WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

House Bill 4603

By Delegates Lane, Pushkin, Byrd, Capito,

ROBINSON AND ROWE

[Reported February 23, 2018.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7K-1, §55-7K-2, and §55-7K-3, relating to providing immunity from civil liability to facilities and employees providing crisis stabilization and/or drug and alcohol detoxification services, substance use disorder services, and/or drug overdose services on a short-term basis; providing that the provisions of this article are applicable prospectively to all causes of action filed on or after July 1, 2018; and providing that the provisions of this article are to operate in addition to, and not in derogation of, any of the provisions contained in the Medical Professional Liability Act.

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 and/or drug and alcohol detoxification services, substance use disorder services, and/or drug overdose services on a short-term basis.

(a) Notwithstanding any other provision of this code, no residential recovery facility or behavioral health facility that is certified or licensed in this state, another state, or operated by the state, or one of its political subdivisions, nor any of the directors, officers, employees, and contractors, shall be liable for any civil damages as a result of any act or omission arising from or related to providing crisis stabilization and/or drug and alcohol detoxification services, substance use disorder services, drug overdose services, and withdrawal services on a short-term basis, so long as the services are provided without charge, in good faith and do not involve the gross negligence or willful or wanton misconduct of the facility, or the directors, officers, employees, or contractors. The foregoing limitation of civil liability shall include, but be limited to, acts or omissions without charge arising from or related to an individual's admission to a facility, shelter,

- unit, or holding facility, the duration of stay, the time or manner of departure therefrom, or the
- inability to provide the level of care required by the condition of a person voluntarily or involuntarily
- 13 receiving any of the foregoing short-term services.

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

- 1 The provisions of this article are applicable prospectively to all causes of action filed on
- 2 <u>or after July 1, 2018.</u>

§55-7K-3. Applicability of provisions.

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

NOTE: The purpose of this bill is to provide immunity to certain facilities and providers of certain crisis services.

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