

1 ENGROSSED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 481**

5 (By Senators Palumbo, Unger, Jenkins and Tucker)

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7 [Originating in the Committee on Health and Human Resources ;
8 reported March 29, 2013.]
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12 A BILL to amend and reenact §27-4-1 of the Code of West Virginia,
13 1931, as amended, relating to juvenile mental health,
14 intellectual disability and addiction; permitting acceptance
15 of a notarized application in lieu of in-person application
16 for certain voluntary hospitalization; allowing use of article
17 five, chapter twenty-seven of said code for juveniles in
18 certain situations; requiring parents or guardians to
19 transport minors for voluntary hospitalization; creating
20 exceptions to that requirement by affidavit to circuit court,
21 mental hygiene commissioner or magistrate court; requiring
22 transfer by county sheriff upon order of circuit court, mental
23 hygiene commissioner or magistrate court; and requiring mental
24 health facilities to make their application immediately

1 accessible in certain situations.

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

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

5 **ARTICLE 4. VOLUNTARY HOSPITALIZATION.**

6 **§27-4-1. Authority to receive voluntary patients.**

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

11 ~~(a)~~ (1) ~~Over eighteen~~ Eighteen years of age or older who is
12 mentally ill, intellectually disabled or addicted or who has
13 manifested symptoms of mental illness, intellectual disability or
14 addiction and who makes application for hospitalization; or

15 ~~(b)~~ (2) Under eighteen years of age who is mentally ill,
16 intellectually disabled or addicted or who has manifested symptoms
17 of mental illness, intellectual disability or addiction and where
18 there is an application for hospitalization, ~~therefor in either~~
19 made in person at the time of admission or by a notarized written
20 application submitted by facsimile, e-mail or in person prior to,
21 or at the time of, admission, on his or her behalf as follows:

22 ~~(1)~~ (A) By the parents of such person;

23 ~~(2)~~ (B) If only one parent is living, then by such parent;

24 ~~(3)~~ (C) If the parents are living separate and apart, then by

1 the parent who has the custody of such person; or

2 ~~(4)~~ (D) If there is a guardian who has legal custody of such
3 person, then by such guardian.

4 ~~(5)~~ (E) If the subject person under eighteen years of age is
5 an emancipated minor, the admission of that person as a voluntary
6 patient shall be conditioned upon the consent of the patient.

7 (F) If the application for the subject person under eighteen
8 years of age does not satisfy one of paragraphs (A) through (E) of
9 this subdivision, the provisions of article five of this chapter
10 shall be followed with respect to any hospitalization.

11 (b) For any application for hospitalization made pursuant to
12 subdivision (2) of subsection (a) of this section, the person
13 making the application shall transport the minor to the mental
14 health facility, except as provided in this subsection. If the
15 minor is violent or combative or the parent or guardian faces other
16 circumstances that make the parent or guardian unable to transport
17 the minor to the mental health facility, the parent or guardian may
18 file an affidavit with the circuit court of the county in which the
19 minor resides or of the county in which the minor may be found.
20 The parent or guardian shall give information and state facts in
21 the affidavit as may be required by the form provided for this
22 purpose by the Supreme Court of Appeals. Upon ex parte review of
23 the affidavit, a mental hygiene commissioner or circuit court
24 judge, or when none are available the magistrate designated

1 pursuant to article five of this chapter, may determine that the
2 parent or guardian is unable to transport the minor for voluntary
3 hospitalization and, if such a determination is made, shall enter
4 an order requiring the sheriff of that county to transport the
5 minor to the mental health facility.

6 (c) No person under eighteen years of age may be admitted
7 under this section to any state hospital unless the person has
8 first been reviewed and evaluated by a local mental health facility
9 and recommended for admission.

10 (d) If the candidate for voluntary admission is a minor who is
11 fourteen years of age or older, the admitting health care facility
12 shall determine if the minor consents to or objects to his or her
13 admission to the facility. If the parent or guardian who requested
14 the minor's admission under this section revokes his or her consent
15 at any time, or if the minor fourteen years of age or older objects
16 at any time to his or her further treatment, the minor shall be
17 discharged within ninety-six hours to the custody of the consenting
18 parent or guardian, unless the chief medical officer of the mental
19 health facility files a petition for involuntary hospitalization,
20 pursuant to the provisions of section three of this article, or the
21 minor's continued hospitalization is authorized as an involuntary
22 hospitalization pursuant to the provisions of article five of this
23 chapter: *Provided*, That if the ninety-six hour time period would
24 result in the minor being discharged and released on a Saturday, a

1 Sunday or a holiday on which the court is closed, the period of
2 time in which the patient shall be released by the facility shall
3 be extended until the next day which is not a Saturday, Sunday or
4 legal holiday on which the court is lawfully closed.

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

8 (f) For the purposes of this section, all mental health
9 facilities in this state shall make a blank copy of their
10 application for admission immediately available to any person or
11 entity who requests the application. The application is
12 "immediately available" if it is promptly sent by facsimile or e-
13 mail to the requesting person or entity, or available through other
14 immediate electronic means, such as posting the blank application
15 on the facility's public website.