

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 617

BY SENATOR CLEMENTS

[Introduced January 24, 2020; referred
to the Committee on the Judiciary]

1 A BILL to repeal §62-6-6a of the Code of West Virginia, 1931, as amended; to amend and
 2 reenact §15A-5-9 of said code; and to amend and reenact §62-1C-14 of said code, all
 3 relating to the ability to refuse offenders for commitment to a jail; and authorizing the
 4 acceptance of certain offenders refusing medical treatment.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 15A. DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC
 SAFETY.**

ARTICLE 5. BUREAU OF PRISONS AND JAILS.

§15A-5-9. Ability to refuse offenders.

1 (a) Notwithstanding any other provision of this code, the commissioner, or any employee
 2 or agent of the division, having authority to accept offenders in a jail is not required to accept
 3 those offenders if an offender appears to be in need of medical attention of a degree
 4 necessitating treatment by a physician. If an offender is refused pursuant to the provisions of
 5 this section, he or she may not be accepted for detention until a written clearance from a
 6 licensed physician reflecting that the offender has been examined and if necessary treated, and
 7 which states that it is the physician’s medical opinion that the offender can be safely housed in a
 8 jail.

9 (b) Notwithstanding the provisions of subsection (a) of this section, the commissioner, or
 10 any employee or agent of the division, shall be authorized to accept in a jail, without written
 11 clearance from a licensed physician, offenders who refuse medical examination or treatment by
 12 a licensed physician and shall be immune from any civil or criminal liability that might arise from
 13 the incarceration of those individuals.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 1C. BAIL.

§62-1C-14. Bailpiece; issuance to surety; taking accused into custody.

1 (a) A bailpiece is a certificate stating that the bail became such for the accused in a
2 particular case and the amount thereof. Upon demand therefor, the court, magistrate or clerk
3 shall issue to the bail bondsperson a bailpiece. Any officer having authority to execute a warrant
4 of arrest shall assist the bail bondsperson holding such bailpiece to take the accused into
5 custody and produce him or her before the court or magistrate. The bail bondsperson may take
6 the accused into custody and surrender him or her to the court or magistrate without such
7 bailpiece.

8 (b) If bailpiece is inaccessible due to unavailability of the court's circuit clerk or
9 magistrate, the bail bondsperson, or his or her designee, can take an offender to a regional ~~or~~
10 ~~county~~ jail without bailpiece, and the jail must accept the offender; provided:

11 (1) The bail bondsperson, or his or her designee, delivering an offender to a jail without a
12 bailpiece issued by the court's circuit clerk or magistrate appears on the registered list
13 maintained at the jails and approved by the court of original jurisdiction;

14 (2) The bail bondsperson signs an agreement provided by the jail indicating that the
15 offender has been booked in lieu of bailpiece. Such agreement shall contain a clause indicating
16 the incarceration of such offender is lawful and that the jail accepting the offender shall be held
17 harmless from any claims of illegal incarceration or other relative charges; thereby, such bail
18 bondsperson assumes the risk and liability of such incarceration; and

19 (3) Bailpiece must be applied for by the bail bondsperson or his or her designee from the
20 court's circuit clerk or magistrate and hand-delivered by the bail bondsperson or his or her
21 designee to the jail housing such offender on the next judicial day following the initial intake.

22 (c) Any bail bondsperson who willfully fails to attempt to obtain the appropriate bailpiece
23 within the allotted time period provided in subsection (b) of this section is guilty of a
24 misdemeanor and, upon conviction thereof, shall be prohibited from continuing to conduct
25 business in this state and shall be fined not more than \$1,000 and confined in the regional-~~or~~
26 ~~county~~ jail not more than one year.

27 (d) No officer, jailer, or other person having authority to accept offenders in a ~~county or~~
 28 regional jail is required to accept such offenders being housed in lieu of bailpiece except as set
 29 forth in §15A-5-9 of this code. ~~if such offender appears to be in need of medical attention of a~~
 30 ~~degree necessitating treatment by a physician. If an offender is refused pursuant to the~~
 31 ~~provisions of this section, he or she may not be accepted for detention until the bail~~
 32 ~~bondsperson, or his or her designee, provides the jailer or persons accepting such offender with~~
 33 ~~a written clearance from a licensed physician reflecting that the offender has been examined~~
 34 ~~and, if necessary, treated, and which states that it is the physician's medical opinion that the~~
 35 ~~offender can be safely confined in the county or regional jail~~

36 (e) The ~~Regional Jail Authority~~ Division of Corrections and Rehabilitation, the county
 37 sheriff, county commission, or any of their agents or employees, shall be immune from liability
 38 for any claims of illegal incarceration or other relative charges for any offender accepted into a
 39 facility under this section.

ARTICLE 6. MISCELLANEOUS PROVISIONS CONCERNING CRIMINAL PROCEDURES.

§62-6-6a. Disposition of prisoners.

1 [Repealed].

NOTE: The purpose of this bill is to amend procedures for refusing offenders for commitment to a jail and authorizing the acceptance of certain offenders refusing medical 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.