

FILED

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WEST VIRGINIA LEGISLATURE
EIGHTIETH LEGISLATURE
REGULAR SESSION, 2012

VIRGINIA
SECRETARY OF STATE



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 507

(SENATORS PALUMBO, WILLS, TUCKER, EDGELL,
KESSLER (MR. PRESIDENT) AND KLEMPA, ORIGINAL SPONSORS)

[PASSED MARCH 10, 2012; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB 507

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(SENATORS PALUMBO, WILLS, TUCKER, EDGELL,
KESSLER (MR. PRESIDENT) AND KLEMPA, *original sponsors*)

[Passed March 10, 2012; in effect ninety days from passage.]

AN ACT to amend and reenact §27-4-1 and §27-4-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §27-5-4 of said code; and to amend and reenact §61-7A-5 of said code, all relating generally to mental health; relating to the voluntary hospitalization at mental health facilities; relating to the voluntary admission of minors into a mental health facility for mental illness, intellectual disability or addiction; removing the requirement that the minor's consent be secured before they are voluntarily admitted to a mental health facility if the minor is twelve years of age or older; requiring the consent of an emancipated minor before he or she is voluntarily committed; standards and procedures for releasing a minor who is fourteen years of age or older from voluntary hospitalization, when the minor objects to the admission or treatment; standards and procedures for the releasing a minor from voluntary hospitalization when the adult who sponsored the admission withdraws his or her consent; clarifying that the state is not obligated to pay for voluntary hospitalization; relating to the involuntary hospitalization into state mental

health facilities; allocation and recapturing of copying and mailing costs associated with notice and orders for final commitment hearing and final order from counties; standards and requirements for the maintenance of mental health registry; prohibitions against persons adjudicated or committed as dangerous from possessing or carrying firearms; petitions for relief from prohibition to carry firearms; application to a court; limiting court's consideration of petitions to cases where mental health adjudications or commitments occurred in this state; specifying minimum information which must be contained in such petitions; standards of review; applicable factors to be considered by court; required findings which must be made before petition for relief may be granted; right of appeal; reporting requirements; and requiring confidential treatment for certain submitted information.

Be it enacted by the Legislature of West Virginia:

That §27-4-1 and §27-4-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §27-5-4 of said code be amended and reenacted; and that §61-7A-5 of said code be amended and reenacted, all to read as follows:

CHAPTER 27. MENTALLY ILL PERSONS.

ARTICLE 4. VOLUNTARY HOSPITALIZATION.

§27-4-1. Authority to receive voluntary patients.

1 The chief medical officer of a mental health facility,
2 subject to the availability of suitable accommodations and to
3 the rules promulgated by the board of health, shall admit for
4 diagnosis, care and treatment any individual:

5 (a) Over eighteen years of age who is mentally ill,
6 intellectually disabled or addicted or who has manifested
7 symptoms of mental illness, intellectual disability or addic-
8 tion and who makes application for hospitalization; or

9 (b) Under eighteen years of age who is mentally ill,
10 intellectually disabled or addicted or who has manifested
11 symptoms of mental illness, intellectual disability or addic-

12 tion and there is application for hospitalization therefor in
13 his or her behalf:

14 (1) By the parents of such person;

15 (2) If only one parent is living, then by such parent;

16 (3) If the parents are living separate and apart, by the
17 parent who has the custody of such person; or

18 (4) If there is a guardian who has legal custody of such
19 person, then by such guardian.

20 (5) If the subject person under eighteen years of age is an
21 emancipated minor, the admission of that person as a
22 voluntary patient shall be conditioned upon the consent of
23 the patient.

24 (c) No person under eighteen years of age may be admit-
25 ted under this section to any state hospital unless person has
26 first been reviewed and evaluated by a local mental health
27 facility and recommended for admission.

