

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3483

By Delegate Masters

[Introduced March 18, 2025; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §61-7A-5 of the Code of West Virginia, 1931, as amended, relating
2 to aligning mental health examination requirements with those required for involuntary
3 hospitalizations.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 7A. STATE MENTAL HEALTH REGISTRY; REPORTING OF PERSONS
PROSCRIBED FROM FIREARM POSSESSION DUE TO MENTAL CONDITION
TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM;
LEGISLATIVE FINDINGS; DEFINITIONS; REPORTING REQUIREMENTS;
REINSTATEMENT OF RIGHTS PROCEDURES.**

§61-7A-5. Petition to regain right to possess firearms.

1 (a) Any person who is prohibited from possessing a firearm pursuant to the provisions of
2 §61-7-7 or by provisions of federal law by virtue solely of having previously been adjudicated to be
3 mentally defective or to having a prior involuntary commitment to a mental institution pursuant to
4 §27-5-4(l) of this code may petition the circuit court of the county of his or her residence to regain
5 the ability to lawfully possess a firearm.

6 (b) Petitioners prohibited from possession of firearms due to a mental health disability,
7 must include in the petition for relief from disability:

8 (1) A listing of facilities and location addresses of all prior mental health treatment received
9 by petitioner;

10 (2) An authorization, signed by the petitioner, for release of mental health records to the
11 prosecuting attorney of the county; and

12 (3) A verified certificate of mental health examination by a ~~licensed psychologist or~~
13 psychiatrist physician, psychologist, licensed professional counselor, licensed independent
14 clinical social worker practicing in compliance with the provisions of §30-30-1 et seq. of this code,
15 an advanced nurse practitioner with psychiatric certification practicing in compliance with §30-7-1

16 et seq. of this code, or a physician's assistant practicing in compliance with §30-3E-1 et seq. of this
17 code with advanced duties in psychiatric medicine occurring within 30 days prior to filing of the
18 petition which supports that the petitioner is competent and not likely to act in a manner dangerous
19 to public safety.

20 (c) The court may only consider petitions for relief due to mental health adjudications or
21 commitments that occurred in this state, and only give the relief specifically requested in the
22 petition.

23 (d) In determining whether to grant the petition, the court shall receive and consider at a
24 minimum evidence:

25 (1) Concerning the circumstances regarding the firearms disabilities imposed by 18 U.S.C.
26 §922(g)(4);

27 (2) The petitioner's record which must include the petitioner's mental health and criminal
28 history records; and

29 (3) The petitioner's reputation developed through character witness statements, testimony,
30 or other character evidence.

31 (e) If the court finds by clear and convincing evidence that the person is competent and
32 capable of exercising the responsibilities concomitant with the possession of a firearm, will not be
33 likely to act in a manner dangerous to public safety, and that granting the relief will not be contrary
34 to public interest, the court may enter an order allowing the petitioner to possess a firearm. If the
35 order denies petitioner's ability to possess a firearm, the petitioner may appeal the denial, which
36 appeal is to include the record of the circuit court rendering the decision.

37 (f) All proceedings for relief to regain firearm or ammunition rights shall be reported or
38 recorded and maintained for review.

39 (g) The prosecuting attorney or one of his or her assistants shall represent the state in all
40 proceedings for relief to regain firearm rights and provide the court the petitioner's criminal history
41 records.

42 (h) The written petition, certificate, mental health or substance abuse treatment records
43 and any papers or documents containing substance abuse or mental health information of the
44 petitioner, filed with the circuit court, are confidential. These documents may not be open to
45 inspection by any person other than the prosecuting attorney or one of his or her assistants only
46 for purposes of representing the state in and during these proceedings and by the petitioner and
47 his or her counsel. No other person may inspect these documents, except upon authorization of
48 the petitioner or his or her legal representative or by order of the court, and these records may not
49 be published except upon the authorization of the petitioner or his or her legal representative.

50 (i) The circuit clerk of each county shall provide the Superintendent of the West Virginia
51 State Police, or his or her designee, and the Administrator of the West Virginia Supreme Court of
52 Appeals, or his or her designee, with a certified copy of any order entered pursuant to the
53 provisions of this section which removes a petitioner's prohibition to possess firearms. If the order
54 restores the petitioner's ability to possess a firearm, petitioner's name shall be promptly removed
55 from the central state mental health registry and the superintendent or administrator shall forthwith
56 inform the Federal Bureau of Investigation, the United States Attorney General, or other federal
57 entity operating the National Instant Criminal Background Check System of the court action.

NOTE: The purpose of this bill is to aligning mental health examination requirements with those required for involuntary hospitalizations.

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