

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 4807**

By Delegates Worrell and Hite

[Introduced January 26, 2026; referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §27-5-1, §27-5-1b, §27-5-2, and §27-5-4 of the Code of West  
2 Virginia, 1931, as amended; to amend the code by adding a new section, designated §27-  
3 5-2b; and to amend the code by adding a new article, designated §27-5A-1, §27-5A-2; and  
4 §27-5A-3; relating generally to the creation of mental hygiene regions by the Supreme  
5 Court of Appeals; clarifying that mental hygiene evaluations and proceedings may be  
6 conducted by video technology; granting civil immunity for mental health service providers  
7 who do involuntary commitment proceedings and setting out exceptions; creating a  
8 temporary observation release for mental hygiene respondents; clarifying that chief  
9 medical officer releases requiring approval of circuit court only apply to forensic patients;  
10 requiring hearings for any commitment period of longer than 90 days and prohibiting any  
11 person from being civilly committed to longer than 120 days without a hearing to determine  
12 whether the individual continues to meet commitment criteria; removing obsolete language  
13 regarding transcripts of proceedings to circuit court of county of residence; restructuring  
14 the mental hygiene commissioner system by authorizing new mental hygiene regions and  
15 full-time mental hygiene commissioners employed by the Supreme Court of Appeals;  
16 authorizing mental hygiene proceedings and evaluations by video and requiring facilities to  
17 provide technology that meets Supreme Court of Appeals specifications; authorizing  
18 statewide coverage for mental hygiene evaluations and permitting a mental hygiene  
19 commissioner to exclude evaluator testimony based on the West Virginia Rules of  
20 Evidence; and requiring each Comprehensive Community Mental Health Center to ensure  
21 that at least one examiner is available to provide uniform and continuous coverage in each  
22 region, including afterhours, weekends, and holidays.

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

**ARTICLE**

**5.**

**INVOLUNTARY**

**HOSPITALIZATION.**

§27-5-1. Appointment of mental hygiene commissioner; duties of mental hygiene commissioner; duties of prosecuting attorney; duties of sheriff; duties of Supreme Court of Appeals; use of certified municipal law-enforcement officers.

1 (a) Appointment of mental hygiene commissioners. — The chief judge in each judicial  
2 circuit of this state shall appoint a competent attorney and may, if necessary, appoint additional  
3 attorneys to serve as mental hygiene commissioners to preside over involuntary hospitalization  
4 hearings. In a county outside a mental hygiene region created as provided in §27-5A-1 of this  
5 code, the chief circuit judge of that judicial circuit shall appoint a competent attorney, and may, if  
6 necessary, appoint additional attorneys to serve as mental hygiene commissioners to preside over  
7 involuntary hospitalization hearings. Mental hygiene commissioners shall be persons of good  
8 moral character and of standing in their profession and they shall, before assuming the duties of a  
9 commissioner, take the oath required of other special commissioners as provided in §6-1-1 *et seq.*  
10 of this code.

11        Prior to presiding over an involuntary hospitalization hearing, each newly appointed person  
12      to serve as a mental hygiene commissioner and all magistrates shall attend and complete an  
13      orientation course that consists of training provided annually by the Supreme Court of Appeals and  
14      complete an orientation program to be developed by the Secretary of the Department of Health  
15      Facilities. In addition, existing mental hygiene commissioners and all magistrates trained to hold  
16      probable cause and emergency detention hearings involving involuntary hospitalization shall  
17      attend and complete a course provided by the Supreme Court of Appeals and complete an  
18      orientation program to be developed by the Secretary of the Department of Health Facilities.  
19      Persons attending the courses outside the county of their residence shall be reimbursed out of the  
20      budget of the Supreme Court—General Judicial for reasonable expenses incurred. The Supreme  
21      Court of Appeals shall establish curricula and rules for the courses, including rules providing for  
22      the reimbursement of reasonable expenses as authorized in this section. The Secretary of the  
23      Department of Health Facilities shall consult with the Supreme Court of Appeals regarding the

24 development of the orientation program.

25 (b) Duties of mental hygiene commissioners. —

26 (1) Mental hygiene commissioners may sign and issue summonses for the attendance, at  
27 any hearing held pursuant to §27-5-4 of this code, of the individual sought to be committed; may  
28 sign and issue subpoenas for witnesses, including subpoenas duces tecum; may place any  
29 witness under oath; may elicit testimony from applicants, respondents, and witnesses regarding  
30 factual issues raised in the petition; and may make findings of fact on evidence and may make  
31 conclusions of law, but the findings and conclusions are not binding on the circuit court. All mental  
32 hygiene commissioners shall be reasonably compensated at a uniform rate determined by the  
33 Supreme Court of Appeals. Mental hygiene commissioners shall submit all requests for  
34 compensation to the administrative director of the courts for payment. Mental hygiene  
35 commissioners shall discharge their duties and hold their offices at the pleasure of the chief judge  
36 of the judicial circuit in which he or she is appointed and may be removed at any time by the chief  
37 judge. A mental hygiene commissioner shall conduct orderly inquiries into the mental health of the  
38 individual sought to be committed concerning the advisability of committing the individual to a  
39 mental health facility. The mental hygiene commissioner shall safeguard, at all times, the rights  
40 and interests of the individual as well as the interests of the state. The mental hygiene  
41 commissioner shall make a written report of his or her findings to the circuit court. In any  
42 proceedings before any court of record as set forth in this article, the court of record shall appoint  
43 an interpreter for any individual who is deaf or cannot speak, or who speaks a foreign language,  
44 and who may be subject to involuntary commitment to a mental health facility.

45 (2) A mental hygiene commissioner appointed by the circuit court judge of one county or  
46 multiple county circuits may serve in that capacity in a jurisdiction other than that of his or her  
47 original appointment if it is agreed upon by the terms of a cooperative agreement between the  
48 circuit courts and county commissions of two or more counties entered into to provide prompt  
49 resolution of mental hygiene matters during hours when the courthouse is closed or on nonjudicial

50 days.

51 (c) Duties of prosecuting attorney. —The prosecuting attorney or one of his or her  
52 assistants shall represent the applicants in all final commitment proceedings filed pursuant to the  
53 provisions of this article. The prosecuting attorney may appear in any proceeding held pursuant to  
54 the provisions of this article if he or she determines it to be in the public interest.

55 (d) Duties of sheriff. — Upon written order of the circuit court judge, mental hygiene  
56 commissioner, or magistrate in the county where the individual formally accused of being mentally  
57 ill or having a substance use disorder is a resident or is found, the sheriff of that county shall take  
58 the individual into custody and transport him or her to and from the place of hearing and the mental  
59 health facility comprehensive community mental health center. The sheriff shall also maintain  
60 custody and control of the accused individual during the period of time in which the individual is  
61 waiting for the involuntary commitment hearing to be convened and while the hearing is being  
62 conducted: *Provided*, That an individual who is a resident of a state other than West Virginia shall,  
63 upon a finding of probable cause, be transferred to his or her state of residence for treatment  
64 pursuant to §27-5-4(p) of this code: *Provided, however*, That where an individual is a resident of  
65 West Virginia but not a resident of the county in which he or she is found and there is a finding of  
66 probable cause, the county in which the hearing is held may seek reimbursement from the county  
67 of residence for reasonable costs incurred by the county attendant to the mental hygiene  
68 proceeding. Notwithstanding any provision of this code to the contrary, sheriffs may enter into  
69 cooperative agreements with sheriffs of one or more other counties, with the concurrence of their  
70 respective circuit courts and county commissions, by which transportation and security  
71 responsibilities for hearings held pursuant to the provisions of this article during hours when the  
72 courthouse is closed or on nonjudicial days may be shared in order to facilitate prompt hearings  
73 and to effectuate transportation of persons found in need of treatment. In the event an individual  
74 requires transportation to a state hospital as defined by §27-1-6 of this code, the sheriff shall  
75 contact the state hospital in advance of the transportation to determine if the state hospital has

76 available suitable bed capacity to place the individual.