28 (d) If the candidate for voluntary admission is a minor
29 who is fourteen years of age or older, the admitting health
30 care facility shall determine if the minor consents to or
31 objects to his or her admission to the facility. If the parent or
32 guardian who requested the minor's admission under this
33 section revokes his or her consent at any time, or if the minor
34 fourteen years of age or older objects at any time to his or
35 her further treatment, the minor shall be discharged within
36 ninety-six hours to the custody of the consenting parent or
37 guardian, unless the chief medical officer of the mental
38 health facility files a petition for involuntary hospitalization,
39 pursuant to the provisions of section three of this article, or
40 the minor's continued hospitalization is authorized as an
41 involuntary hospitalization pursuant to the provisions of
42 article five of this chapter: *Provided*, That, if the ninety-six
43 hour time period would result in the minor being discharged
44 and released on a Saturday, a Sunday or a holiday on which
45 the court is closed, the period of time in which the patient
46 shall be released by the facility shall be extended until the

47 next day which is not a Saturday, Sunday or legal holiday on
48 which the court is lawfully closed.

49 (e) Nothing in this section may be construed to obligate
50 the State of West Virginia for costs of voluntary hospitaliza-
51 tions permitted by the provisions of this section.

§27-4-3. Right to release on application.

1 A voluntary patient who requests his or her release or
2 whose release is requested in writing by his or her parents,
3 parent, guardian, spouse or adult next of kin shall be
4 released immediately except that:

5 (a) If the patient was admitted on his or her own applica-
6 tion, and request for release is made by a person other than
7 the patient, release shall be conditioned upon the agreement
8 of the patient thereto;

9 (b) If the patient is under eighteen years of age, his or her
10 release prior to becoming eighteen years of age may be
11 conditioned upon the consent of the person or persons who
12 applied for his or her admission; or

13 (c) If, within ninety-six hours of the receipt of the
14 request, the chief medical officer of the mental health facility
15 in which the patient is hospitalized files with the clerk of the
16 circuit court or mental hygiene commissioner of the county
17 where the facility is situated an application for involuntary
18 hospitalization as provided in section four, article five of this
19 chapter, release may be postponed for twenty days pending
20 a finding in accordance with the legal proceedings pre-
21 scribed therein.

22 Legal proceedings for involuntary hospitalization shall
23 not be commenced with respect to a voluntary patient unless
24 release of the patient has been requested by him or her or the
25 individual or individuals who applied for his or her admis-
26 sion.

ARTICLE 5. INVOLUNTARY HOSPITALIZATION.

§27-5-4. Institution of final commitment proceedings; hearing requirements; release.

1 (a) *Involuntary commitment.* — Except as provided in
2 section three of this article, no individual may be involun-
3 tarily committed to a mental health facility except by order
4 entered of record at any time by the circuit court of the
5 county in which the person resides or was found, or if the
6 individual is hospitalized in a mental health facility located
7 in a county other than where he or she resides or was found,
8 in the county of the mental health facility and then only after
9 a full hearing on issues relating to the necessity of commit-
10 ting an individual to a mental health facility. If the individ-
11 ual objects to the hearing being held in the county where the
12 mental health facility is located, the hearing shall be con-
13 ducted in the county of the individual's residence.

14 (b) *How final commitment proceedings are commenced.*
15 — Final commitment proceedings for an individual may be
16 commenced by the filing of a written application under oath
17 by an adult person having personal knowledge of the facts of
18 the case. The certificate or affidavit is filed with the clerk of
19 the circuit court or mental hygiene commissioner of the
20 county where the individual is a resident or where he or she
21 may be found or the county of a mental health facility if he
22 or she is hospitalized in a mental health facility located in a
23 county other than where he or she resides or may be found.

24 (c) *Oath; contents of application; who may inspect*
25 *application; when application cannot be filed.* —

26 (1) The person making the application shall do so under
27 oath.

