

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 887

By Senator Chapman

[Introduced March 24, 2025; referred
to the Committee on Health and Human Resources;
and then to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,
2 designated §27-5-12, relating to creating an intermediate conservatorship or guardianship
3 process prior to an individual being involuntarily committed; providing definitions;
4 establishing the process to initiate a conservatorship or guardianship; establishing
5 shortened times for temporary conservatorship or guardianship petition to be heard;
6 allowing facility to hold an individual during that time period; establishing coordination with
7 involuntary commitment proceedings; and authorizing rulemaking.

Be it enacted by the Legislature of West Virginia:

CHAPTER 27. MENTALLY ILL PERSONS.

§27-5-12. Conservatorship for Voluntary Treatment Patients Attempting to Terminate Care.

1 (a) Definitions. —

2 For purposes of this section:

3 (1) "Conservator" means a person appointed by the court who is responsible for managing
4 the estate and financial affairs of a protected person, as defined in §44A-1-4 of this code. The term
5 includes a "temporary conservator".

6 (2) "Facility" means any mental health facility or state hospital, as defined in §27-1-1 et
7 seq. of this code.

8 (3) "Grave disability" means a condition in which an individual, due to mental illness or
9 addiction, is unable to provide for their basic personal needs for food, clothing, shelter, or medical
10 care, resulting in imminent danger to the health and safety of himself, herself, or to others.

11 (4) "Guardian" means a person appointed by the court who is responsible for the personal
12 affairs of a protected person, as defined in §44A-1-4 of this code. The term includes a "temporary
13 guardian".

14 (5) "Voluntary treatment" means treatment for mental illness, substance use disorder, or
15 co-occurring conditions that an individual has consented to receive at a facility.

16 (b) Initiation of temporary conservatorship or guardianship. —

(1) When an individual admitted to a facility for voluntary treatment, pursuant to §27-4-1 et seq. of this code, notifies the facility of his or her intent to leave, and a physician, psychologist, psychiatrist, or other qualified mental health professional determines that:

(A) The individual is gravely disabled as a result of his or her mental illness or addiction; and

(B) Departure from the facility poses an imminent risk of serious harm to himself, herself, or to others due to his or her mental illness or addiction.

The facility may initiate a temporary conservatorship by filing a petition with the circuit court within 24 hours of the notification.

(2) Notwithstanding any other provision of law, the petition shall include:

(A) A declaration under penalty of perjury from the physician, psychologist, psychiatrist, or other qualified mental health professional detailing the assessment of grave disability and imminent danger;

(B) A proposed treatment plan; and

(C) Evidence of attempts to use less restrictive alternatives.

(c) Temporary conservatorship or guardianship; hearing. —

(1) Notwithstanding any other provision of law, within 72 hours of filing the petition, the court may issue an order for a temporary conservatorship or guardianship, effective for no more than 14 days, pending a full hearing.

(A) The court shall appoint a family member of the individual as the temporary conservator or guardian, unless the circumstances, in the discretion of the circuit judge, warrant otherwise.

(B) The facility may detain the individual during those 72 hours. This 72-hour period shall not count as an involuntary commitment pursuant to §27-5-1 et seq. of this code.

(2) During the temporary conservatorship or guardianship, the facility may detain the individual and provide necessary treatment consistent with the proposed plan.

(3) Notwithstanding any other provision of law, a hearing shall be held within 10 days of the

43 petition's filing to determine whether to establish an extended conservatorship or guardianship,
44 pursuant to §44A-2-1 et seq. of this code. The individual shall retain all the rights and receive all
45 the proper notices pursuant to §44A-2-1 et seq. of this code.

46 (d) Coordination with involuntary commitment proceedings. —

47 If the facility, conservator, or guardian determines that the individual requires long-term
48 involuntary hospitalization beyond the conservatorship or guardianship period, a petition may be
49 filed pursuant to §27-5-2 of this code.

50 (e) Rulemaking. —

51 The Secretary of the Department of Health Facilities may promulgate rules as necessary to
52 carry out and enforce the provisions of this section.

NOTE: The purpose of this bill is to create an intermediate conservatorship or guardianship process prior to an individual being involuntarily committed.

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