77 (e) Duty of sheriff upon presentment to ~~mental health care facility~~ comprehensive  
78 community mental health center or place the evaluation is being held. — When a person is brought  
79 to a mental health care facility for purposes of evaluation for commitment under this article, if he or  
80 she is violent or combative, the sheriff or his or her designee shall maintain custody of the person  
81 in the facility until the evaluation is completed. ~~or the county commission shall reimburse the~~  
82 ~~mental health care facility at a reasonable rate for security services provided by the mental health~~  
83 ~~care facility for the period of time the person is at the hospital prior to the determination of mental~~  
84 ~~competence or incompetence.~~

85 (f) Duties of Supreme Court of Appeals. — The Supreme Court of Appeals shall provide  
86 uniform petition, procedure, and order forms which shall be used in all involuntary hospitalization  
87 proceedings brought in this state.

88 (g) Duties of the Department of Health Facilities. — The secretary shall develop an  
89 orientation program as provided in subsection (a) of this section. The orientation program shall  
90 include, but not be limited to, instruction regarding the nature and treatment of mental illness and  
91 substance use disorder; the goal and purpose of commitment; community-based treatment  
92 options; and less restrictive alternatives to inpatient commitment.

**§27-5-1b. Pilot projects and other initiatives.**

1 (a) Duties of the Department of Human Services. — The Secretary shall, in collaboration  
2 with designees of the Supreme Court of Appeals, the Sheriff's Association, the Prosecuting  
3 Attorney's Association, the Public Defender Services, the Behavioral Health Providers  
4 Association, Disability Rights of West Virginia, and a designee of the Dangerousness Assessment  
5 Advisory Board, undertake an evaluation of the utilization of alternative transportation providers  
6 and the development of standards that define the role, scope, regulation, and training necessary  
7 for the safe and effective utilization of alternative transportation providers and shall further identify  
8 potential financial sources for the payment of alternative transportation providers.

9     Recommendations regarding such evaluation shall be submitted to the President of the Senate  
10    and the Speaker of the House of Delegates on or before July 31, 2022. The Legislature requests  
11    the Supreme Court of Appeals cooperate with the listed parties and undertake this evaluation.

12           (b) (a) Civil Involuntary Commitment Audits. — The secretary shall establish a process to  
13    conduct retrospective quarterly audits of applications and licensed examiner forms prepared by  
14    certifiers for the involuntary civil commitment of persons as provided in §27-5-1 *et seq.* of this  
15    code. The process shall determine whether the licensed examiner forms prepared by certifiers are  
16    clinically justified and consistent with the requirements of this code and, if not, develop corrective  
17    actions to redress identified issues and, in consultation with the Supreme Court of Appeals provide  
18    guidance to certifiers and judicial officers. The Legislature requests the Supreme Court of Appeals  
19    participate in this process with the secretary. The process and the findings thereof shall be  
20    confidential, not subject to subpoena, and not subject to the provisions of §6-9A-1 *et seq.* and  
21    §29B-1-1 *et seq.* of this code.

22           (i) (b) Duties of the Mental Health Comprehensive Community Mental Health Center for  
23    Purposes of Evaluation for Commitment. — Each mental health comprehensive community  
24    mental health center shall make available as necessary a qualified and competent licensed  
25    person to conduct prompt evaluations of persons for commitment in accordance with §27-5-1 *et*  
26    *seq.* of this code. Evaluations shall be conducted in person, unless an in-person evaluation would  
27    create a substantial delay to the resolution of the matter, and then the evaluation may be  
28    conducted by videoconference. Each mental health comprehensive community mental health  
29    center that performs these evaluations shall exercise reasonable diligence in performing the  
30    evaluations and communicating with the state hospital to provide all reasonable and necessary  
31    information to facilitate a prompt and orderly admission to the state hospital of any person who is  
32    or is likely to be involuntarily committed to such hospital. Each mental health comprehensive  
33    community mental health center that performs these evaluations shall explain the involuntary  
34    commitment process to the applicant and the person proposed to be committed and further

35 identify appropriate alternative forms of potential treatment, loss of liberty if committed, and the  
36 likely risks and benefits of commitment.

37 (k) (c) Notwithstanding any provision of this code to the contrary, the Supreme Court of  
38 Appeals, ~~mental health facilities~~ comprehensive community mental health center, law  
39 enforcement, Department of Human Services, and the Department of Health Facilities may  
40 participate in pilot projects in Cabell, Berkeley, Wood, and Ohio Counties to implement an  
41 involuntary commitment process. Further, ~~notwithstanding any provision of this code to the~~  
42 ~~contrary, no alternative transportation provider may be utilized until standards are developed and~~  
43 ~~implemented that define the role, scope, regulation, and training necessary for an alternative~~  
44 ~~transportation provider as provided in subsection (a) of this section.~~

**§27-5-2. Institution of proceedings for involuntary custody for examination; custody;**

**probable cause hearing; examination of individual.**

1 (a) Any adult person may make an application for involuntary hospitalization for  
2 examination of an individual when the person making the application has reason to believe that the  
3 individual to be examined has a substance use disorder as defined by the most recent edition of  
4 the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders,  
5 inclusive of substance use withdrawal, or is mentally ill and because of his or her substance use  
6 disorder or mental illness, the individual is likely to cause serious harm to himself, herself, or to  
7 others if allowed to remain at liberty while awaiting an examination and certification by a physician,  
8 psychologist, licensed professional counselor, licensed independent social worker, an advanced  
9 practice registered nurse, practitioner, or physician assistant as provided in subsection (e) of this  
10 section: *Provided*, That a diagnosis of dementia, epilepsy, or intellectual or developmental  
11 disability alone may not be a basis for involuntary commitment to a state hospital: *Provided*,  
12 *however*, That an application for involuntary hospitalization may be made where the person  
13 making the application has reason to believe the individual to be examined has a substance use  
14 disorder, has lost the power of self-control with respect to substance use, is in need of substance

15 abuse services and, by reason of substance abuse impairment, his or her judgment has been so  
16 impaired that the individual is incapable of appreciating his or her need for such services and is  
17 further incapable of making a rational decision in regard thereto: *Provided further*, That an  
18 individual's mere refusal to receive substance abuse services does not constitute evidence of lack  
19 of judgment with respect to his or her need for substance abuse services.

20 (b) Notwithstanding any language in this subsection to the contrary, if the individual to be  
21 examined under the provisions of this section is incarcerated in a jail, prison, or other correctional  
22 facility, then only the chief administrative officer of the facility holding the individual may file the  
23 application, and the application must include the additional statement that the correctional facility  
24 itself cannot reasonably provide treatment and other services necessary to treat the individual's  
25 mental illness or substance use.

26 (c) Application for involuntary custody for examination may be made to the circuit court,  
27 magistrate court, or a mental hygiene commissioner of the county in which the individual resides,  
28 or of the county in which he or she may be found. A magistrate before whom an application or  
29 matter is pending may, upon the availability of a mental hygiene commissioner or circuit court  
30 judge for immediate presentation of an application or pending matter, transfer the pending matter  
31 or application to the mental hygiene commissioner or circuit court judge for further proceedings  
32 unless otherwise ordered by the chief judge of the judicial circuit.

