

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 4169**

By Delegate Masters

[Originating in the Committee on the Judiciary;

Reported on January 21, 2026]

1 A BILL to amend and reenact §61-7A-5 of the Code of West Virginia, 1931, as amended, relating  
2 to petitions to regain the right to possess firearms; aligning mental health examination  
3 requirements with those required for involuntary hospitalizations; and providing for the  
4 qualifications of certain professionals authorize to sign a verified certificate of mental  
5 health examination.

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

**ARTICLE 7A. STATE MENTAL HEALTH REGISTRY; REPORTING OF PERSONS  
PROSCRIBED FROM FIREARM POSSESSION DUE TO MENTAL CONDITION  
TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM;  
LEGISLATIVE FINDINGS; DEFINITIONS; REPORTING REQUIREMENTS;  
REINSTATEMENT OF RIGHTS PROCEDURES.**

**§61-7A-5. Petition to regain right to possess firearms.**

1 (a) Any person who is prohibited from possessing a firearm pursuant to the provisions of  
2 §61-7-7 or by provisions of federal law by virtue solely of having previously been adjudicated to be  
3 mentally defective or to having a prior involuntary commitment to a mental institution pursuant to  
4 §27-5-4(l) of this code may petition the circuit court of the county of his or her residence to regain  
5 the ability to lawfully possess a firearm.

6 (b) Petitioners prohibited from possession of firearms due to a mental health disability,  
7 must include in the petition for relief from disability:

8 (1) A listing of facilities and location addresses of all prior mental health treatment received  
9 by petitioner;

10 (2) An authorization, signed by the petitioner, for release of mental health records to the  
11 prosecuting attorney of the county; and

12 (3) A verified certificate of mental health examination by a ~~licensed psychologist or~~  
13 psychiatrist physician, psychologist, licensed professional counselor practicing in compliance with

14     §30-31-1 et seq. of this code, licensed independent clinical social worker practicing in compliance  
15     with the provisions of §30-30-1 et seq. of this code, an advanced nurse practitioner with psychiatric  
16     certification practicing in compliance with §30-7-1 et seq. of this code, or a physician assistant  
17     practicing in compliance with §30-3E-1 et seq. of this code occurring within 30 days prior to filing of  
18     the petition which supports that the petitioner is competent and not likely to act in a manner  
19     dangerous to public safety: *Provided*, That a licensed professional counselor, a licensed  
20     independent clinical social worker, an advanced nurse practitioner with psychiatric certification, or  
21     a physician assistant may only perform the examination if he or she has previously been  
22     authorized by an order of the circuit court to do so, the order having found that the licensed  
23     professional counselor, the licensed independent clinical social worker, advanced nurse  
24     practitioner with psychiatric certification, or a physician assistant has particularized expertise in  
25     the areas of mental health and mental hygiene or substance use disorder sufficient to make the  
26     determinations required by the provisions of this subsection.

27                 (c) The court may only consider petitions for relief due to mental health adjudications or  
28     commitments that occurred in this state, and only give the relief specifically requested in the  
29     petition.

30                 (d) In determining whether to grant the petition, the court shall receive and consider at a  
31     minimum evidence:

32                         (1) Concerning the circumstances regarding the firearms disabilities imposed by 18 U.S.C.  
33     §922(g)(4);

34                         (2) The petitioner's record which must include the petitioner's mental health and criminal  
35     history records; and

36                         (3) The petitioner's reputation developed through character witness statements, testimony,  
37     or other character evidence.

38                 (e) If the court finds by clear and convincing evidence that the person is competent and  
39     capable of exercising the responsibilities concomitant with the possession of a firearm, will not be

40 likely to act in a manner dangerous to public safety, and that granting the relief will not be contrary  
41 to public interest, the court may enter an order allowing the petitioner to possess a firearm. If the  
42 order denies petitioner's ability to possess a firearm, the petitioner may appeal the denial, which  
43 appeal is to include the record of the circuit court rendering the decision.

44 (f) All proceedings for relief to regain firearm or ammunition rights shall be reported or  
45 recorded and maintained for review.

46 (g) The prosecuting attorney or one of his or her assistants shall represent the state in all  
47 proceedings for relief to regain firearm rights and provide the court the petitioner's criminal history  
48 records.

49 (h) The written petition, certificate, mental health or substance abuse treatment records  
50 and any papers or documents containing substance abuse or mental health information of the  
51 petitioner, filed with the circuit court, are confidential. These documents may not be open to  
52 inspection by any person other than the prosecuting attorney or one of his or her assistants only  
53 for purposes of representing the state in and during these proceedings and by the petitioner and  
54 his or her counsel. No other person may inspect these documents, except upon authorization of  
55 the petitioner or his or her legal representative or by order of the court, and these records may not  
56 be published except upon the authorization of the petitioner or his or her legal representative.

57 (i) The circuit clerk of each county shall provide the Superintendent of the West Virginia  
58 State Police, or his or her designee, and the Administrator of the West Virginia Supreme Court of  
59 Appeals, or his or her designee, with a certified copy of any order entered pursuant to the  
60 provisions of this section which removes a petitioner's prohibition to possess firearms. If the order  
61 restores the petitioner's ability to possess a firearm, petitioner's name shall be promptly removed  
62 from the central state mental health registry and the superintendent or administrator shall forthwith  
63 inform the Federal Bureau of Investigation, the United States Attorney General, or other federal  
64 entity operating the National Instant Criminal Background Check System of the court action.

