

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

ENROLLED

House Bill 4501

BY DELEGATES MILLER, CRISS, GRAVES, HOWELL,

SHOTT, N. BROWN AND MAYNARD

(BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS AND
PUBLIC SAFETY)

[Passed February 27, 2020; in effect from passage.]

1 AN ACT to repeal §62-6-6a of the Code of West Virginia, 1931, as amended; to amend and
2 reenact §15A-5-9 of said code; and to amend and reenact §62-1C-14 of said code; all
3 relating to the ability to refuse offenders for commitment to a jail; authorizing the
4 acceptance of certain offenders refusing ordered examination or medical treatment;
5 granting civil and criminal immunity to the division, the commissioner, employees and
6 agents of the division for accepting offenders who refuse a medical examination or medical
7 treatment; and clarifying conditions and circumstances under which division employees
8 accept or refuse to accept offenders brought to a regional jail pursuant to a bailpiece.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 15A. DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC
SAFETY.**

ARTICLE 5. BUREAU OF PRISONS AND JAILS.

§15A-5-9. Ability to refuse offenders.

1 (a) Notwithstanding any other provision of this code, the commissioner, or any employee
2 or agent of the division, having authority to accept offenders in a jail is not required to accept
3 those offenders if an offender appears to be in need of medical attention of a degree necessitating
4 treatment by a physician. If an offender is refused pursuant to the provisions of this section, he or
5 she may not be accepted for detention until a written clearance is received from a licensed
6 physician reflecting that the offender has been examined and if necessary treated, and which
7 states that it is the physician's medical opinion that the offender can be safely housed in a jail.

8 (b) Notwithstanding the provisions of subsection (a) of this section, the division, the
9 commissioner, or any employee or agent of the division, may accept an offender into custody who
10 appears to be in need of medical attention of a degree necessitating treatment by a licensed
11 medical professional, who refuses a medical examination or medical treatment to a licensed
12 medical professional, and is immune from civil or criminal liability for accepting the person into
13 custody.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 1C. BAIL.

§62-1C-14. Bailpiece; issuance to surety; taking accused into custody.

1 (a) A bailpiece is a certificate stating that the bail became such for the accused in a
2 particular case and the amount thereof. Upon demand therefor, the court, magistrate, or clerk
3 shall issue to the bail bondsperson a bailpiece. Any officer having authority to execute a warrant
4 of arrest shall assist the bail bondsperson holding such bailpiece to take the accused into custody
5 and produce him or her before the court or magistrate. The bail bondsperson may take the
6 accused into custody and surrender him or her to the court or magistrate without such bailpiece.

7 (b) If bailpiece is inaccessible due to unavailability of the court's circuit clerk or magistrate,
8 the bail bondsperson, or his or her designee, can take an offender to a regional jail without
9 bailpiece, and the jail must accept the offender, provided:

10 (1) The bail bondsperson, or his or her designee, delivering an offender to a jail without a
11 bailpiece issued by the court's circuit clerk or magistrate appears on the registered list maintained
12 at the jails and approved by the court of original jurisdiction;

13 (2) The bail bondsperson signs an agreement provided by the jail indicating that the
14 offender has been booked in lieu of bailpiece. Such agreement shall contain a clause indicating
15 the incarceration of such offender is lawful and that the jail accepting the offender shall be held
16 harmless from any claims of illegal incarceration or other relative charges; thereby, such bail
17 bondsperson assumes the risk and liability of such incarceration; and

18 (3) Bailpiece must be applied for by the bail bondsperson or his or her designee from the
19 court's circuit clerk or magistrate and hand-delivered by the bail bondsperson or his or her
20 designee to the jail housing such offender on the next judicial day following the initial intake.

21 (c) Any bail bondsperson who willfully fails to attempt to obtain the appropriate bailpiece
22 within the allotted time period provided in subsection (b) of this section is guilty of a misdemeanor

23 and, upon conviction thereof, shall be prohibited from continuing to conduct business in this state
24 and shall be fined not more than \$1,000 and confined in the regional jail not more than one year.

25 (d) No officer, jailer, or other person having authority to accept offenders in a regional jail
26 is required to accept such offenders being housed in lieu of bailpiece except as set forth in §15A-
27 5-9 of this code.

28 (e) The Division of Corrections and Rehabilitation, the county sheriff, county commission,
29 or any of their agents or employees, shall be immune from liability for any claims of illegal
30 incarceration or other relative charges for any offender accepted into a facility under this section.

**ARTICLE 6. MISCELLANEOUS PROVISIONS CONCERNING CRIMINAL
PROCEDURES.**

§62-6-6a. Disposition of prisoners.

1 [Repealed]

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2020.

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Governor