33 (d) The person making the application shall give information and state facts in the  
34 application required by the form provided for this purpose by the Supreme Court of Appeals.

35 (e) (1) The circuit court, mental hygiene commissioner, or magistrate may enter an order  
36 for the individual named in the application to be detained and taken into custody as provided in  
37 §27-5-1 and §27-5-10 of this code for the purpose of holding a probable cause hearing as provided  
38 in §27-5-2 of this code. An examination of the individual to determine whether the individual meets  
39 involuntary hospitalization criteria shall be conducted in person unless an in person examination  
40 would create a substantial delay in the resolution of the matter in which case the examination may

41 be by video conference, and shall be performed by a physician, psychologist, a licensed  
42 professional counselor practicing in compliance with §30-31-1 *et seq.* of this code, a licensed  
43 independent clinical social worker practicing in compliance with §30-30-1 *et seq.* of this code, an  
44 advanced practice registered nurse practitioner with psychiatric certification practicing in  
45 compliance with §30-7-1 *et seq.* of this code, a physician assistant practicing in compliance with  
46 §30-3-1 *et seq.* of this code, or a physician assistant practicing in compliance with §30-3E-1 *et*  
47 *seq.* of this code: *Provided*, That a licensed professional counselor, a licensed independent clinical  
48 social worker, a physician assistant, or an advanced nurse practitioner with psychiatric certification  
49 may only perform the examination if he or she has previously been authorized by an order of the  
50 circuit court to do so, the order having found that the licensed professional counselor, the licensed  
51 independent clinical social worker, physician assistant, or advanced nurse practitioner with  
52 psychiatric certification has particularized expertise in the areas of mental health and mental  
53 hygiene or substance use disorder sufficient to make the determinations required by the  
54 provisions of this section. The examination shall be provided or arranged by a community mental  
55 health center designated by the Secretary of the Department of Human Services to serve the  
56 county in which the action takes place. The order is to specify that the evaluation be held within a  
57 reasonable period of time not to exceed two hours and shall provide for the appointment of  
58 counsel for the individual: *Provided, however*, That the time requirements set forth in this  
59 subsection only apply to persons who are not in need of medical care for a physical condition or  
60 disease for which the need for treatment precludes the ability to comply with the time  
61 requirements. During periods of holding and detention authorized by this subsection, upon  
62 consent of the individual or if there is a medical or psychiatric emergency, the individual may  
63 receive treatment. The medical provider shall exercise due diligence in determining the  
64 individual's existing medical needs and provide treatment the individual requires, including  
65 previously prescribed medications. As used in this section, "psychiatric emergency" means an  
66 incident during which an individual loses control and behaves in a manner that poses substantial

67 likelihood of physical harm to himself, herself, or others. Where a physician, psychologist, licensed  
68 professional counselor, licensed independent clinical social worker, physician assistant, or  
69 ~~advanced practice registered nurse practitioner with psychiatric certification~~ has, within the  
70 preceding 72 hours, performed the examination required by this subsection the community mental  
71 health center may waive the duty to perform or arrange another examination upon approving the  
72 previously performed examination. Notwithstanding this subsection, §27-5-4(r) of this code  
73 applies regarding payment by the county commission for examinations at hearings. If the  
74 examination reveals that the individual is not mentally ill or has no substance use disorder, or is  
75 determined to be mentally ill or has a substance use disorder but not likely to cause harm to  
76 himself, herself, or others, or the individual has a substance use disorder but has not lost the  
77 power of self-control with respect to substance use, is not in need of substance abuse services  
78 and, by reason of substance abuse impairment, or his or her judgment has not been so impaired  
79 that the individual is incapable of appreciating his or her need for such services and is further  
80 incapable of making a rational decision in regard thereto, then the individual shall be immediately  
81 released without the need for a probable cause hearing. The examiner shall immediately, but no  
82 later than 60 minutes after completion of the examination, provide the mental hygiene  
83 commissioner, circuit court, or magistrate before whom the matter is pending, and the state  
84 hospital to which the individual may be involuntarily hospitalized, the results of the examination on  
85 the form provided for this purpose by the Supreme Court of Appeals for entry of an order reflecting  
86 the lack of probable cause.

87 (2) A mental health service provider authorized under this subsection who performs an  
88 involuntary custody examination shall not be civilly liable to any party or non-party to the  
89 proceeding regardless of the examination results unless the mental health service provider acted  
90 with negligence demonstrated by clear and convincing evidence or in bad faith in performing the  
91 examination or rendering his or her opinion.

92 (f) A probable cause hearing shall be held promptly before a magistrate, the mental

93 hygiene commissioner, or circuit judge of the county of which the individual is a resident or where  
94 he or she was found. If requested by the individual or his or her counsel, the hearing may be  
95 postponed for a period not to exceed 48 hours. Hearings may be conducted via videoconferencing  
96 unless the individual or his or her attorney object for good cause or unless the magistrate, mental  
97 hygiene commissioner, or circuit judge orders otherwise. The Supreme Court of Appeals is  
98 requested to develop regional mental hygiene collaboratives where mental hygiene  
99 commissioners can share on-call responsibilities, thereby reducing the burden on individual  
100 circuits and commissioners.

101 The individual shall be present at the hearing and has the right to present evidence,  
102 confront all witnesses and other evidence against him or her, and examine testimony offered,  
103 including testimony by representatives of the community mental health center serving the area.  
104 Expert testimony at the hearing may be taken telephonically or via videoconferencing. The  
105 individual has the right to remain silent and to be proceeded against in accordance with the Rules  
106 of Evidence of the Supreme Court of Appeals, except as provided in §27-1-12 of this code. At the  
107 conclusion of the hearing, the magistrate, mental hygiene commissioner, or circuit court judge  
108 shall find and enter an order stating whether or not it is likely that deterioration will occur without  
109 clinically necessary treatment, or there is probable cause to believe that the individual, as a result  
110 of mental illness or substance use disorder, is likely to cause serious harm to himself or herself or  
111 to others and that placement of treatment in an out-patient, community-based treatment program  
112 is not clinically appropriate. Any such order entered shall be provided to the state hospital to which  
113 the individual may or will be involuntarily hospitalized within 60 minutes of filing absent good  
114 cause.

115 (g) Probable cause hearings may occur in the county where a person is hospitalized. The  
116 judicial hearing officer may: use videoconferencing and telephonic technology; permit persons  
117 individuals hospitalized for substance use disorder to be involuntarily hospitalized only until  
118 detoxification is accomplished and the individual agrees to voluntary treatment for substance use

119 disorder; and specify other alternative or modified procedures that are consistent with the  
120 purposes and provisions of this article to promote a prompt, orderly, and efficient hearing. The  
121 alternative or modified procedures shall fully and effectively guarantee to the person who is the  
122 subject of the involuntary commitment proceeding and other interested parties due process of the  
123 law and access to the least restrictive available treatment needed to prevent serious harm to self  
124 or others or otherwise remedy the substance use disorder.

125 (h) If the magistrate, mental hygiene commissioner, or circuit court judge at a probable  
126 cause hearing or a mental hygiene commissioner or circuit court judge at a final commitment  
127 hearing held pursuant to the provisions of §27-5-4 of this code finds that the individual, as a direct  
128 result of mental illness or substance use disorder is likely to cause serious harm to himself, herself,  
129 or others and because of mental illness or a substance use disorder requires treatment, the  
130 magistrate, mental hygiene commissioner, or circuit court judge may consider evidence on the  
131 question of whether the individual's circumstances make him or her amenable to outpatient  
132 treatment in a nonresidential or nonhospital setting pursuant to a voluntary treatment agreement.

