

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Enrolled

Senate Bill 838

BY SENATORS AZINGER, BALDWIN, BEACH, CLEMENTS,
CLINE, HARDESTY, JEFFRIES, LINDSAY, MAYNARD,
PITSENBARGER, ROMANO, RUCKER, SMITH, TAKUBO,
WELD, WOELFEL, AND TRUMP

[Passed March 7, 2020; in effect from passage]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §15-2-55, relating to directing the State Police, in collaboration with the Office
3 of Drug Control Policy of the Department of Health and Human Resources, to establish a
4 referral program for substance abuse treatment; limiting certain persons from the category
5 of those voluntarily seeking assistance; exempting persons seeking treatment from arrest
6 and prosecution; directing the destruction of controlled substances received from persons
7 seeking treatment; requiring referrals to treatment of persons seeking same; specifying
8 persons who are ineligible for referral; immunizing the State Police and its employees
9 civilly for making referrals; and exempting records of program from freedom of information
10 disclosure.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-55. Referral program for substance abuse treatment.

1 (a) The State Police shall create a program and may, in collaboration with the Office of
2 Drug Control Policy of the Department of Health and Human Resources and existing state
3 government programs to refer persons to treatment for substance use who voluntarily seek
4 assistance from the State Police.

5 (b) A person voluntarily seeking assistance through a program created pursuant to this
6 section and who is not under arrest or the subject of a search warrant:

7 (1) Shall not be placed under arrest;

8 (2) Shall not be prosecuted for the possession of any controlled substance or drug
9 paraphernalia surrendered to the State Police. Items surrendered pursuant to this subdivision
10 shall be recorded by the State Police at the time of surrender and shall be destroyed; and

11 (3) Shall be promptly referred to a community mental health center, medical provider, or
12 other entity for substance use treatment.

13 (c) A person is ineligible for placement through a program established pursuant to this
14 section if the person:

15 (1) Has an outstanding arrest warrant issued by a West Virginia court or an extraditable
16 arrest warrant issued by a court of another state;

17 (2) Places law enforcement or its representatives in reasonable apprehension of physical
18 injury; or

19 (3) Is under the age of 18, is not a danger to self or others, or does not have the consent
20 of a parent or guardian.

21 (d) Information gathered by a program created pursuant to this section related to a person
22 who has voluntarily sought assistance under this section is exempt from disclosure under the
23 provisions of chapter 29B of this code.

24 (e) Except for willful misconduct, the State Police and any employee of the State Police
25 that provides referrals or services in accordance with subsection (b) of this section shall be
26 immune from civil liability.

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

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2020.

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Governor