

H. B. 2487

(By Delegates A. Evans and Rowan)

[Introduced January 28, 2015; referred to the

Committee on Health and Human Resources then the Judiciary.]

**FISCAL
NOTE**

A BILL to amend and reenact §27-2-3 of the Code of West Virginia, 1931, as amended, relating to requiring a person restraining a mentally ill or mentally challenged person in a "four point restraint" to administer sedation by injection at the time the patient is secured in the "four point restraint"; providing guidelines for handling the patient after initial restraint and sedation; and establishing a criminal penalty for failure to sedate by injection upon use of the "four point restraint."

Be it enacted by the Legislature of West Virginia:

That §27-2-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. MENTAL HEALTH FACILITIES.

§27-2-3. Rules as to patients.

The director of health shall implement rules and regulations as promulgated by the board of health in regard to the admission of patients to mental health facilities, the care, maintenance and

1 treatment of inpatients, residents and outpatients of such facilities and the release, trial visit and
2 discharge of patients therefrom.

3 No patient under eighteen years of age in any state hospital shall be housed in any area also
4 occupied by any patient over eighteen years of age. Any patient adjudged by the chief medical
5 officer to have a likelihood of seriously harming others shall be confined in a secure area of a health
6 facility.

7 Notwithstanding any provision in this chapter to the contrary, the restraint technique known
8 as the "four point restraint," whereby a patient's arms and legs are strapped down on a bed, may not
9 be used to restrain a patient unless the procedure is coupled with an injection to sedate the patient
10 at the time the patient is secured in the "four point restraint." After the initial four point restraint and
11 sedation by injection, the following guidelines should be adhered to in handling the patient:

12 (1) Once a patient awakens, the restraint should be undone;

13 (2) After initial restraint, the doctor should prescribe the maintenance dose to cover highs and
14 lows without need for further restraint;

15 (3) Instead of a second injection, the patient should be placed in a safe seclusion room;

16 (4) Safe seclusion by itself or with an injection should be the first alternative, and the least
17 restrictive; and

18 (5) Hospitals or facilities licensed to treat the mentally ill or mentally challenged in this state
19 should have a seclusion room or rooms with padded walls and padded floors, and no beds or
20 furniture except for approved mattresses.

21 Any person using the "four point restraint" technique on a patient who fails to provide
22 sedation by injection upon securing the patient in the "four point restraint" is guilty of a misdemeanor

1 and, upon conviction thereof, shall be fined \$5,000.

NOTE: The purpose of this bill is to require a person restraining a mentally ill or mentally challenged person in a "four point restraint" to administer sedation by injection at the time the patient is secured in the "four point restraint". The bill provides guidelines for handling the patient after initial restraint and sedation and establishes a penalty for failure to sedate by injection upon use of the "four point restraint." The bill establishes a criminal penalty.

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