

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 761

By Senator Stuart

[Reported March 20 2025, from the Select Committee
on Substance Use Disorder and Mental Health]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §27-5A-1, §27-5A-2, §27-5A-3, §27-5A-4, §27-5A-5, and §27-5A-6, relating to
3 establishing the Joel Archer Substance Abuse Intervention Act; providing for involuntary
4 treatment of a qualified individual's dependent or spouse for substance use disorder;
5 setting forth criteria for treatment; setting forth process for initiation of proceedings; setting
6 forth who may file a petition; setting forth contents of petition; setting forth court
7 proceedings; setting forth time frames; requiring examination; permitting emergency
8 involuntary treatment; permitting summons to be issued if individual fails to attend
9 examination; addressing transportation; and addressing payment for transportation.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5A. INVOLUNTARY HOSPITALIZATION--SUBSTANCE USE DISORDER.

§27-5A-1. Involuntary treatment for substance use disorder, rights of patient.

1 (a) This article shall be known as "The Joel Archer Substance Abuse Intervention Act."
2 (b) Notwithstanding any other code provision to the contrary, involuntary treatment ordered
3 for a person suffering from substance use disorder shall follow the procedures set forth in this
4 article.
5 (c) Except as otherwise provided for in this article, all rights guaranteed by §27-5-1 et seq.
6 of this code to involuntarily hospitalized mentally ill persons shall be guaranteed to a person
7 ordered to undergo treatment for substance use disorder.

§27-5A-2. Criteria for involuntary treatment.

1 No person suffering from substance use disorder shall be ordered to undergo treatment
2 unless that person:
3 (1) Suffers from substance use disorder;
4 (2) Presents an imminent threat of danger to self, family, or others as a result of a
5 substance use disorder, or there exists a substantial likelihood of such a threat in the near future;
6 (3) Can reasonably benefit from treatment; and

(4) Is either the spouse or a dependent, as defined in 26 U.S.C. § 152, of a qualified individual.

§27-5A-3. Petition for up to 60-day involuntary treatment, contents, guarantee of costs.

(a) Proceedings for up to 60 days of substance abuse treatment for a person suffering from substance use disorder shall be initiated by the filing of a verified petition in the circuit court in the county of domicile of the person, the person's spouse, or the party claiming the person as a dependent.

(b) The petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)". Which respondent shall be the person suffering from substance use disorder.

(c) The petition shall be filed by a qualified individual, which means the spouse of the person or the qualifying party for whom the person is a dependent.

(d) The petition shall set forth:

(1) Petitioner's relationship to the respondent;

(2) Status of the petitioner as a qualified individual;

(3) Respondent's name, residence, and current location, if known;

(4) If not the qualified individual filing the petition, the name and residence of respondent's parents, if living and if known, or the respondent's legal guardian, if any and if known;

(5) The name and residence of respondent's husband or wife, if any and if known;

(6) Petitioner's belief, including the factual basis therefor, that the respondent is suffering from an alcohol and other drug abuse disorder and presents a danger or threat of danger to self, family, or others if not treated for substance use disorder.

(7) Any petition filed pursuant to this subsection shall be accompanied by a guarantee, signed by the petitioner or other person authorized under subsection (c) of this section, obligating that person to pay all costs for treatment of the respondent for substance use disorder that is ordered by the court or that such costs for treatment are qualified for state or federal assistance for

the entirety of any anticipated or reasonably anticipated costs related to such treatment.

§27-5A-4. Proceedings for ordering treatment, duties of court, disposition.

(a) Upon receipt of the petition, the court shall examine the petitioner under oath as to the contents of the petition.

(b) If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be ordered to undergo treatment, then the court shall:

(1) Set a date for a hearing within 14 calendar days to determine if the respondent should be ordered to undergo treatment for a substance use disorder;

(2) Notify the respondent, the legal guardian, if any and, if not the petitioner, the spouse, parents, or nearest relative or friend of the respondent, if known, concerning the allegations and contents of the petition and the date and purpose of the hearing; and the name, address, and telephone number of the attorney appointed to represent the respondent; and

(3) Cause the respondent to be examined no later than 24 hours before the hearing date by two qualified health professionals, at least one of whom is a physician with experience in diagnosing or treating substance abuse disorder. The qualified health professionals:

(A) Shall certify their findings to the court within 24 hours of the examinations;

(B) May be subject to subpoena for cross-examination at the hearing, either in person, by telephone, or by videoconference; and

(C) May conduct the examination required by this paragraph via telehealth.

(c) If, upon completion of the hearing, the court finds by proof beyond a reasonable doubt that the respondent should be ordered to undergo treatment, then the court shall order such treatment for a period not to exceed 60 consecutive days from the date of the court order. Failure of a respondent to undergo treatment ordered pursuant to this subsection may place the respondent in contempt of court.

(d) If, at any time after the petition is filed, the court finds that there is no probable cause to

25 continue treatment or if the petitioner withdraws the petition, then the proceedings against the
26 respondent shall be dismissed.

§27-5A-5. Seventy-two hour emergency involuntary treatment.

1 (a) Following an examination by a qualified health professional and a certification by that
2 professional that the person meets the criteria specified in §27-5A-2 of this code, the court may
3 order the person hospitalized for a period not to exceed 72 hours if the court finds, by clear and
4 convincing evidence, that the respondent presents an imminent threat of danger to self, family, or
5 others as a result of a substance use disorder.

6 (b) Any person who has been admitted to a hospital under subsection (a) of this section
7 shall be released from the hospital within 72 hours of admittance.

8 (c) No respondent ordered hospitalized under this section shall be held in jail pending
9 transportation to the hospital or evaluation unless the court has previously found the respondent to
10 be in contempt of court for either failure to undergo treatment or failure to appear at the evaluation
11 ordered pursuant to §27-5A-4 of this code.

§27-5A-6. Failure to attend examination, summons, transportation to hospital or psychiatric facility.

1 When the court is authorized to issue an order that the respondent be transported to a
2 hospital, the court may, or if the respondent fails to attend an examination scheduled before the
3 hearing provided for §27-5A-4 of this code, then the court shall, issue a summons. A summons so
4 issued shall be directed to the respondent and shall command the respondent to appear at a time
5 and place therein specified. If a respondent who has been summoned fails to appear at the
6 hospital or the examination, then the court may order the sheriff to transport the respondent to a
7 hospital or psychiatric facility designated by the Secretary of Health Facilities for treatment under
8 §27-2-1 of this code. The transportation costs of the sheriff shall be included in the costs of
9 treatment for a substance use disorder to be paid by the petitioner.

NOTE: The purpose of this bill is to permit involuntary hospitalization of a dependent or spouse experiencing substance use disorder presenting an imminent threat of danger to self, family, or others as a result of a substance use disorder. The bill sets forth the procedure for the hospitalization.

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