

WEST VIRGINIA LEGISLATURE
2019 FIRST EXTRAORDINARY SESSION

Introduced

House Bill 108

BY DELEGATES HANSHAW (MR. SPEAKER) AND MILEY

BY REQUEST OF THE EXECUTIVE

[Introduced May 20, 2019]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §16-59-1, §16-59-2, and §16-59-3, all relating to regulation of recovery
 3 residences; providing voluntary certification procedures; providing voluntary inspection
 4 standards; providing requirements for the referral of persons; providing criminal penalties
 5 and fines; permitting rulemaking; requiring compliance with the Fair Housing Act and
 6 Americans with Disabilities Act; and providing for the payment of state funds to recovery
 7 residences in certain circumstances.

Be it enacted by the Legislature of West Virginia:

ARTICLE 59. CERTIFICATION OF RECOVERY RESIDENCES.

§16-59-1. Definitions.

1 As used in this article, the term:

2 (1) "Certificate of compliance" means a certificate that is issued to a recovery residence
 3 by the Department's appointed certifying agency.

4 (2) "Certified recovery residence" means a recovery residence that holds a valid certificate
 5 of compliance.

6 (3) "Department" means the Department of Health and Human Resources.

7 (4) "Recovery residence" means a single family, drug-free and alcohol-free residential
 8 dwelling unit, or other form of group housing, that is offered or advertised by any person or entity
 9 as a residence that provides a drug-free and alcohol-free living environment for the purposes of
 10 promoting sustained, long-term recovery from substance use disorder.

§16-59-2. Voluntary Certification of Recovery Residences.

1 (a) The department shall contract with an entity to serve as the certifying agency for a
 2 voluntary certification program for drug-free and alcohol-free recovery residences based upon
 3 standards determined by the National Alliance for Recovery Residences (NARR) or a similar
 4 entity. The certifying agency shall establish and implement an accreditation program for drug-free
 5 and alcohol-free recovery residences that shall maintain nationally-recognized standards that:

6 (1) Uphold industry best practices and support a safe, healthy and effective recovery
7 environment;

8 (2) Evaluate the residence's ability to assist persons in achieving long-term recovery
9 goals;

10 (3) Protect residents of drug and alcohol free housing against unreasonable and unfair
11 practices in setting and collecting fee payments.

12 (b) The department shall require the recovery residence to submit the following:

13 (1) Documentation verifying certification as specified and administered by the certifying
14 agency;

15 (2) If a municipality or county offers or requires verification of compliance with local
16 building, maximum occupancy, fire safety and sanitation codes applicable to single family
17 housing, documentation of verification by the municipality or county where the recovery residence
18 is located stating that the recovery residence is in compliance.

19 (c) If a municipality or county offers or requires verification of compliance with local
20 building, maximum occupancy, fire safety and sanitation codes applicable to single family
21 housing, the municipality or county must perform requested or required inspections within 30 days
22 of receiving a request for verification. If a residence is located within a municipality or county that
23 offers or requires verification of compliance with local building, maximum occupancy, fire safety
24 and sanitation codes applicable to single family housing, and the municipality or county fails to
25 perform requested or required inspections within 30 days of receiving a request for verification,
26 the residence may apply for and be granted certification directly through the certifying agency
27 without the aforementioned verification.

28 (d) Upon receiving a complete application, the certifying agency shall evaluate the
29 residence to determine if the residence is in compliance with national best-practice standards and
30 safety requirements. Additionally, any application of the items specified in this section, must
31 comply with the Fair Housing Act, 42 U.S.C. § 3601 et seq. and the Americans with Disabilities

32 Act of 2008, 42 U.S.C. § 12101 et seq.

33 (1) If it is determined that the residence is in compliance, the certification agency shall
34 issue a certificate of compliance to the recovery residence operator for the specific recovery
35 residence location set forth in the application.

36 (2) Each residence location, even if operated by the same person or entity, must maintain
37 a certificate of compliance for the purposes of this article.

38 (e) The certifying agency may suspend or revoke a certificate of compliance if the recovery
39 residence is not in compliance with any provision of this section or has failed to remedy any
40 deficiency identified in writing and served by certified mail. Suspension or revocation may take
41 place after a notice of deficiency is served and has existed for at least 30 days.

42 (f) The certifying agency shall implement and maintain a process by which a residence
43 whose certification has been suspended or revoked may apply for and be granted reinstatement.
44 If a municipality or county offers or requires verification of compliance with local building,
45 maximum occupancy, fire safety and sanitation codes applicable to single family housing, and if
46 the residence's certification suspended or revoked for non-compliance with local building,
47 maximum occupancy, fire safety and sanitation codes applicable to single family housing the
48 municipality or county may charge a fee of up to \$100 for any requested re-inspection of a
49 recovery residence by the residence seeking reinstatement.

50 (g) The Department shall periodically evaluate the quality, integrity, and efficacy of the
51 accreditation program developed. The Department shall promulgate rules subject to legislative
52 approval in accordance with §29A-3-1 et seq. of this code to implement this section that shall
53 include a process for receiving complaints against drug-free and alcohol-free recovery residences
54 and criteria by which such residences' certifications can be revoked.

55 (h) A person may not advertise to the public, any recovery residence as a "certified
56 recovery residence" unless the recovery residence has first secured a certificate of compliance
57 under this section. A person who violates this subsection commits a misdemeanor, punishable by

58 a fine of not less than \$1,000 nor more than \$5,000 for each infraction.

59 (i) Nothing herein shall be read to require any recovery residence to obtain certifications
60 set forth herein in order to conduct operations.

§16-59-3 Referrals to Recovery Residences; Prohibitions; Receipt of State Funds.

1 (a) The certifying agency shall maintain, publish and disseminate a list of drug and alcohol
2 free housing certified pursuant to this section. This list shall be disseminated to the department
3 for use by each state agency or vendor with a statewide contract that provides substance use
4 disorder treatment services. The list shall also be posted on the website maintained by the
5 certifying agency.

6 (b) The Division of Corrections and Rehabilitation, the Parole Board, county probation
7 offices, day report centers, municipal courts, and a medical or clinical treatment facility that
8 receives any funds for its operations from the state treasury, may not make a referral of any
9 prisoner, parolee, probationer, or prospective, current, or discharged patient or client to a recovery
10 residence unless the recovery residence holds a valid certificate of compliance as provided in
11 §16-59-2 of this code.

12 (c) No recovery residence is eligible to receive funds from any source within the State
13 Treasury unless it holds a valid certificate of compliance as provided in §16-59-2 of this code.

14 (d) A state agency and a medical or clinical treatment facility that receive funds for its
15 operation from the State Treasury, that make referrals to recovery residences shall maintain
16 records of referrals to or from recovery residences.

17 (e) Nothing in this section requires a state agency or a clinical or medical provider to make
18 a referral of a person to a recovery residence.

19 (f) A person who violates this section commits a misdemeanor, punishable by a fine of not
20 less than \$500 nor more than \$1,000.

NOTE: The purpose of this bill is to create the voluntary certification of recovery residences.

Strike-throughs indicate language that would be stricken from a heading or the present law

and underscoring indicates new language that would be added.