28 (2) The application shall contain statements by the
29 applicant that the individual is likely to cause serious harm
30 to self or others due to what the applicant believes are
31 symptoms of mental illness or addiction. The applicant shall
32 state in detail the recent overt acts upon which the belief is
33 based.

34 (3) The written application, certificate, affidavit and any
35 warrants issued pursuant thereto, including any related
36 documents, filed with a circuit court, mental hygiene
37 commissioner or designated magistrate for the involuntary
38 hospitalization of an individual are not open to inspection by
39 any person other than the individual, unless authorized by
40 the individual or his or her legal representative or by order
41 of the circuit court. The records may not be published unless
42 authorized by the individual or his or her legal representa-
43 tive. Disclosure of these records may, however, be made by
44 the clerk, circuit court, mental hygiene commissioner or
45 designated magistrate to provide notice to the Federal
46 National Instant Criminal Background Check System
47 established pursuant to section 103(d) of the Brady Handgun
48 Violence Prevention Act, 18 U.S.C. §922, and the central
49 state mental health registry, in accordance with article
50 seven-a, chapter sixty-one of this code. Disclosure may also
51 be made to the prosecuting attorney and reviewing court in
52 an action brought by the individual pursuant to section five,
53 article seven-a, chapter sixty-one of this code to regain
54 firearm and ammunition rights.

55 (4) Applications may not be accepted for individuals who
56 only have epilepsy, a mental deficiency or senility.

57 (d) *Certificate filed with application; contents of certifi-*
58 *cate; affidavit by applicant in place of certificate. —*

59 (1) The applicant shall file with his or her application the
60 certificate of a physician or a psychologist stating that in his
61 or her opinion the individual is mentally ill or addicted and
62 that because of the mental illness or addiction, the individual
63 is likely to cause serious harm to self or others if allowed to
64 remain at liberty and, therefore, should be hospitalized. The
65 certificate shall state in detail the recent overt acts on which
66 the conclusion is based.

67 (2) A certificate is not necessary when an affidavit is
68 filed by the applicant showing facts and the individual has
69 refused to submit to examination by a physician or a psy-
70 chologist.

71 (e) *Notice requirements; eight days notice required.* —
72 Upon receipt of an application, the mental hygiene commis-
73 sioner or circuit court shall review the application and if it
74 is determined that the facts alleged, if any, are sufficient to
75 warrant involuntary hospitalization, forthwith fix a date for
76 and have the clerk of the circuit court give notice of the
77 hearing:

78 (1) To the individual;

79 (2) To the applicant or applicants;

80 (3) To the individual's spouse, one of the parents or
81 guardians, or, if the individual does not have a spouse,
82 parents or parent or guardian, to one of the individual's
83 adult next of kin if the next of kin is not the applicant;

84 (4) To the mental health authorities serving the area;

85 (5) To the circuit court in the county of the individual's
86 residence if the hearing is to be held in a county other than
87 that of the individual's residence; and

88 (6) To the prosecuting attorney of the county in which the
89 hearing is to be held.

90 (f) The notice shall be served on the individual by
91 personal service of process not less than eight days prior to
92 the date of the hearing and shall specify:

93 (1) The nature of the charges against the individual;

94 (2) The facts underlying and supporting the application
95 of involuntary commitment;

96 (3) The right to have counsel appointed;

97 (4) The right to consult with and be represented by
98 counsel at every stage of the proceedings; and

99 (5) The time and place of the hearing.

100 * * The notice to the individual's spouse, parents or parent
101 or guardian, the individual's adult next of kin or to the

102 circuit court in the county of the individual's residence may
103 be by personal service of process or by certified or registered
104 mail, return receipt requested, and shall state the time and
105 place of the hearing.

