

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5003

By Delegates Heckert, Watt, Roop, Bridges,
Stephens, Marple, Browning, and Chiarelli

[Introduced January 30, 2026; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §27-5-2a of the Code of West Virginia, 1931, as amended, relating to
 2 involuntary hospitalization; clarifying who may order involuntary hospitalization; and
 3 clarifying when a mental hygiene petition may be filed after involuntary treatment.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. INVOLUNTARY HOSPITALIZATION.

§27-5-2a. Process for involuntary hospitalization.

1 (a) As used in this section:

2 (1) "Addiction" has the same meaning as the term is defined in §27-1-11 of this code.

3 (2) "Authorized staff physician" means a physician, authorized pursuant to the provisions
 4 of §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code, who is a bona fide member of the hospital's
 5 medical staff.

6 (3) "Hospital" means a facility licensed pursuant to the provisions of §16-5b-1 *et seq.* of this
 7 code, and any acute care facility operated by the state government that primarily provides
 8 inpatient diagnostic, treatment, or rehabilitative services to injured, disabled, or sick individuals
 9 under the supervision of physicians.

10 (4) "Psychiatric emergency" means an incident during which an individual loses control
 11 and behaves in a manner that poses substantial likelihood of physical harm to himself, herself, or
 12 others.

13 ~~(b)(1) If a mental hygiene commissioner, magistrate, and circuit judge are unavailable or~~
 14 ~~unable to be immediately contacted, an~~ An authorized staff physician may order the involuntary
 15 hospitalization of a patient or an individual who is present at, or presented at, a hospital
 16 emergency department in need of treatment, if the authorized staff physician believes, following an
 17 examination of the individual, that the individual is addicted or is mentally ill and, because of his or
 18 her addiction or mental illness, is likely to cause serious harm to himself, herself or to others if
 19 allowed to remain at liberty. The authorized staff physician shall sign a statement attesting to his or
 20 her decision that the patient presents a harm to himself, herself or others and needs to be held

21 involuntarily for up to 72 hours. The West Virginia Supreme Court of Appeals is requested to
22 generate a form for the statement to be signed by the authorized staff physician or other person
23 authorized by the hospital and provided to the individual.

24 (2) ~~Immediately upon admission, or as soon as practicable thereafter, but~~ If, in the opinion
25 of the authorized staff physician, the patient requires involuntary treatment longer than 72 hours,
26 then in no event later than ~~24~~ 72 hours after an involuntary hospitalization pursuant to this section,
27 the authorized staff physician or designated employee shall file a mental hygiene petition in which
28 the authorized staff physician certifies that the individual for whom the involuntary hospitalization is
29 sought is addicted or is mentally ill and, because of his or her addiction or mental illness, is likely to
30 cause serious harm to himself, herself, or to other individuals if allowed to remain at liberty. The
31 authorized staff physician shall also certify the same in the individual's health records. Upon
32 receipt of this filing, the mental hygiene commissioner, a magistrate, or circuit judge shall conduct
33 a hearing pursuant to §27-5-2 of this code.

34 (3) An individual who is involuntarily hospitalized pursuant to this section shall be released
35 from the hospital within 72 hours, unless further detained under the applicable provisions of this
36 article.

37 (c) During a period of involuntary hospitalization authorized by this section, upon consent
38 of the individual, or in the event of a medical or psychiatric emergency, the individual may receive
39 treatment. The hospital or authorized staff physician shall exercise due diligence in determining
40 the individual's existing medical needs and provide treatment the individual requires, including
41 previously prescribed medications.

42 (d) Each hospital or authorized staff physician which provides services under this section
43 shall be paid for the services at the same rate the hospital or authorized staff physician negotiates
44 with the patient's insurer. If the patient is uninsured, the hospital or authorized staff physician may
45 file a claim for payment with the West Virginia Legislative Claims Commission in accordance with
46 §14-2-1 *et seq.* of this code.

47 (e) Authorized staff physicians and hospitals and their employees carrying out duties or
48 rendering professional opinions as provided in this section shall be free from liability for their
49 actions, if the actions are performed in good faith and within the scope of their professional duties
50 and in a manner consistent with the standard of care.

51 (f) The West Virginia Supreme Court of Appeals is requested to provide each hospital with
52 a list of names and contact information of the mental hygiene commissioners, magistrates, and
53 circuit judges to address mental hygiene petitions in the county where the hospital is located. The
54 West Virginia Supreme Court of Appeals is requested to update this list regularly and the list shall
55 reflect on-call information. If a mental hygiene commissioner, county magistrate, or circuit judge
56 does not respond to the request within 24 hours, a report shall be filed to the West Virginia
57 Supreme Court of Appeals.

58 (g) An action taken against an individual pursuant to this section may not be construed to
59 be an adjudication of the individual, nor shall any action taken pursuant to this section be
60 construed to satisfy the requirements of §61-7-7(a)(4) of this code.

NOTE: The purpose of this bill is to clarify who may order involuntary hospitalizations and when mental hygiene petitions may be filed after involuntary treatment.

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