

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 742**

By Senator Helton

[Introduced February 4, 2026; referred  
to the Committee on Health and Human Resources;  
and then 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; permitting authorized staff physician to determine whether a  
3 person requires a 72-hour hold without a requirement to contact a list of enumerated  
4 individuals; removing a requirement to file a mental hygiene petition within 24 hours of the  
5 involuntary hospitalization; and requiring that the mental hygiene petition be filed within 72  
6 hours of the involuntary hospitalization.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 5. INVOLUNTARY HOSPITALIZATION.**

<b>§27-5-2a.</b>	<b>Process</b>	<b>for</b>	<b>involuntary</b>	<b>hospitalization.</b>
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 <i>et seq.</i> or §30-14-1 <i>et seq.</i> 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 <u>§16B-3-1</u> <i>et</i>			
7	<i>seq.</i> of this code, and any acute care facility operated by the state government that primarily			
8	provides inpatient diagnostic, treatment, or rehabilitative services to injured, disabled, or sick			
9	individuals 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) <del>If a mental hygiene commissioner, magistrate, and circuit judge are unavailable or</del>			
14	<del>unable to be immediately contacted, an</del> <u>An</u> 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 streamline the involuntary treatment process by removing a list of persons that must be contacted prior to an involuntary hospitalization and to increase the timeframe in which to file the mental hygiene petition.

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