106 (g) *Examination of individual by court-appointed*
107 *physician or psychologist; custody for examination; dismissal*
108 *of proceedings. —*

109 (1) Except as provided in subdivision (3) of this subsec-
110 tion, within a reasonable time after notice of the commence-
111 ment of final commitment proceedings is given, the circuit
112 court or mental hygiene commissioner shall appoint a
113 physician or psychologist to examine the individual and
114 report to the circuit court or mental hygiene commissioner
115 his or her findings as to the mental condition or addiction of
116 the individual and the likelihood of causing serious harm to
117 self or others.

118 (2) If the designated physician or psychologist reports to
119 the circuit court or mental hygiene commissioner that the
120 individual has refused to submit to an examination, the
121 circuit court or mental hygiene commissioner shall order him
122 or her to submit to the examination. The circuit court or
123 mental hygiene commissioner may direct that the individual
124 be detained or taken into custody for the purpose of an
125 immediate examination by the designated physician or
126 psychologist. All such orders shall be directed to the sheriff
127 of the county or other appropriate law-enforcement officer.
128 After the examination has been completed, the individual
129 shall be released from custody unless proceedings are
130 instituted pursuant to section three of this article.

131 (3) If the reports of the appointed physician or psycholo-
132 gist do not confirm that the individual is mentally ill or
133 addicted and might be harmful to self or others, then the
134 proceedings for involuntary hospitalization shall be dis-
135 missed.

136 (h) *Rights of the individual at the final commitment*
137 *hearing; seven days' notice to counsel required. —*

138 (1) The individual shall be present at the final commit-
139 ment hearing and he or she, the applicant and all persons
140 entitled to notice of the hearing shall be afforded an oppor-
141 tunity to testify and to present and cross-examine witnesses.

142 (2) In the event the individual has not retained counsel,
143 the court or mental hygiene commissioner, at least six days
144 prior to hearing, shall appoint a competent attorney and
145 shall inform the individual of the name, address and tele-
146 phone number of his or her appointed counsel.

147 (3) The individual has the right to have an examination
148 by an independent expert of his or her choice and to present
149 testimony from the expert as a medical witness on his or her
150 behalf. The cost of the independent expert is paid by the
151 individual unless he or she is indigent.

152 (4) The individual may not be compelled to be a witness
153 against himself or herself.

154 (i) *Duties of counsel representing individual; payment of*
155 *counsel representing indigent. -*

156 (1) Counsel representing an individual shall conduct a
157 timely interview, make investigation and secure appropriate
158 witnesses, be present at the hearing and protect the interests
159 of the individual.

160 (2) Counsel representing an individual is entitled to
161 copies of all medical reports, psychiatric or otherwise.

162 (3) The circuit court, by order of record, may allow the
163 attorney a reasonable fee not to exceed the amount allowed
164 for attorneys in defense of needy persons as provided in
165 article twenty-one, chapter twenty-nine of this code.

166 (j) *Conduct of hearing; receipt of evidence; no evidentiary*
167 *privilege; record of hearing. -*

168 (1) The circuit court or mental hygiene commissioner
169 shall hear evidence from all interested parties in chamber
170 including testimony from representatives of the community
171 mental health facility.

172 (2) The circuit court or mental hygiene commissioner
173 shall receive all relevant and material evidence which may
174 be offered.

175 (3) The circuit court or mental hygiene commissioner is
176 bound by the rules of evidence promulgated by the Supreme
177 Court of Appeals except that statements made to physicians
178 or psychologists by the individual may be admitted into
179 evidence by the physician's or psychologist's testimony,
180 notwithstanding failure to inform the individual that this
181 statement may be used against him or her. A psychologist or
182 physician testifying shall bring all records pertaining to the
183 individual to the hearing. The medical evidence obtained
184 pursuant to an examination under this section, or section
185 two or three of this article, is not privileged information for
186 purposes of a hearing pursuant to this section.

187 (4) All final commitment proceedings shall be reported or
188 recorded, whether before the circuit court or mental hygiene
189 commissioner, and a transcript made available to the
190 individual, his or her counsel or the prosecuting attorney
191 within thirty days if requested for the purpose of further
192 proceedings. In any case where an indigent person intends to
193 pursue further proceedings, the circuit court shall, by order
194 entered of record, authorize and direct the court reporter to
195 furnish a transcript of the hearings.

