

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4807

BY DELEGATE AZINGER

[Introduced February 11, 2020; Referred to the
Committee on Prevention and Treatment of
Substance Abuse then the Judiciary]

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 arrests of addicted or mentally ill persons that are a
3 danger to themselves or others; providing that law enforcement have a reasonable belief
4 a person is addicted or mentally ill and a danger to themselves or others; providing that
5 an arrest made under this section is considered an application for involuntary
6 hospitalization; providing that the arresting officer or officers provide notice of the arrest
7 as an application for a probable cause hearing; providing that the notice be submitted
8 within four hours of the arrest; providing that all proceedings follow current law; and
9 providing that this section is not intended to remove or alter a persons rights under current
10 law and proceedings for involuntary hospitalization.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. INVOLUNTARY HOSPITALIZATION.

§27-5-2a. Law enforcement may make arrests of an individual for involuntary custody for examination.

1 (a) Law enforcement may, in lieu of the application process to involuntary hospitalize a
2 person for examination contained in §27-5-2 of this code, arrest an individual the law-
3 enforcement officer reasonably believes is addicted, as defined in §27-1-11 of this code, or is
4 mentally ill, and because of his or her addiction or mental illness, the law-enforcement officer
5 reasonably believes the individual is likely to cause serious harm to himself, herself, or to others
6 if allowed to remain at liberty before obtaining a court order for permission to arrest the individual.
7 The arrest made pursuant to this section shall be considered an application for involuntary
8 hospitalization for the proceedings outlined in §27-5-2 of this code.

9 (b) After an arrest is made pursuant to this section, the arresting officer or officers shall
10 provide notice of the arrest to the circuit court, a mental health hygiene officer, or a magistrate
11 pursuant to the provisions in §27-5-2(c) of this code.

12 (c) This section shall follow all procedures to schedule a probable cause hearing within 24

13 hours of the arrest and all other practices and procedures as stated in §27-5-2 of this code.

NOTE: The purpose of this bill is to permit law-enforcement officer to arrest an individual the officer reasonably believes is addicted or mentally ill and is a danger to himself, herself, or others and to provide that the arrest under this section is considered an application for involuntary custody for examination.

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