

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4710

BY DELEGATES ROHRBACH, MAYNARD, CANESTRARO,

HORNBUCKLE, LOVEJOY, LINVILLE, MILLER,

HIGGINBOTHAM, WAXMAN, STORCH AND QUEEN

[Introduced February 05, 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 §60A-5-505, relating to authorizing law-enforcement agencies and officers to
3 refer persons for treatment of addiction for when the persons voluntarily request
4 assistance or treatment; providing for immunity from arrest and for surrender of illicit
5 substances or paraphernalia; specifying exceptions; exempting referral information from
6 disclosure under the Freedom of Information Act; and providing certain immunities for law-
7 enforcement agencies and personnel.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS.

§60A-5-505. Referral program for voluntary treatment of addiction.

1 (a) A law-enforcement agency may create a program to refer persons to treatment for
2 addiction, as defined in §27-1-11 of this code, who voluntarily seek assistance from the law-
3 enforcement agency.

4 (b) A person voluntarily seeking assistance through a program created pursuant to this
5 section may present himself or herself to any office or officer of a participating law-enforcement
6 agency to request treatment assistance and may surrender any controlled substance and
7 paraphernalia to the law-enforcement agency at that time. When a person requests assistance
8 under this procedure, the person shall not be placed under arrest and shall not be prosecuted for
9 the possession of any controlled substance or drug paraphernalia surrendered to the law-
10 enforcement agency. Items surrendered pursuant to this subsection shall be recorded by the law-
11 enforcement agency at the time of surrender and shall be destroyed. The law-enforcement
12 agency shall then promptly refer the requesting person to a community mental health center,
13 medical provider, or other entity for treatment of his or her addiction.

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

16 (1) Has an outstanding arrest warrant issued by a West Virginia court or a federal court,

- 17 or has an extraditable arrest warrant issued by a court of another state;
- 18 (2) Places law enforcement or its representatives in reasonable apprehension of physical
- 19 injury; or
- 20 (3) Is under the age of 18 and does not have the consent of a parent or guardian.
- 21 (d) Identifying information and referral information gathered by a program created
- 22 pursuant to this section related to a person who has voluntarily sought assistance under this
- 23 section is exempt from disclosure under the West Virginia Freedom of Information Act, codified in
- 24 §29B-1-1 et seq. of this code.
- 25 (e) Except for intentional misconduct, any law-enforcement agency or person that provides
- 26 referrals or services in accordance with subsection (b) of this section shall be immune from
- 27 criminal and civil liability.

NOTE: The purpose of this bill is to authorize law-enforcement agencies to make referrals for treatment of addiction, without arrest or other criminal consequences, for persons who voluntarily request assistance or treatment.

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