196 (k) *Requisite findings by the court.* —

197 (1) Upon completion of the final commitment hearing
198 and the evidence presented in the hearing, the circuit court
199 or mental hygiene commissioner shall make findings as to
200 the following:

201 (A) Whether the individual is mentally ill or addicted;

202 (B) Whether, because of illness or addiction, the individ-
203 ual is likely to cause serious harm to self or others if allowed
204 to remain at liberty;

205 (C) Whether the individual is a resident of the county in
206 which the hearing is held or currently is a patient at a mental
207 health facility in the county; and

208 (D) Whether there is a less restrictive alternative than
209 commitment appropriate for the individual. The burden of
210 proof of the lack of a less restrictive alternative than com-
211 mitment is on the person or persons seeking the commitment
212 of the individual.

213 (2) The findings of fact shall be incorporated into the
214 order entered by the circuit court and must be based upon
215 clear, cogent and convincing proof.

216 (1) *Orders issued pursuant to final commitment hearing;*
217 *entry of order; change in order of court; expiration of order.*
218 —

219 (1) Upon the requisite findings, the circuit court may
220 order the individual to a mental health facility for an
221 indeterminate period or for a temporary observatory period
222 not exceeding six months.

223 (2) The individual may not be detained in a mental health
224 facility for a period in excess of ten days after a final
225 commitment hearing pursuant to this section unless an order
226 has been entered and received by the facility.

227 (3) If the order pursuant to a final commitment hearing
228 is for a temporary observation period, the circuit court or
229 mental hygiene commissioner may, at any time prior to the
230 expiration of such period on the basis of a report by the chief
231 medical officer of the mental health facility in which the
232 patient is confined, hold another hearing pursuant to the
233 terms of this section and in the same manner as the hearing
234 was held as if it were an original petition for involuntary
235 hospitalization to determine whether the original order for
236 a temporary observation period should be modified or
237 changed to an order of indeterminate hospitalization of the
238 patient. At the conclusion of the hearing, the circuit court
239 shall order indeterminate hospitalization of the patient or
240 dismissal of the proceedings.

241 (4) An order for an indeterminate period expires of its
242 own terms at the expiration of two years from the date of the
243 last order of commitment unless prior to the expiration, the

244 Department of Health and Human Resources, upon findings
245 based on an examination of the patient by a physician or a
246 psychologist, extends the order for indeterminate hospital-
247 ization. If the patient or his or her counsel requests a
248 hearing, a hearing shall be held by the mental hygiene
249 commissioner or by the circuit court of the county as pro-
250 vided in subsection (a) of this section.

251 (m) *Dismissal of proceedings.* — If the circuit court or
252 mental hygiene commissioner finds that the individual is not
253 mentally ill or addicted, the proceedings shall be dismissed.
254 If the circuit court or mental hygiene commissioner finds
255 that the individual is mentally ill or addicted but is not,
256 because of the illness or addiction, likely to cause serious
257 harm to self or others if allowed to remain at liberty, the
258 proceedings shall be dismissed.

259 (n) *Immediate notification of order of hospitalization.* —
260 The clerk of the circuit court in which an order directing
261 hospitalization is entered, if not in the county of the individ-
262 ual's residence, shall immediately upon entry of the order
263 forward a certified copy of the order to the clerk of the
264 circuit court of the county of which the individual is a
265 resident.

266 (o) *Consideration of transcript by circuit court of county*
267 *of individual's residence; order of hospitalization; execution*
268 *of order.* —

269 (1) If the circuit court or mental hygiene commissioner is
270 satisfied that hospitalization should be ordered but finds
271 that the individual is not a resident of the county in which
272 the hearing is held and the individual is not currently a
273 resident of a mental health facility, a transcript of the
274 evidence adduced at the final commitment hearing of the
275 individual, certified by the clerk of the circuit court, shall
276 forthwith be forwarded to the clerk of the circuit court of the
277 county of which the individual is a resident. The clerk shall
278 immediately present the transcript to the circuit court or
279 mental hygiene commissioner of the county.