133 At the conclusion of the hearing, the magistrate, mental hygiene commissioner, or circuit  
134 court judge shall find and enter an order stating whether or not it is likely that deterioration will  
135 occur without clinically necessary treatment, or there is probable cause to believe that the  
136 individual, as a result of mental illness or substance use disorder, is likely to cause serious harm to  
137 himself, herself, or others. The agreement is to be in writing and approved by the individual, his or  
138 her counsel, and the magistrate, mental hygiene commissioner, or circuit court judge. If the  
139 magistrate, mental hygiene commissioner, or circuit court judge determines that appropriate  
140 outpatient treatment is available in a nonresidential or nonhospital setting, the individual may be  
141 released to outpatient treatment upon the terms and conditions of the voluntary treatment  
142 agreement. The failure of an individual released to outpatient treatment pursuant to a voluntary  
143 treatment agreement to comply with the terms of the voluntary treatment agreement constitutes  
144 evidence that outpatient treatment is insufficient and, after a hearing before a magistrate, mental

145 hygiene commissioner, or circuit court judge on the issue of whether or not the individual failed or  
146 refused to comply with the terms and conditions of the voluntary treatment agreement and whether  
147 the individual as a result of mental illness or substance use disorder remains likely to cause  
148 serious harm to himself, herself, or others, the entry of an order requiring admission under  
149 involuntary hospitalization pursuant to §27-5-3 of this code may be entered. Nothing in the  
150 provisions of this article regarding release pursuant to a voluntary treatment agreement or  
151 convalescent status may be construed as creating a right to receive outpatient mental health  
152 services or treatment, or as obligating any person or agency to provide outpatient services or  
153 treatment. Time limitations set forth in this article relating to periods of involuntary commitment to a  
154 mental health facility for hospitalization do not apply to release pursuant to the terms of a voluntary  
155 treatment agreement: *Provided*, That release pursuant to a voluntary treatment agreement may  
156 not be for a period of more than six months if the individual has not been found to be involuntarily  
157 committed during the previous two years and for a period of no more than two years if the  
158 individual has been involuntarily committed during the preceding two years. If in any proceeding  
159 held pursuant to this article the individual objects to the issuance or conditions and terms of an  
160 order adopting a voluntary treatment agreement, then the circuit court judge, magistrate, or mental  
161 hygiene commissioner may not enter an order directing treatment pursuant to a voluntary  
162 treatment agreement. If involuntary commitment with release pursuant to a voluntary treatment  
163 agreement is ordered, the individual subject to the order may, upon request during the period the  
164 order is in effect, have a hearing before a mental hygiene commissioner or circuit court judge  
165 where the individual may seek to have the order canceled or modified. Nothing in this section  
166 affects the appellate and habeas corpus rights of any individual subject to any commitment order.

167 (i) The commitment of any individual as provided in this article shall be in the least  
168 restrictive setting and in an outpatient community-based treatment program to the extent  
169 resources and programs are available, unless the clear and convincing evidence of the certifying  
170 professional, under subsection (e) of this section, who is acting in a manner consistent with the

171 standard of care establishes that the commitment or treatment of that individual requires an  
172 inpatient hospital placement. Outpatient treatment will be based upon a plan jointly prepared by  
173 the Department of Health Facilities and the comprehensive community mental health center or  
174 licensed behavioral health provider.

175 (i) At any hearing held pursuant to subsection (h) of this section, where an individual is  
176 found ~~have~~ to have a substance use disorder under this article but is not found to be likely to cause  
177 serious harm to himself, herself, or others, both probable cause and grounds for involuntary  
178 hospitalization exist where the individual has lost the power of self-control with respect to  
179 substance use, and the individual is in need of substance abuse services and, by reason of  
180 substance abuse impairment, his or her judgment has been so impaired that the individual is  
181 incapable of appreciating his or her need for such services and is further incapable of making a  
182 rational decision in regard thereto: *Provided*, That an individual's mere refusal to receive  
183 substance abuse services does not constitute evidence of lack of judgment with respect to his or  
184 her need for substance abuse services.

185 (j) If the certifying professional determines that an individual requires involuntary  
186 hospitalization for a substance use disorder ~~as permitted by §27-5-2(a) of this code~~ which, due to  
187 the degree of the disorder, creates a reasonable likelihood that withdrawal or detoxification will  
188 cause significant medical complications, the person certifying the individual shall recommend that  
189 the individual be closely monitored for possible medical complications. If the magistrate, mental  
190 hygiene commissioner, or circuit court judge presiding orders involuntary hospitalization, he or she  
191 shall include a recommendation that the individual be closely monitored in the order of  
192 commitment.

193 (k) (l) The Supreme Court of Appeals and the Secretaries of the Department of Human  
194 Services and Department of Health Facilities shall specifically develop and propose a statewide  
195 system for evaluation and adjudication of mental hygiene petitions which shall include payment  
196 schedules and recommendations regarding funding sources. Additionally, the Secretaries of the

197 Department of Human Services and Department of Health Facilities shall also immediately seek  
198 reciprocal agreements with officials in contiguous states to develop interstate/intergovernmental  
199 agreements to provide efficient and efficacious services to out-of-state residents found in West  
200 Virginia and who are in need of mental hygiene services.

201                   ~~(b) (m)~~ The amendments to this section enacted during the 2025 regular legislative session,  
202 shall be known as the known as the Joel Archer Substance Abuse Intervention Act.

203 (m) (n) The Supreme Court of Appeals is requested to promulgate rules to implement the  
204 amendments made to this section during the 2025 regular session of the Legislature.

**§27-5-2b. Temporary observation release.**

1        (a) If the chief medical officer determines that an individual committed under §27-5-3 or  
2        §27-5-5 of this code no longer requires treatment at the mental health facility, or that less restrictive  
3        treatment options are now available due to a change in the patient's condition, the hospital may  
4        release the individual on a temporary observation period of up to 120 days, conditioned on the  
5        patient's compliance with a treatment plan and monitoring by the comprehensive community  
6        mental health center where the patient resides.

7                   (b) A temporary observation release automatically stays all other timeframes under this  
8                   article. At the conclusion of the 120-day temporary observation release, if the individual is not  
9                   readmitted, then the proceedings shall be dismissed.

10       (c) If a comprehensive community mental health center believes a patient is not complying  
11      with the terms of his or her treatment plan, or if the patient's condition has deteriorated so that a  
12      least restrictive treatment option is no longer viable, then the comprehensive community mental  
13      health center may request an assessment by the chief medical officer, or his or her designee, to  
14      verify the factual basis supporting the need to revoke the temporary release.

15 (d) If revocation of the temporary release is appropriate, the chief medical officer at the  
16 designated state hospital shall prepare, in writing, recommendations and findings affirming that  
17 the patient is not in compliance with his or her treatment plan or that the patient's condition has

18 deteriorated so that a least restrictive treatment option is no longer viable and the conditions  
19 requiring the original commitment have returned. The chief medical officer shall also state that  
20 voluntary treatment options were presented and either declined or not viable and shall identify the  
21 inpatient mental health facility where the individual will be committed for treatment. The  
22 recommendations and findings shall be submitted to the court for ratification, and if ratified, shall  
23 require the sheriff to take the individual into custody and transport the individual directly to a  
24 inpatient mental health facility identified by the chief medical officer in the order.

