

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

### **Originating**

## **Senate Bill 838**

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

[Originating in the Committee on the Judiciary;  
reported on February 19, 2020]



1 A BILL 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 to establish a referral program  
3 for substance abuse treatment; exempting persons seeking treatment from arrest and  
4 prosecution; directing the destruction of controlled substances received from persons  
5 seeking treatment; requiring referrals to treatment of persons seeking same; specifying  
6 persons who are ineligible for referral; and immunizing the State Police and its employees  
7 civilly and criminally for making referrals and exempting records of program from freedom  
8 of information 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 to refer persons to treatment for substance  
2 use who voluntarily seek assistance from the state police.

3 (b) A person voluntarily seeking assistance through a program created pursuant to this  
4 section:

5 (1) Shall not be placed under arrest;

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

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

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

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

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

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

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

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