280 (2) If the circuit court or mental hygiene commissioner of
281 the county of the residence of the individual is satisfied from
282 the evidence contained in the transcript that the individual
283 should be hospitalized as determined by the standard set
284 forth above, the circuit court shall order the appropriate
285 hospitalization as though the individual had been brought
286 before the circuit court or its mental hygiene commissioner
287 in the first instance.

288 (3) This order shall be transmitted forthwith to the clerk
289 of the circuit court of the county in which the hearing was
290 held who shall execute the order promptly.

291 (p) *Order of custody to responsible person.* — In lieu of
292 ordering the patient to a mental health facility, the circuit
293 court may order the individual delivered to some responsible
294 person who will agree to take care of the individual and the
295 circuit court may take from the responsible person a bond in
296 an amount to be determined by the circuit court with
297 condition to restrain and take proper care of the individual
298 until further order of the court.

299 (q) *Individual not a resident of this state.* — If the
300 individual found to be mentally ill or addicted by the circuit
301 court or mental hygiene commissioner is a resident of
302 another state, this information shall be forthwith given to
303 the Secretary of the Department of Health and Human
304 Resources, or to his or her designee, who shall make appro-
305 priate arrangements for transfer of the individual to the state
306 of his or her residence conditioned on the agreement of the
307 individual except as qualified by the interstate compact on
308 mental health.

309 (r) *Report to the Secretary of the Department of Health*
310 *and Human Resources.* —

311 (1) The chief medical officer of a mental health facility
312 admitting a patient pursuant to proceedings under this
313 section shall forthwith make a report of the admission to the
314 Secretary of the Department of Health and Human Resources
315 or to his or her designee.

316 (2) Whenever an individual is released from custody due
317 to the failure of an employee of a mental health facility to
318 comply with the time requirements of this article, the chief
319 medical officer of the mental health facility shall forthwith,
320 after the release of the individual, make a report to the
321 Secretary of the Department of Health and Human Resources
322 or to his or her designee of the failure to comply.

323 (s) *Payment of some expenses by the state; mental*
324 *hygiene fund established; expenses paid by the county*
325 *commission. —*

326 (1) The state shall pay the commissioner's fee and the
327 court reporter fees that are not paid and reimbursed under
328 article twenty-one, chapter twenty-nine of this code out of a
329 special fund to be established within the Supreme Court of
330 Appeals to be known as the Mental Hygiene Fund.

331 (2) The county commission shall pay out of the county
332 treasury all other expenses incurred in the hearings con-
333 ducted under the provisions of this article whether or not
334 hospitalization is ordered, including any fee allowed by the
335 circuit court by order entered of record for any physician,
336 psychologist and witness called by the indigent individual.
337 The copying and mailing costs associated with providing
338 notice of the final commitment hearing and issuance of the
339 final order shall be paid by the county where the involuntary
340 commitment petition was initially filed.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7A. STATE MENTAL HEALTH REGISTRY; REPORTING OF PERSONS PROSCRIBED FROM FIREARM POSSES- SION DUE TO MENTAL CONDITION TO THE NA- TIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM; LEGISLATIVE FINDINGS; DEFINITIONS; REPORTING REQUIREMENTS; REINSTATEMENT OF RIGHTS PROCEDURES.

§61-7A-5. Petition to regain right to possess firearms.

1 (a) Any person who is prohibited from possessing a
2 firearm pursuant to the provisions of section seven, article

3 seven of this chapter or by provisions of federal law by virtue
4 solely of having previously been adjudicated to be mentally
5 defective or to having a prior involuntary commitment to a
6 mental institution pursuant to chapter twenty-seven of this
7 code may petition the circuit court of the county of his or her
8 residence to regain the ability to lawfully possess a firearm.