25 (e) The chief medical officer shall serve the ratified order revoking temporary release on  
26 the prosecuting attorney, the individual, and the individual's guardian or attorney, or both, if  
27 applicable. The individual or the individual's attorney may request a hearing after readmittance to  
28 determine whether revocation was appropriate.

29 (f) Once an individual is readmitted to an inpatient mental health facility, all timeframes  
30 originally stayed by subsection (b) shall continue.

31 (g) Nothing in this section shall limit an adult person from filing a new application for  
32 involuntary commitment against an individual under a temporary observation release, or otherwise  
33 prohibit medical or law enforcement intervention in a life-threatening situation.

#### **§27-5-4. Institution of final commitment proceedings; hearing requirements; release.**

1       (a) Involuntary commitment. — Except as provided in §27-5-2 and §27-5-3 of this code, no  
2 individual may be involuntarily committed to a mental health facility or state hospital except by  
3 order entered of record at any time by the circuit court of the county in which the person resides or  
4 was found, or if the individual is hospitalized in a mental health facility or state hospital located in a  
5 county other than where he or she resides or was found, in the county of the mental health facility  
6 and then only after a full hearing on issues relating to the necessity of committing an individual to a  
7 mental health facility or state hospital. If the individual objects to the hearing being held in the  
8 county where the mental health facility is located, the hearing shall be conducted in the county of  
9 the individual's residence. Notwithstanding the provisions of this code to the contrary, all hearings

10 for the involuntary final civil commitment of a person who is committed in accordance with §27-6A-  
11 1 *et seq.* of this code shall be held by the circuit court of the county that has jurisdiction over the  
12 person for the criminal charges and such circuit court shall have jurisdiction over the involuntary  
13 final civil commitment of such person. Final civil commitments of persons pursuant to §27-6A-1 *et*  
14 *seq.*, shall be done in accordance with a process to be developed by the Supreme Court of  
15 Appeals, the Prosecuting Attorney's Association, the Public Defender Services, Disability Rights  
16 of West Virginia, the Statewide Forensic Coordinator, and the Statewide Clinical Forensic Director  
17 to be implemented on or before September 1, 2026.

18 (b) How final commitment proceedings are commenced. — Final commitment proceedings  
19 for an individual may be commenced by the filing of a written application under oath by an adult  
20 person having personal knowledge of the facts of the case. The certificate or affidavit is filed with  
21 the clerk of the circuit court or mental hygiene commissioner of the county where the individual is a  
22 resident or where he or she may be found, or the county of a mental health facility if he or she is  
23 hospitalized in a mental health facility or state hospital located in a county other than where he or  
24 she resides or may be found. Notwithstanding anything any provision of this code to the contrary,  
25 all hearings for the involuntary final civil commitment of a person who is committed in accordance  
26 with §27-6A-1 *et seq.* of this code shall may be commenced only upon the filing of a Certificate of  
27 the Licensed Certifier at the mental health facility where the person is currently committed unless  
28 otherwise directed by the presiding circuit court judge.

29 (c) Oath; contents of application; who may inspect application; when application cannot be  
30 filed. —

31 (1) The person making the application shall do so under oath.  
32 (2) The application shall contain statements by the applicant that the individual is likely to  
33 cause serious harm to self or others due to what the applicant believes are symptoms of mental  
34 illness or substance use disorder. Except for persons sought to be committed as provided in §27-  
35 6A-1 *et seq.* of this code, the applicant shall state in detail the recent overt acts upon which the

36 clinical opinion is based.

37 (3) The written application, certificate, affidavit, and any warrants issued pursuant thereto,  
38 including any related documents filed with a circuit court, mental hygiene commissioner, or  
39 magistrate for the involuntary hospitalization of an individual are not open to inspection by any  
40 person other than the individual, unless authorized by the individual or his or her legal  
41 representative or by order of the circuit court. The records may not be published unless authorized  
42 by the individual or his or her legal representative. Disclosure of these records may, however, be  
43 made by the clerk, circuit court, mental hygiene commissioner, or magistrate to provide notice to  
44 the Federal National Instant Criminal Background Check System established pursuant to section  
45 103(d) of the Brady Handgun Violence Prevention Act, 18 U.S.C. §922, and the central state  
46 mental health registry, in accordance with §61-7A-1 *et seq.* of this code, and the sheriff of a county  
47 performing background investigations pursuant to §61-7-1 *et seq.* of this code. Disclosure may  
48 also be made to the prosecuting attorney and reviewing court in an action brought by the individual  
49 pursuant to §61-7A-5 of this code to regain firearm and ammunition rights.

50 (4) Applications shall be denied for individuals as provided in §27-5-2(a) of this code.

51 (d) Certificate filed with application; contents of certificate; affidavit by applicant in place of  
52 certificate. —

53 (1) The applicant shall file with his or her application the certificate of a physician or a  
54 psychologist stating that in his or her opinion the individual is mentally ill or has a substance use  
55 disorder and that because of the mental illness or substance use disorder, the individual is likely to  
56 cause serious harm to self or others and requires continued commitment and treatment, and  
57 should be hospitalized. Alternatively, the applicant shall file with his or her application the  
58 certificate of a physician or psychologist stating that in her or her opinion the individual has a  
59 substance use disorder, has lost the power of self-control with respect to substance use, is in need  
60 of substance abuse services and, by reason of substance abuse impairment, his or her judgment  
61 has been so impaired that the individual is incapable of appreciating his or her need for such

62 services and is further incapable of making a rational decision in regard thereto, and that any mere  
63 refusal by the individual to receive substance abuse services was not considered as evidence of  
64 lack of judgment with respect to the individual's need for substance abuse services. Except for  
65 persons sought to be committed as provided in §27-6A-1 *et seq.* of this code, the certificate shall  
66 state in detail the recent overt acts on which the conclusion is based, including facts that less  
67 restrictive interventions and placements were considered but are not appropriate and available.  
68 The applicant shall further file with his or her application the names and last known addresses of  
69 the persons identified in §27-5-4(e)(3) of this code.

70 (2) A certificate is not necessary when an affidavit is filed by the applicant showing facts  
71 and the individual has refused to submit to examination by a physician or a psychologist.

72 (e) Notice requirements; eight days' notice required. — Upon receipt of an application, the  
73 mental hygiene commissioner or circuit court shall review the application, and if it is determined  
74 that the facts alleged, if any, are sufficient to warrant involuntary hospitalization, immediately fix a  
75 date for and have the clerk of the circuit court give notice of the hearing:

76 (1) To the individual;

77 (2) To the applicant or applicants;

78 (3) To the individual's spouse, one of the parents or guardians, or, if the individual does not  
79 have a spouse, parents or parent or guardian, to one of the individual's adult next of kin if the next  
80 of kin is not the applicant;

81 (4) To the ~~mental health authorities~~ comprehensive community mental health center  
82 serving the area;

83 (5) To the circuit court in the county of the individual's residence if the hearing is to be held  
84 in a county other than that of the individual's residence; and

85 (6) To the prosecuting attorney of the county in which the hearing is to be held.

86 (f) The notice shall be served on the individual by personal service of process not less than  
87 eight days prior to the date of the hearing and shall specify:

88 (1) The nature of the charges against the individual;

89 (2) The facts underlying and supporting the application of involuntary commitment;

90 (3) The right to have counsel appointed;

91 (4) The right to consult with and be represented by counsel at every stage of the

92 proceedings; and

93 (5) The time and place of the hearing.

