

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 602

BY SENATORS DRENNAN, BLAIR, GAUNCH, MARONEY,
MAYNARD, PLYMALE, TRUMP, STOLLINGS, AND BOSO

[Introduced February 19, 2018; Referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §55-7K-1, §55-7K-2, and §55-7K-3, all relating to providing immunity from civil
 3 liability to facilities and employees providing crisis stabilization and/or drug and alcohol
 4 detoxification services, substance use disorder services, and/or drug overdoses services
 5 on a short-term basis.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 7K. IMMUNITY FROM CIVIL LIABILITY FOR CERTAIN GOVERNMENT OR
 BEHAVIORAL HEALTH FACILITIES AND THEIR EMPLOYEES.**

**§55-7k-1. Limiting civil liability for government or behavioral health facilities and their
 employees providing crisis stabilization services and/or drug and alcohol
 detoxification services, substance use disorder services, and/or drug overdose
 services on a short-term basis.**

1 (a) Notwithstanding any other provision of this code, no behavioral health facility certified
 2 or licensed in this state, another state, or operated by the state, or one of its political subdivisions,
 3 nor any of its directors, officers, employees, and contractors, shall be liable for any civil damages
 4 as a result of any act or omission arising from or related to providing crisis stabilization and/or
 5 drug and alcohol detoxification services, substance use disorder services, drug overdose
 6 services, and withdrawal services on a short-term basis, so long as the services are provided in
 7 good faith and do not involve the gross negligence or willful or wanton misconduct of the facility,
 8 or its directors, officers, employees, or contractors. The foregoing limitation of civil liability shall
 9 include, but be limited to, acts or omissions arising from or related to an individual’s admission to
 10 a facility, shelter, unit, or holding facility, the duration of stay, the time or manner of departure
 11 therefrom, or the inability to provide the level of care required by the condition of a person
 12 voluntarily or involuntarily receiving any of the foregoing short-term services.

13 (b) Notwithstanding any other provision of this code, no behavioral health facility certified

14 or licensed in this state, another state, or operated by the state, or one of its political subdivisions,
15 nor any of its directors, officers, employees, and contractors, shall be liable for any civil damages
16 as a result of any act or omission arising from or related to any services rendered under §27-5-1
17 et seq. of this code, so long as the services are provided in good faith and do not involve the gross
18 negligence or willful or wanton misconduct of the facility, or its directors, officers, employees, or
19 contractors.

§55-7K-2. Applicability of provisions.

1 The provisions of this article are applicable prospectively to all claims that occur and are
2 commenced on or after July 1, 2018.

§55-7K-3. Applicability of provisions

1 The provisions of this article operate in addition to, and not in derogation of, any of the
2 provisions contained in §55-7B-1 et seq. of this code.

NOTE: The purpose of this bill is to provide immunity to certain facilities and providers of certain crisis services.

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