

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Engrossed**

**Committee Substitute**

**for**

**Committee Substitute**

**for**

**Senate Bill 574**

SENATORS MARONEY AND STOLLINGS, *original sponsors*

[Originating in the Committee on the Judiciary;

Reported on February 25, 2019]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §27-5-2a, relating to permitting an authorized staff physician, after  
3 examination, to order the involuntary hospitalization of an individual whom the physician  
4 believes is addicted or mentally ill and likely to cause serious harm to himself or herself or  
5 other individuals; setting forth a procedure; defining terms; providing for payment for  
6 services; limiting liability; and requiring the West Virginia Supreme Court of Appeals to  
7 produce information to hospitals regarding contact information for mental hygiene  
8 commissioners, designated county magistrates, and circuit judges.

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

**ARTICLE 5. INVOLUNTARY HOSPITALIZATION.**

**§27-5-2a. Involuntary hospitalization order by a physician.**

1 (a) As used in this section:

2 (1) "Addiction" as used in this section has the same meaning as the term is defined in §27-  
3 1-11 of this code.

4 (2) "Authorized staff physician" means a physician, authorized pursuant to the provisions  
5 of §30-3-1 et seq. or §30-14-1 et seq. of this code, who is a bona fide member of the hospital's  
6 medical staff.

7 (3) "Hospital" means a facility licensed pursuant to the provisions of §16-5b-1 et seq. of  
8 this code, and any acute care facility operated by the state government, that primarily provides  
9 inpatient diagnostic, treatment, or rehabilitative services to injured, disabled, or sick individuals  
10 under the supervision of physicians.

11 (b)(1) If a mental hygiene commissioner, designated county magistrate, or circuit judge is  
12 unavailable or unable to be contacted, an authorized staff physician may order the involuntary  
13 hospitalization of an individual who seeks treatment or presents himself or herself at a hospital  
14 emergency department in need of treatment, if the authorized staff physician believes, following  
15 an examination of the individual, that the individual is addicted or is mentally ill and, because of

16 his or her addiction or mental illness, is likely to cause serious harm to himself or herself or to  
17 other individuals if allowed to remain at liberty. Immediately upon admission, or as soon as  
18 practicable thereafter, but in no event later than 24 hours after admission, the authorized staff  
19 physician or designated employee shall file a mental hygiene petition in which the authorized staff  
20 physician certifies the individual for whom the involuntary hospitalization is sought is addicted or  
21 is mentally ill and, because of his or her addiction or mental illness, is likely to cause serious harm  
22 to himself or herself or other individuals if allowed to remain at liberty. The authorized staff  
23 physician shall also certify the same in the individual's health records. Upon receipt of this filing,  
24 the mental hygiene commissioner, designated county magistrate, or circuit judge shall conduct a  
25 hearing pursuant to §27-5-2 of this code.

26 (2) An individual who is involuntarily hospitalized pursuant to this section shall be released  
27 from the hospital within 48 hours unless further detained under the applicable provisions of this  
28 article.

29 (c) Each health care provider which provides services under this section shall be paid for  
30 the services at the same rate the health care provider negotiates with the patient's insurer. If the  
31 patient is uninsured, the health care provider may file a claim for payment with the West Virginia  
32 Legislative Claims Commission in accordance with §14-2-1 et seq. of this code.

33 (d) Persons carrying out duties or rendering professional opinions as provided in this  
34 section are free of personal liability for the actions, if the actions are performed in good faith and  
35 within the scope of their professional duties and in a manner consistent with standard of care.

36 (e) The West Virginia Supreme Court of Appeals shall provide each hospital with a list of  
37 names and contact information of the mental hygiene commissioners, designated county  
38 magistrates, and circuit judges to address mental hygiene petitions in the county where the  
39 hospital is located. The West Virginia Supreme Court of Appeals shall update this list regularly  
40 and the list shall reflect on-call information.