94 The notice to the individual's spouse, parents or parent or guardian, the individual's adult  
95 next of kin, or to the circuit court in the county of the individual's residence may be by personal  
96 service of process or by certified or registered mail, return receipt requested, and shall state the  
97 time and place of the hearing.

98 (g) Examination of individual by court-appointed physician, psychologist, licensed  
99 professional counselor, licensed independent clinical social worker, advanced practice registered  
100 nurse, practitioner, or physician assistant; custody for examination; dismissal of proceedings. —  
101 (1) Except as provided in subdivision (3) of this subsection, and except when a certificate  
102 of the Licensed Examiner and an application for final civil commitment at the mental health facility  
103 where the person is currently committed has been completed and filed, within a reasonable time  
104 after notice of the commencement of final commitment proceedings is given, the circuit court or  
105 mental hygiene commissioner shall appoint a physician, psychologist, a licensed professional  
106 counselor, a licensed independent clinical social worker, an advanced practice registered nurse,  
107 ~~practitioner with psychiatric certification, or a physician assistant with advanced duties in~~  
108 ~~psychiatric medicine~~ to examine the individual and report to the circuit court or mental hygiene  
109 commissioner his or her findings as to the mental condition or substance use disorder of the  
110 individual and the likelihood of causing serious harm to self or others. Any such report shall include  
111 the names and last known addresses of the persons identified in §27-5-4-(e)(3) of this code.

112 (2) If the designated physician, psychologist, licensed professional counselor, licensed  
113 clinical social worker, advanced practice registered nurse, practitioner, or physician assistant

114 reports to the circuit court or mental hygiene commissioner that the individual has refused to  
115 submit to an examination, the circuit court or mental hygiene commissioner shall order him or her  
116 to submit to the examination. The circuit court or mental hygiene commissioner may direct that the  
117 individual be detained or taken into custody for the purpose of an immediate examination by the  
118 designated physician, psychologist, nurse practitioner, or physician assistant. All orders shall be  
119 directed to the sheriff of the county or other appropriate law-enforcement officer. After the  
120 examination has been completed, the individual shall be released from custody unless  
121 proceedings are instituted pursuant to §27-5-3 of this code.

122 (3) If the reports of the appointed physician, psychologist, licensed professional counselor,  
123 licensed independent clinical social worker, advance practice registered nurse, practitioner, or  
124 physician assistant do not confirm that the individual is mentally ill or has a substance use disorder  
125 and might be harmful to self or others ~~or that the individual has a substance use disorder~~, has lost  
126 the power of self-control with respect to substance use, is in need of substance abuse services  
127 and, by reason of substance abuse impairment, his or her judgment has been so impaired that the  
128 individual is incapable of appreciating his or her need for such services and is further incapable of  
129 making a rational decision in regard thereto, then the proceedings for involuntary hospitalization  
130 shall be dismissed: *Provided*, That an individual's mere refusal to receive substance abuse  
131 services does not constitute evidence of lack of judgment with respect to his or her need for  
132 substance abuse services;

133 (h) Rights of the individual at the final commitment hearing; seven days' notice to counsel  
134 required. —

135 (1) The individual shall be present at the final commitment hearing, and he or she, the  
136 applicant and all persons entitled to notice of the hearing shall be afforded an opportunity to testify  
137 and to present and cross-examine witnesses.

138 (2) If the individual has not retained counsel, the court or mental hygiene commissioner, at  
139 least six days prior to hearing, shall appoint a competent attorney and shall inform the individual of

140 the name, address, and telephone number of his or her appointed counsel.

141 (3) The individual has the right to have an examination by an independent expert of his or  
142 her choice and to present testimony from the expert as a medical witness on his or her behalf. The  
143 cost of the independent expert is paid by the individual unless he or she is indigent.

144 (4) The individual may not be compelled to be a witness against himself or herself.

145 (i) Duties of counsel representing individual; payment of counsel representing indigent. —

146 (1) Counsel representing an individual shall conduct a timely interview, make investigation,  
147 and secure appropriate witnesses, be present at the hearing, and protect the interests of the  
148 individual.

149 (2) Counsel representing an individual is entitled to copies of all medical reports,  
150 psychiatric or otherwise.

151 (3) The circuit court, by order of record, may allow the attorney a reasonable fee not to  
152 exceed the amount allowed for attorneys in defense of needy persons as provided in §29-21-1 et  
153 seq. of this code.

154 (j) Conduct of hearing; receipt of evidence; no evidentiary privilege; record of hearing. —

155 (1) The circuit court or mental hygiene commissioner shall hear evidence from all  
156 interested parties in chamber, including testimony from representatives of the community mental  
157 health facility.

158 (2) The circuit court or mental hygiene commissioner shall receive all relevant and material  
159 evidence which may be offered.

160 (3) The circuit court or mental hygiene commissioner is bound by the rules of evidence  
161 promulgated by the Supreme Court of Appeals except that statements made to health care  
162 professionals appointed under subsection (g) of this section by the individual may be admitted into  
163 evidence by the health care professional's testimony, notwithstanding failure to inform the  
164 individual that this statement may be used against him or her. A health care professional testifying  
165 shall bring all records pertaining to the individual to the hearing. The medical evidence obtained

166 pursuant to an examination under this section, or §27-5-2 or §27-5-3 of this code, is not privileged  
167 information for purposes of a hearing pursuant to this section.

168 (4) All final commitment proceedings shall be reported or recorded, whether before the  
169 circuit court or mental hygiene commissioner, and a transcript made available to the individual, his  
170 or her counsel or the prosecuting attorney within 30 days if requested for the purpose of further  
171 proceedings. In any case where an indigent person intends to pursue further proceedings, the  
172 circuit court shall, by order entered of record, authorize, and direct the court reporter to furnish a  
173 transcript of the hearings.

174 (k) Requisite findings by the court. —

175 (1) Upon completion of the final commitment hearing and the evidence presented in the  
176 hearing, the circuit court or mental hygiene commissioner shall make findings as to the following  
177 based upon clear and convincing evidence:

178 (A) Whether the individual is mentally ill or has a substance use disorder;

179 (B) Whether, as a result of illness or substance use disorder, the individual is likely to cause  
180 serious harm to self or others if allowed to remain at liberty and requires continued commitment  
181 and treatment; or whether the individual has a substance use disorder, has lost the power of self-  
182 control with respect to substance use, is in need of substance abuse services and, by reason of  
183 substance abuse impairment, his or her judgment has been so impaired that the individual is  
184 incapable of appreciating his or her need for such services and is further incapable of making a  
185 rational decision in regard thereto: *Provided*, That an individual's mere refusal to receive  
186 substance abuse services does not constitute evidence of lack of judgment with respect to his or  
187 her need for substance abuse services;

188 (C) Whether the individual is a resident of the county in which the hearing is held or  
189 currently is a patient at a mental health facility in the county; and

190 (D) Whether there is a less restrictive alternative than commitment appropriate for the  
191 individual that is appropriate and available. The burden of proof of the lack of a less restrictive

192 alternative than commitment is on the person or persons seeking the commitment of the individual:  
193 *Provided*, That for any commitment to a state hospital as defined by §27-1-6 of this code, a specific  
194 finding shall be made that the commitment of, or treatment for, the individual requires inpatient  
195 hospital placement and that no suitable outpatient community-based treatment program exists  
196 that is appropriate and available in the individual's area.

197 (2) The findings of fact shall be incorporated into the order entered by the circuit court and  
198 must be based upon clear, cogent, and convincing proof.

