the chief medical officer of the mental health facility in which  
22 the patient is hospitalized files with the clerk of the circuit  
23 court or mental hygiene commissioner of the county where the  
24 facility is situated an application for involuntary hospitalization  
25 as provided in section four, article five of this chapter, release  
26 may be postponed for twenty days pending a finding in accordance

1 with the legal proceedings prescribed therein.

2       Legal proceedings for involuntary hospitalization shall not be  
3 commenced with respect to a voluntary patient unless release of the  
4 patient has been requested by him or her or the individual or  
5 individuals who applied for his or her admission.