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Senate Bill No. 548

(By Senators Browning and Kessler (Acting President))

[Introduced February 18, 2011; referred to the Committee on the
Judiciary.]

A BILL to amend and reenact §27-4-1 and §27-4-3 of the Code of West
Virginia, 1931, as amended, all relating to increasing the age
of consent that a minor may refuse mental health treatment
from twelve to eighteen; and clarifying that the state not be
obligated to pay for voluntary hospitalization.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4. VOLUNTARY HOSPITALIZATION.

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

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

- (a) Over eighteen years of age who is mentally ill, mentally

1 retarded or addicted or who has manifested symptoms of mental
2 illness, mental retardation or addiction and who makes application
3 for hospitalization; or

4 (b) Under eighteen years of age who is mentally ill, mentally
5 retarded or addicted or who has manifested symptoms of mental
6 illness, mental retardation or addiction and there is application
7 for hospitalization therefor in his or her behalf: (1) By the
8 parents of such person; or (2) if only one parent is living, then
9 by such parent; or (3) if the parents are living separate and
10 apart, by the parent who has the custody of such person; or (4) if
11 there is a guardian who has custody of such person, then by such
12 guardian. Such admission shall be conditioned upon the consent of
13 the prospective patient if he or she is ~~twelve~~ eighteen years of
14 age or over.

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

19 (d) Nothing in this section may be construed to obligate the
20 State of West Virginia for costs of hospitalizations permitted by
21 the provisions of this section.

22 **§27-4-3. Right to release on application.**

23 A voluntary patient who requests his or her release or whose
24 release is requested in writing by his or her parents, parent,

1 guardian, spouse or adult next of kin shall be released forthwith
2 except that:

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

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

11 (c) If, within ninety-six hours of the receipt of the request,
12 the chief medical officer of the mental health facility in which
13 the patient is hospitalized files with the clerk of the circuit
14 court or mental hygiene commissioner of the county where the
15 facility is situated an application for involuntary hospitalization
16 as provided in section four, article five of this chapter, release
17 may be postponed for twenty days pending a finding in accordance
18 with the legal proceedings prescribed therein.

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

NOTE: The purpose of this bill is to change the age of
consent for refusal of mental health treatment from twelve to

eighteen. The bill also clarifies that the state is not obligated to pay for voluntary hospitalizations.

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