199 (I) Orders issued pursuant to final commitment hearing; entry of order; change in order of  
200 court; expiration of order. —

201 (1) Upon the requisite findings, the circuit court may order the individual to a mental health  
202 facility or state hospital for a period not to exceed 90 days except as otherwise provided in this  
203 subdivision. During that period and solely for individuals who are committed under §27-6A-1 et  
204 seq. of this code, the chief medical officer of the mental health facility or state hospital shall  
205 conduct a clinical assessment of the individual at least every 30 days to determine if the individual  
206 requires continued placement and treatment at the mental health facility or state hospital and  
207 whether the individual is suitable to receive any necessary treatment at an outpatient community-  
208 based treatment program. If at any time the chief medical officer, acting in good faith and in a  
209 manner consistent with the standard of care, determines that: (i) The individual is suitable for  
210 receiving outpatient community-based treatment; (ii) necessary outpatient community-based  
211 treatment is available in the individual's area as evidenced by a discharge and treatment plan  
212 jointly developed by the Department of Health Facilities and the comprehensive community  
213 mental health center or licensed behavioral health provider; and (iii) the individual's clinical  
214 presentation no longer requires inpatient commitment, the chief medical officer shall provide  
215 written notice to the court of record and prosecuting attorney as provided in subdivision (2) of this  
216 subsection that the individual is suitable for discharge. The For an individual committed pursuant  
217 to §27-6A-3 of this code, the chief medical officer may discharge the patient 30 days after the

218 notice unless the court of record stays the discharge of the individual. In the event the court stays  
219 the discharge of the individual, the court shall conduct a hearing within 45 days of the stay, and the  
220 individual shall be thereafter discharged unless the court finds by clear and convincing evidence  
221 that the individual is a significant and present danger to self or others, and that continued  
222 placement at the mental health facility or state hospital is required.

223 ~~If the chief medical officer determines that the individual requires commitment and~~  
224 ~~treatment at the mental health facility or state hospital at any time for a period longer than 90 days,~~  
225 ~~then the individual shall remain at the mental health facility or state hospital until the chief medical~~  
226 ~~officer of the mental health facility or state hospital determines that the individual's clinical~~  
227 ~~presentation no longer requires further commitment and treatment. The chief medical officer shall~~  
228 ~~provide notice to the court, the prosecuting attorney, the individual, and the individual's guardian or~~  
229 ~~attorney, or both, if applicable, that the individual requires commitment and treatment for a period~~  
230 ~~in excess of 90 days and, in the notice, the chief medical officer shall describe how the individual~~  
231 ~~continues to meet commitment criteria and the need for ongoing commitment and treatment. The~~  
232 ~~court, prosecuting attorney, the individual, or the individual's guardian or attorney, or both, if~~  
233 ~~applicable, may request any information from the chief medical officer that the court or prosecuting~~  
234 ~~attorney considers appropriate to justify the need for the individual's ongoing commitment and~~  
235 ~~treatment. The court may hold any hearing that it considers appropriate.~~

236 For persons who are not committed pursuant to §27-6A-3 of the code, if the chief medical  
237 officer determines that the individual requires commitment and treatment at the mental health  
238 facility or state hospital at any time for a period longer than 90 days, then the chief medical officer  
239 shall file a petition with the court and shall serve the petition on the prosecuting attorney, the  
240 individual, and the individual's guardian or attorney, or both, if applicable. The court shall hold a  
241 hearing on the petition within 10 days. If the court determines that extended commitment and  
242 treatment is required, then the court shall enter an order authorizing up to an additional 90 days of  
243 commitment and treatment. At the conclusion of the additional commitment period, if the chief

244 medical officer determines that the individual requires additional commitment and treatment at the  
245 mental health facility or state hospital, then a new petition for additional commitment and treatment  
246 is required. No individual may be civilly committed under this article for more than 120 days without  
247 a hearing to determine whether the individual continues to meet commitment criteria.

248 (2) Notice to the court of record and prosecuting attorney shall be provided by personal  
249 service or certified mail, return receipt requested. The chief medical officer shall make In the  
250 petition, the chief medical officer shall include the following findings:

251 (A) Whether the individual has a mental illness or substance use disorder that does not  
252 require inpatient treatment, and the mental illness or serious emotional disturbance is in  
253 substantial remission;

254 (B) Whether the individual has the independent ability to manage safely the risk factors  
255 resulting from his or her mental illness or substance use disorder and is not likely to deteriorate to  
256 the point that the individual will pose a likelihood of serious harm to self or others without continued  
257 commitment and treatment; or whether the individual has a substance use disorder, has lost the  
258 power of self-control with respect to substance use, is in need of substance abuse services and,  
259 by reason of substance abuse impairment, his or her judgment has been so impaired that the  
260 individual is incapable of appreciating his or her need for such services and is further incapable of  
261 making a rational decision in regard thereto: *Provided*, That an individual's mere refusal to receive  
262 substance abuse services does not constitute evidence of lack of judgment with respect to his or  
263 her need for substance abuse services;

264 (C) Whether the individual is likely to participate in outpatient treatment with a legal  
265 obligation to do so;

266 (D) Whether the individual is not likely to participate in outpatient treatment unless legally  
267 obligated to do so;

268 (E) Whether the individual is capable of surviving safely in freedom by himself or herself or  
269 with the help of willing and responsible family members, guardian, or friends; and

270 (F) Whether mandatory outpatient treatment is a suitable, less restrictive alternative to  
271 ongoing commitment.

272 (3) The individual may not be detained in a mental health facility or state hospital for a  
273 period in excess of 10 days after a final commitment hearing pursuant to this section unless an  
274 order has been entered and received by the facility.

275 (4) An individual committed pursuant to §27-6A-3 of this code may be committed for the  
276 period he or she is determined by the court to remain an imminent danger to self or others.

277 (5) ~~If the commitment of the individual as provided under subdivision (1) of this subsection  
278 exceeds two years, the individual or his or her counsel may request a hearing and a hearing shall  
279 be held by the mental hygiene commissioner or by the circuit court of the county as provided in  
280 subsection (a) of this section.~~

281 (m) Dismissal of proceedings. — If the individual is discharged as provided in subsection (l)  
282 of this section, the circuit court or mental hygiene commissioner shall dismiss the proceedings.

283 (n) Immediate notification of order of hospitalization. — The clerk of the circuit court in  
284 which an order directing hospitalization is entered, if not in the county of the individual's residence,  
285 shall immediately upon entry of the order forward a certified copy of the order to the clerk of the  
286 circuit court of the county of which the individual is a resident.

287 (o) ~~Consideration of transcript by circuit court of county of individual's residence; order of  
288 hospitalization; execution of order.~~

289 (1) ~~If the circuit court or mental hygiene commissioner is satisfied that hospitalization  
290 should be ordered but finds that the individual is not a resident of the county in which the hearing is  
291 held and the individual is not currently a resident of a mental health facility or state hospital, a  
292 transcript of the evidence adduced at the final commitment hearing of the individual, certified by  
293 the clerk of the circuit court, shall immediately be forwarded to the clerk of the circuit court of the  
294 county of which the individual is a resident. The clerk shall immediately present the transcript to  
295 the circuit court or mental hygiene commissioner of the county.~~

296       (2) If the circuit court or mental hygiene commissioner of the county of the residence of the  
297 individual is satisfied from the evidence contained in the transcript that the individual should be  
298 hospitalized as determined by the standard set forth in subdivision one of this subsection, the  
299 circuit court shall order the appropriate hospitalization as though the individual had been brought  
300 before the circuit court or its mental hygiene commissioner in the first instance.