9 (b) Petitioners prohibited from possession of firearms due
10 to a mental health disability, must include in the petition for
11 relief from disability:

12 (1) A listing of facilities and location addresses of all
13 prior mental health treatment received by petitioner;

14 (2) An authorization, signed by the petitioner, for release
15 of mental health records to the prosecuting attorney of the
16 county; and

17 (3) A verified certificate of mental health examination by
18 a licensed psychologist or psychiatrist occurring within
19 thirty days prior to filing of the petition which supports that
20 the petitioner is competent and not likely to act in a manner
21 dangerous to public safety.

22 (c) The court may only consider petitions for relief due to
23 mental health adjudications or commitments that occurred
24 in this state, and only give the relief specifically requested in
25 the petition.

26 (d) In determining whether to grant the petition, the
27 court shall receive and consider at a minimum evidence:

28 (1) Concerning the circumstances regarding the firearms
29 disabilities imposed by 18 U.S.C. §922(g)(4);

30 (2) The petitioner's record which must include the
31 petitioner's mental health and criminal history records; and

32 (3) The petitioner's reputation developed through
33 character witness statements, testimony, or other character
34 evidence.

35 (e) If the court finds by clear and convincing evidence
36 that the person is competent and capable of exercising the
37 responsibilities concomitant with the possession of a firearm,
38 will not be likely to act in a manner dangerous to public
39 safety, and that granting the relief will not be contrary to
40 public interest, the court may enter an order allowing the
41 petitioner to possess a firearm. If the order denies peti-
42 tioner's ability to possess a firearm, the petitioner may
43 appeal the denial, which appeal is to include the record of
44 the circuit court rendering the decision.

45 (f) All proceedings for relief to regain firearm or ammu-
46 nition rights shall be reported or recorded and maintained
47 for review.

48 (g) The prosecuting attorney or one of his or her assis-
49 tants shall represent the state in all proceedings for relief to
50 regain firearm rights and provide the court the petitioner's
51 criminal history records.

52 (h) The written petition, certificate, mental health or
53 substance abuse treatment records and any papers or
54 documents containing substance abuse or mental health
55 information of the petitioner, filed with the circuit court, are
56 confidential. These documents may not be open to inspection
57 by any person other than the prosecuting attorney or one of
58 his or her assistants only for purposes of representing the
59 state in and during these proceedings and by the petitioner
60 and his or her counsel. No other person may inspect these
61 documents, except upon authorization of the petitioner or his
62 or her legal representative or by order of the court, and these
63 records may not be published except upon the authorization
64 of the petitioner or his or her legal representative.

65 (i) The circuit clerk of each county shall provide the
66 Superintendent of the West Virginia State Police, or his or
67 her designee, and the Administrator of the West Virginia
68 Supreme Court of Appeals, or his or her designee, with a
69 certified copy of any order entered pursuant to the provisions
70 of this section which removes a petitioner's prohibition to
71 possess firearms. If the order restores the petitioner's ability

72 to possess a firearm, petitioner's name shall be promptly
73 removed from the central state mental health registry and
74 the superintendent or administrator shall forthwith inform
75 the Federal Bureau of Investigation, the United States
76 Attorney General, or other federal entity operating the
77 National Instant Criminal Background Check System of the
78 court action.

FILED

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

OFFICE WEST VIRGINIA SECRETARY OF STATE

.....
Chairman Senate Committee

.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

.....
Clerk of the Senate

.....
Clerk of the House of Delegates

.....
President of the Senate

.....
Speaker of the House of Delegates

The within is approved this the 3rd
Day of April, 2012.

.....
Governor

PRESENTED TO THE GOVERNOR

MAR 29 2012

Time 4:15 pm