

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2368

FISCAL
NOTE

By Delegate Crouse

[Introduced January 11, 2023; Referred to the
Committee on Health and Human Resources then the
Judiciary]

1 A BILL to amend and reenact §16-39-8 of the Code of West Virginia, 1931, as amended, relating to
 2 patient visitation requirements for certain healthcare facilities; providing that visitation
 3 requirements apply notwithstanding patient or facility quarantine; requiring allowance of
 4 visitation of at least one person at all times; license requirements of healthcare facilities
 5 subject to the requirements; and establishing a minimum fine for a violation thereof.

Be it enacted by the Legislature of West Virginia:

ARTICLE 39. PATIENT SAFETY ACT.

§16-39-8. Visitation of a patient in a health care facility.

1 (a) During a declared public health state of emergency for a contagious disease, a health
 2 care facility shall permit visitation of a patient in accordance with this section, notwithstanding that
 3 the patient or the healthcare facility may be quarantined. If the patient's death is imminent, the
 4 health care facility shall allow visitation upon request at any time and frequency. In all other
 5 instances, the health care facility shall allow visitation once the patient is stable following a surgical
 6 procedure by more than one person at a time not less than once every five days a day and shall
 7 allow visitation by at least one person at all times. *Provided,* That visitation permitted by any health
 8 care entity facility may not be inconsistent with any applicable federal law, rule, policy, or guidance
 9 in effect for the same emergency.

10 (b) A visitor shall comply with the applicable procedures established by the health care
 11 facility.

12 (c) The health care facility may deny a visitor entry to the health care facility, may subject a
 13 visitor to expulsion from the facility, or may permanently revoke visitation rights to a visitor who
 14 does not comply with the applicable procedures established by the health care facility.

15 (d) A healthcare facility is not liable to a person visiting another person, nor to any other
 16 patient or resident of the health care facility, for any civil damages for injury or death resulting from
 17 or related to actual or alleged exposure during, or through the performance of, the visitation in
 18 compliance with this section, unless the health care facility failed to substantially comply with the

19 applicable health and safety procedures established by the health care facility.

20 (e) Health care facilities shall provide patients adequate and lawful access to clergy so that
21 patients can practice their religion by receiving clergy visitation at any reasonable time, as long as
22 the visit does not disrupt clinical care: *Provided*, That if the health care facility limits the number of
23 people able to visit the patient, the member of the clergy is not to be considered within that number.

24 (f) Clergy shall comply with the applicable visitation procedures established by the health
25 care facility.

26 (g) Notwithstanding any provision of this code to the contrary, compliance with this section
27 is a requirement for the licensure of health care facilities subject to this section. A health care
28 facility that violates the provisions of this section shall be fined by the licensing board or
29 commission that licenses the health care facility not less than \$1000 for each violation, in addition
30 to any other disciplinary action by the licensing board or commission, upon the filing of a proper
31 complaint with, and a finding of a violation of this section by, the licensing board or commission.

NOTE: The purpose of this bill is to establish additional visitation requirements for certain healthcare facilities during a declared public health state of emergency for a contagious disease and setting a minimum fine for violation of the requirements.

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