

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 821**

SENATOR TAKUBO, *original sponsor*

[Originating in the Committee on the Judiciary;

reported on February 21, 2020]

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 drug and alcohol detoxification services,  
4 substance use disorder services, drug overdose services on a short-term basis, or crisis  
5 stabilization services related to drug and alcohol detoxification services, substance use  
6 disorder services, drug overdose services on a short-term basis; establishing an effective  
7 date of July 1, 2020, for newly amended sections; and detailing the relationship of this  
8 article with §55-7B-1.

*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, alcohol detoxification services,  
substance use disorder services, or drug overdose services short-term basis.**

1 (a) Notwithstanding any other provision of this code to the contrary, a behavioral health  
2 facility certified or licensed in this state, another state, or operated by the state, or one of its  
3 political subdivisions, nor any of its directors, officers, employees, and contractors, is not liable  
4 for any civil damages as a result of any act or omission arising from or related to drug and alcohol  
5 detoxification services, substance use disorder services, drug overdose services, withdrawal  
6 services on a short-term basis, or providing crisis stabilization services related to drug and alcohol  
7 detoxification services, substance use disorder services, drug overdose services, and withdrawal  
8 services on a short-term basis, so long as the services are provided in good faith and do not  
9 involve the gross negligence or willful or wanton misconduct of the facility, or its directors, officers,  
10 employees, or contractors.

11 (b) Notwithstanding any other provision of this code, no behavioral health facility that is

12 licensed in this state, another state, or operated by the state, or one of its political subdivisions,  
13 and no residential recovery facility certified by or meeting the standards of a national certifying  
14 body, nor any of their directors, officers, employees, and agents shall be liable for injury or civil  
15 damages related to the provision of short-term crisis stabilization and/or drug and alcohol  
16 detoxification services, substance use disorder services, drug overdose services, and/or  
17 withdrawal services to the extent the injury or damages arise from an individual's refusal of  
18 services, election to discontinue services, failure to follow the orders or instructions of a facility,  
19 voluntary departure, elopement, or abandonment from a facility, with or without notice to others,  
20 so long as the services are offered in good faith, the facility does not require payment from the  
21 individual receiving the services, and the injury or damages are not proximately caused by the  
22 gross negligence or willful or wanton misconduct of the facility, or its directors, officers,  
23 employees, or agents.

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

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

**§55-7K-3. Additional provisions.**

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

28 (d) The amendments to this section enacted during the 2020 Regular Session of the  
29 Legislature shall be effective July 1, 2020.

30

NOTE: The purpose of this bill is to provide immunity from civil liability to facilities and employees providing crisis stabilization, drug and alcohol detoxification services, substance use disorder services, or drug overdoses services on a short-term basis.

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

CS for SB 821