

# **WEST VIRGINIA LEGISLATURE**

**2026 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 742**

BY SENATORS HELTON AND DEEDS

[Reported February 18, 2026, from 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  
2 to modifying the requirements for involuntary hospitalization; permitting authorized staff  
3 physician to determine whether a person requires a 72-hour involuntary hospitalization  
4 without first contacting a list of enumerated individuals; and increasing the deadline for  
5 filing a mental hygiene petition from 24 to 72 hours from the time of involuntary  
6 hospitalization.

*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~~ §16B-3-1 *et*  
7 *seq.* 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; and

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 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  
17 an examination of the individual, that the individual is addicted or is mentally ill and, because of

18 his or her addiction or mental illness, is likely to cause serious harm to himself, herself, or to others  
19 if allowed to remain at liberty. The authorized staff physician shall sign a statement attesting to  
20 his or her decision that the patient presents a harm to himself, herself, or others and needs to be  
21 held 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 in no event later~~  
25 ~~than 24~~ If, in the opinion of the authorized staff physician, the patient requires involuntary  
26 treatment longer than 72 hours, then no later than 72 hours after an the involuntary hospitalization  
27 pursuant to this section, the authorized staff physician or designated employee shall file a mental  
28 hygiene petition ~~in which the authorized staff physician certifies that the individual for whom the~~  
29 ~~involuntary hospitalization is sought~~ certifying that the patient is addicted or is mentally ill and,  
30 because of ~~his or her~~ the addiction or mental illness, is likely to cause serious harm to himself,  
31 herself, or to other individuals if allowed to remain at liberty. The authorized staff physician shall  
32 also certify the same in the individual's health records. Upon receipt of this filing, the mental  
33 hygiene commissioner, a magistrate, or a circuit judge shall conduct a hearing pursuant to §27-  
34 5-2 of this code.

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

38 (c) An individual may receive treatment:

39 (1) During a period of involuntary hospitalization authorized by this section;

40 (2) Upon his or her consent;~~of the individual or~~

41 (3) In the event of a medical or psychiatric emergency.~~the individual may receive~~  
42 ~~treatment.~~

43           The hospital or authorized staff physician shall exercise due diligence in determining the  
44 individual's existing medical needs and provide treatment the individual requires, including  
45 previously prescribed medications.

46           (d) Each hospital or authorized staff physician which provides services under this section  
47 shall be paid for the services at the same rate the hospital or authorized staff physician negotiates  
48 with the patient's insurer. If the patient is uninsured, the hospital or authorized staff physician may  
49 file a claim for payment with the West Virginia Legislative Claims Commission in accordance with  
50 §14-2-1 *et seq.* of this code.

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

55           (f) The West Virginia Supreme Court of Appeals is requested to:

56           (1) Provide each hospital with a list of names, ~~and~~ contact information, and on-call  
57 information of the mental hygiene commissioners, magistrates, and circuit judges to address  
58 mental hygiene petitions in the county where the hospital is located; ~~The West Virginia Supreme~~  
59 ~~Court of Appeals is requested to update this~~ and

60           (2) Update the list regularly. ~~and the list shall reflect on-call information.~~

61           (g) If a mental hygiene commissioner, county magistrate, or circuit judge does not respond  
62 to ~~the~~ a request within 24 hours, a report shall be filed to the West Virginia Supreme Court of  
63 Appeals.

64           ~~(g)~~(h) An action taken against an individual pursuant to this section may not be construed  
65 to be an adjudication of the individual, ~~nor shall any~~ and action taken pursuant to this section may  
66 not be construed to satisfy the requirements of §61-7-7(a)(4) of this code.