301       (3) This order shall be transmitted immediately to the clerk of the circuit court of the county  
302 in which the hearing was held who shall execute the order promptly.

303       (f) (o) Order of custody to responsible person. — In lieu of ordering the individual to a  
304 mental health facility or state hospital, the circuit court may order the individual delivered to some  
305 responsible person who will agree to take care of the individual and the circuit court may take from  
306 the responsible person a bond in an amount to be determined by the circuit court with condition to  
307 restrain and take proper care of the individual until further order of the court.

308       (f) (p) Individual not a resident of this state. — If the individual is found to be mentally ill or  
309 to have a substance use disorder by the circuit court or mental hygiene commissioner is a resident  
310 of another state, this information shall be immediately given to the Secretary of the Department of  
311 Health Facilities, or to his or her designee, who shall make appropriate arrangements for transfer  
312 of the individual to the state of his or her residence conditioned on the agreement of the individual,  
313 except as qualified by the interstate compact on mental health.

314       (f) (q) Report to the Secretary of the Department of Health Facilities. —

315       (1) The chief medical officer of a mental health facility or state hospital admitting a patient  
316 pursuant to proceedings under this section shall immediately make a report of the admission to the  
317 Secretary of the Department of Health Facilities or to his or her designee.

318       (2) Whenever an individual is released from custody due to the failure of an employee of a  
319 mental health facility or state hospital to comply with the time requirements of this article, the chief  
320 medical officer of the mental health or state hospital facility shall immediately, after the release of  
321 the individual, make a report to the Secretary of the Department of Health Facilities or to his or her

322 designee of the failure to comply.

323 (s) (r) Payment of some expenses by the state; mental hygiene fund established;  
324 expenses paid by the county commission. —

325 (1) The state shall pay the commissioner's fee and the court reporter fees that are not paid  
326 and reimbursed under §29-21-1 *et seq.* of this code out of a special fund to be established within  
327 the Supreme Court of Appeals to be known as the Mental Hygiene Fund.

328 (2) The county commission shall pay out of the county treasury all other expenses incurred  
329 in the hearings conducted under the provisions of this article whether or not hospitalization is  
330 ordered, including any fee allowed by the circuit court by order entered of record for any physician,  
331 psychologist, licensed professional counselor, licensed independent clinical social worker,  
332 advance practice registered nurse, physician assistant, and witness called by the indigent  
333 individual. The copying and mailing costs associated with providing notice of the final commitment  
334 hearing and issuance of the final order shall be paid by the county where the involuntary  
335 commitment petition was initially filed.

336 (3) The Department of Health Facilities shall reimburse the sheriff, the Department of  
337 Corrections and Rehabilitation, or other law-enforcement agency for the actual costs related to  
338 transporting a patient who has been involuntary committed.

339 (t) (s) Completion of substance use disorder rehabilitation program. —

340 (1) An individual involuntarily committed on the basis of a substance use disorder who  
341 completes a substance use rehabilitation treatment program pursuant to the provisions of §27-2-1  
342 *et seq.* of this code shall not be considered "a person adjudicated to be mentally defective" or  
343 "having had a prior involuntary commitment to a mental institution" for purposes of firearm  
344 possession under §61-7A-1 *et seq.* of this code.

345 (2) An individual involuntary involuntarily committed on the basis of a substance use  
346 disorder who completes an outpatient or inpatient substance use rehabilitation treatment program  
347 may petition the Administrator of the Supreme Court of Appeals or the Superintendent of the West

348 Virginia State Police to have his or her name removed from the central state mental health registry.

349 (u) (t) The Supreme Court of Appeals is requested to promulgate rules to implement the

350 amendments made to this section during the 2025 regular session of the Legislature.

<u>ARTICLE</u>	<u>5A</u>	<u>MENTAL</u>	<u>HYGIENE</u>	<u>REFORM</u>	<u>ACT.</u>
<u><b>§27-5A-1. Restructure of Mental Hygiene Commissioner System.</b></u>					

1 (a) The Supreme Court of Appeals may employ full-time mental hygiene commissioners  
2 with statewide jurisdiction who shall primarily serve in specified regions. Each full-time  
3 commissioner shall be selected, appointed, compensated, and supervised by the Supreme Court  
4 of Appeals, shall serve at the Court's pleasure, and shall serve in any region ordered by the Court.  
5 Full-time mental hygiene commissioners shall be persons of good standing in their profession and  
6 they shall, before assuming the duties of a commissioner, take the oath required of other special  
7 commissioners as provided in §6-1-1 *et seq.* of this code. The Court may also employ  
8 administrative staff to support the regional mental hygiene system in its discretion.

9 (b) The Supreme Court of Appeals may establish mental hygiene regions. Once a mental  
10 health region is established and staffed by the Supreme Court, a chief circuit judge may no longer  
11 appoint mental hygiene commissioners within a county included in that region, all existing  
12 appointments of commissioners within that region expire, and magistrates may not preside over  
13 mental hygiene proceedings within that region.

14 (c) A mental hygiene commissioner employed by the Supreme Court shall be a competent  
15 attorney and shall receive training from the Administrative Office of the Supreme Court prior to  
16 presiding over proceedings. Training topics shall include acute psychiatric cases, geriatrics,  
17 developmental disabilities, and substance abuse.

18 (d) Mental hygiene commissioners employed by the Supreme Court of Appeals shall work  
19 a schedule that provides uniform and continuous coverage in each region, including afterhours,  
20 weekends, and holidays.

21        (e) If the Supreme Court of Appeals implements mental hygiene regions statewide, the  
22        provisions of §27-5-1 of this code regarding appointment and supervision of mental hygiene  
23        commissioners by circuit judges, or compensation shall no longer apply.

**§27-5A-2** **Hearings** **by** **videoconference.**

1       All evaluations and hearings in mental hygiene proceedings may be conducted by  
2       videoconferencing technology unless a mental hygiene commissioner orders an in-person  
3       evaluation or proceeding. A comprehensive community mental health center, sheriff's department,  
4       and regional jail shall provide technology that complies with Supreme Court of Appeals  
5       specifications to ensure meaningful interactions between a mental hygiene commissioner,  
6       respondent, witnesses, and evaluators during evaluations and proceedings, so that a  
7       respondent's due process rights are protected.

## **§27-5A-3. Statewide availability of mental health evaluators.**

1       (a) A physician, psychologist, a licensed professional counselor practicing in compliance  
2       with §30-31-1 *et seq.* of this code, a licensed independent clinical social worker practicing in  
3       compliance with §30-31-1 *et seq.* of this code, advanced practice registered nurse or physician  
4       assistant are authorized to examine the respondent in a mental hygiene proceeding in any region,  
5       circuit, or county, and to make sufficient determinations as required by this chapter based on their  
6       particular expertise in the areas of mental health, mental hygiene, or substance abuse disorders.  
7       However, the presiding circuit court, magistrate court, or a mental hygiene commissioner may  
8       exclude an examiner's testimony if it determines that the examiner's knowledge, skill, experience,  
9       training, or education is insufficient to provide expert testimony under standards consistent with  
10      the West Virginia Rules of Evidence.

11        (b) A comprehensive community mental health center shall ensure that at least one  
12        examiner is available to provide uniform and continuous coverage in its designated service area,  
13        including afterhours, weekends, and holidays.

NOTE: The purpose of this bill is to create of mental hygiene regions in the state, permit evaluations to be conducted by video, grant civil immunity to providers, and clarify commitment periods.

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