

1 **H. B. 2238**

2
3 (By Delegate Perdue)

4 [Introduced February 13, 2013; referred to the
5 Committee on Health and Human Resources then the
6 Judiciary.]
7
8
9

10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §27-1B-1, §27-1B-2,
12 §27-1B-3, §27-1B-4, §27-1B-5 and §27-1B-6, all relating to
13 involuntary treatment for drug and alcohol abuse; making
14 legislative findings; providing a procedure for the commitment
15 of persons suffering from alcohol or drug abuse; setting forth
16 the criteria for extended involuntary treatment; requiring a
17 probable cause hearing; setting forth the rights of persons
18 subject to involuntary treatment; limiting those who may
19 petition for involuntary treatment; setting forth what a
20 petition must contain; requiring a payment guarantee by the
21 petitioner; and requiring annual reports be made to the
22 Governor and the Legislature.

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

24 That the Code of West Virginia, 1931, as amended, be amended

1 by adding thereto a new article, designated §27-1B-1, §27-1B-2,
2 §27-1B-3, §27-1B-4, §27-1B-5 and §27-1B-6, all to read as follows:

3 **ARTICLE 1B. INVOLUNTARY TREATMENT FOR ALCOHOL AND OTHER DRUG**
4 **ABUSE.**

5 **§27-1B-1. Legislative findings.**

6 The Legislature finds and declares that drug and alcohol abuse
7 is a pervasive and difficult health problem in this state. The
8 correlation between crime and drug and alcohol abuse is alarming
9 and compelling. The current short-term involuntary treatment
10 program fails to recognize the need for longer therapy treatments
11 and the need to provide families with the tools to ensure proper
12 treatment for family members who may be persistent alcohol and drug
13 abusers who lack the will or because of an addiction they are
14 unable to voluntarily seek long-term treatment. Therefore, in order
15 to provide for the health and safety of the citizens of this state
16 and to reduce the incidence of drug and alcohol related criminal
17 activity, a long-term involuntary treatment system is hereby
18 established.

19 **§27-1B-2. Involuntary treatment for alcohol and other drug abuse;**
20 **patient rights.**

21 (a) Notwithstanding the requirement of section two, article
22 five of this chapter that an individual is likely to cause serious
23 harm to himself, herself or to others, involuntary treatment

1 ordered for an extended period of time for a person suffering from
2 alcohol and other drug abuse may be ordered as set forth in this
3 article, This article is intended to supplement and extend the
4 treatment for a person suffering from alcohol and other drug abuse
5 that may be contained in other provisions of this code.

6 (b) Except as otherwise provided in this article, the rights
7 afforded individuals subject to involuntarily hospitalization by
8 article five of this chapter apply to those persons ordered to
9 undergo treatment for alcohol and other drug abuse under this
10 article.

11 **§27-1B-3. Criteria for extended involuntary treatment.**

12 Although section twelve, article one of this chapter require
13 a finding of "likely to cause serious harm" before a person may be
14 involuntarily committed, this section applies only to petitions for
15 involuntary commitment filed in circuit court by a spouse,
16 relative, friend, or guardian of the individual who is to be
17 involuntarily committed due to alcohol and other drug abuse. A
18 person suffering from alcohol and other drug abuse may not be
19 ordered to undergo treatment unless that person:

20 (1) Suffers from alcohol and other drug abuse;

21 (2) Presents an imminent threat of danger to self, family, or
22 others as a result of alcohol and other drug abuse, or there exists
23 a substantial likelihood of such a threat in the near future; and

24 (3) Can reasonably benefit from treatment.

1 §27-1B-4. Petitions for sixty-day and three hundred sixty-day
2 involuntary treatments; petition requirements;
3 petitioner guarantee for costs.

4 (a) Proceedings for the commitment of a person suffering from
5 alcohol or drug abuse may be filed requesting involuntary
6 commitment for sixty days or three hundred sixty days of treatment
7 for an individual and shall be initiated by the filing of a
8 verified petition in the circuit court of the county in which the
9 individual resides.

10 (b) The petition and all subsequent court documents shall be
11 entitled: "In the interest of [name of respondent]."

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

15 (d) The petition shall set forth:

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

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

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

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

23 (5) The name and residence of the person having custody of the
24 respondent, if any, or if no such person is known, the name and

1 residence of a near relative or that the person is unknown;

2 (6) Petitioner's belief, including the factual basis, that the
3 respondent is suffering from an alcohol and other drug abuse
4 disorder and presents a danger or threat of danger to self, family,
5 or others if not treated for alcohol or other drug abuse;

6 (7) The name of the treatment facility or program agreeing to
7 provide extended drug and alcohol treatment services to the
8 respondent; and

9 (8) The estimated cost of the proposed extended treatment.

10 (e) Petitions filed pursuant to this section shall be
11 accompanied by a guarantee, signed by the petitioner or other
12 person authorized under subsection (c) of this section, obligating
13 that person to pay all costs for treatment of the respondent for
14 alcohol and other drug abuse that is ordered by the court.

15 **§27-1B-5. Proceedings for involuntary treatment; duties of court;**
16 **probable cause hearing; examination of individual.**

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

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

23 (1) Set a date for a hearing within fourteen days to determine
24 if there is probable cause to believe the respondent should be

1 ordered to undergo treatment for alcohol and other drug abuse;

2 (2) Notify the respondent, the legal guardian, if any and if
3 known, and the spouse, parents, or nearest relative or friend of
4 the respondent concerning the allegations and contents of the
5 petition and the date and purpose of the hearing; and the name,
6 address, and telephone number of the attorney appointed by the
7 circuit court to represent the respondent; and

8 (3) Cause the respondent to be examined no later than
9 twenty-four hours before the hearing date by two qualified health
10 professionals, at least one of whom is a physician. The qualified
11 health professionals shall certify their findings to the court
12 within twenty-four hours of the examinations.

13 (c) If, upon completion of the hearing, the court finds the
14 respondent should be ordered to undergo treatment, then the court
15 shall order the treatment for a period not to exceed sixty
16 consecutive days from the date of the court order or a period not
17 to exceed three hundred sixty consecutive days from the date of the
18 court order, as the commitment time is set out in the petition or
19 otherwise agreed to at the hearing. Failure of a respondent to
20 undergo treatment ordered pursuant to this subsection may place the
21 respondent in contempt of court.

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

1 the respondent shall be dismissed.

2 **§27-1B-6. Reports.**

3 The Secretary of the Department of Health and Human Resources
4 shall annually submit to the Governor and the Legislature, a
5 treatment center evaluation report. The report shall include, but
6 not be limited to, the following information:

7 (1) An inventory of all licensed chemical dependency treatment
8 services in West Virginia;

9 (2) Each chemical dependency treatment center or program shall
10 provide upon the request of the secretary, the information needed
11 to compile the inventory for the secretary to include in his or her
12 report; and

13 (3) The employment, educational, and criminal history of
14 clients in each program that received state or federal funds.

NOTE: The purpose of this bill is to establish a system of extended involuntary treatment for persons addicted to drugs and alcohol. The bill permits only a spouse, relative, friend, or guardian of the individual to file a petition for involuntary commitment for drug and alcohol abuse treatment. The bill makes legislative findings. The bill provides a procedure for the commitment of a person suffering from alcohol or drug abuse. The bill sets forth the criteria for extended involuntary treatments. The bill requires a probable cause hearing. The bill sets forth the rights of persons subject to involuntary treatment. The bill sets forth what a petition must contain. The bill requires a payment guarantee by the petitioner. The bill requires annual reports be made to the Governor and the Legislature.

This article is new; therefore, it has been completely underscored.