

COMMITTEE SUBSTITUTE

FOR

**H. B. 3194**

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(BY DELEGATES L. PHILLIPS AND HALL)

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(Originating in the Committee on the Judiciary)  
[February 24, 2011]

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 the voluntary hospitalization at mental health facilities; relating to the voluntary admission of minors into a mental health facility for mental illness, intellectual disability or addiction; removing the requirement that the minor's consent be secured before they are voluntarily admitted to a mental

health facility if the minor is twelve years of age or older; requiring the consent of an emancipated minor before he or she is voluntarily committed; standards and procedures for releasing a minor who is fourteen years of age or older from voluntary hospitalization, when the minor objects to the admission or treatment; standards and procedures for the releasing a minor from voluntary hospitalization when the adult who sponsored the admission withdraws his or her consent; relating to the release of the unemancipated minor's drug addiction and treatment records to a parent or legal guardian; and clarifying that the state is not 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.**

1       The chief medical officer of a mental health facility,  
2       subject to the availability of suitable accommodations and to

3 the rules ~~and regulations~~ promulgated by the board of health,  
4 shall admit for diagnosis, care and treatment any individual:

5 (a) Over eighteen years of age who is mentally ill,  
6 mentally retarded or addicted or who has manifested  
7 symptoms of mental illness, mental retardation or addiction  
8 and who makes application for hospitalization; or

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

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

27 (d) If the candidate for voluntary admission is a minor  
28 who is fourteen years of age or older, the admitting health  
29 care facility shall determine if the minor consents to or  
30 objects to his or her admission to the facility. If the parent or  
31 guardian who requested the minor's admission under this  
32 section revokes his or her consent at any time, or if the minor  
33 fourteen years of age or older objects at any time to his or her  
34 further treatment, the minor shall be discharged within  
35 ninety-six hours to the custody of the consenting parent or  
36 guardian, unless the chief medical officer of the mental  
37 health facility files a petition for involuntary hospitalization,  
38 pursuant to the provisions of section three of this article, or  
39 the minor's continued hospitalization is authorized as an  
40 involuntary hospitalization pursuant to the provisions of  
41 article five of this chapter: *Provided, That, if the ninety-six*

42 hour time period would result in the minor being discharged  
43 and released on a Saturday, a Sunday or a holiday on which  
44 the court is closed, the period of time in which the patient  
45 shall be released by the facility shall be extended until the  
46 next day which is not a Saturday, Sunday or legal holiday on  
47 which the court is lawfully closed.

48 (e) Nothing in this section may be construed to obligate  
49 the State of West Virginia for costs of voluntary  
50 hospitalizations permitted by the provisions of this section.

51 (f) Any provider may release an unemancipated minor's  
52 drug addiction and treatment records to a parent or legal  
53 guardian without the unemancipated minor's written consent  
54 when such disclosure will reduce the threat to the life or  
55 physical well being of the unemancipated minor.

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

1 A voluntary patient who requests his or her release or  
2 whose release is requested in writing by his or her parents,  
3 parent, guardian, spouse or adult next of kin shall be released  
4 forthwith except that:

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

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

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

22 Legal proceedings for involuntary hospitalization shall  
23 not be commenced with respect to a voluntary patient unless

24 release of the patient has been requested by him or her or the  
25 individual or individuals who applied for his or her  
26 admission.