AN ACT to repeal chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new chapter of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to be designated chapter twenty-seven, relating to mentally ill persons.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by repealed; and that a new chapter of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be enacted, to be designated chapter twenty-seven, to read as follows:
CHAPTER 27. MENTALLY ILL PERSONS

Article 1. Definitions.

Section 1. *Mentally Ill.*—For the purposes of this chapter, a "mentally ill" person is (a) one having a psychiatric or other disease which substantially impairs his mental health, or (b) a mental defective, or (c) an epileptic.

Sec. 2. *Resident of State and County.*—For the purposes of this chapter, no person shall be considered a resident of this state unless he is a citizen of the United States and has been a bona fide resident of this state for at least one year, and was not mentally ill when he came into this state; and no person shall be considered a resident of a county who is not a resident of the state, as above defined, and who has not been a resident of the county for at least sixty days, and was not mentally ill when he came to the county.

Article 2. State Hospitals.

Section 1. *Locations; Continuation; Management.*—The state hospitals for the mentally ill heretofore established at Weston, Spencer, Huntington, Barboursville, Lakin and St. Marys shall be continued and known respectively as
the Weston state hospital, Spencer state hospital, Huntington state hospital, Barboursville state hospital, Lakin state hospital and the West Virginia training school. Said hospitals shall be managed, directed and controlled by the West Virginia board of control as prescribed in article one, chapter twenty-five of the code, and further as provided in this chapter.

Sec. 2. Superintendents of Mental Hospitals.—The chief executive officers of the state's mental hospitals shall be superintendents who shall be legally qualified physicians scientifically trained in mental medicine, and shall be persons of good executive ability. They shall be appointed by the governor for an indefinite term by and with the consent of the senate.

Sec. 3. Rules and Regulations as to Patients.—The state board of control shall have authority to make and adopt rules and regulations, not contrary to law, regulating the admission of patients to the said state hospitals, the care, maintenance and treatment of patients therein, and the release, parole and discharge of patients therefrom.
Sec. 4. *Forms for Committing Patients; Other Records.*

The board of control shall have authority to prepare, prescribe and have printed forms to be used in committing patients to any of such hospitals, and for the discharge of such patients from said hospitals.

Whenever a patient is transferred from one state mental hospital to another, his complete record shall be forwarded to the hospital to which the patient is being transferred.

Sec. 5. *Report of Admissions; Registration by Board of Control.*—The superintendent of each state mental institution shall, within ten days after the admission of any patient, report the admission to the board of control together with any other information the board of control may require. A copy of said report shall be sent to the state health commissioner. He shall make a similar report of the discharge or death of any patient.

From such reports and other sources the board shall prepare and keep current a register of persons in this state who are suffering from mental illness.

The name of a person so registered shall not be made
Article 3. Mental Hygiene Commissions.

Section 1. County Mental Hygiene Commission.—There shall be in each county a mental hygiene commission of three members, to be composed of any member of the county court, the prosecuting attorney and/or an assistant prosecuting attorney designated by the prosecuting attorney and approved by the county court, and the clerk of the county court and/or a deputy clerk designated by the clerk of the county court and approved by the county court, who shall serve as such without compensation, except for traveling and other necessary expenses incurred in the discharge of their duties as members of the commission, which expenses shall be audited by the county court and paid out of the county treasury. A member of the county court shall be the chairman of the commission. In the absence of a county court member, the prosecuting attorney and/or his designated assistant as herein provided, shall act as such chairman. The clerk of the county
court and/or his designated deputy shall be the clerk of
the commission and shall keep in a proper book provided
for the purpose a full and careful record of all the acts,
orders and resolutions of the commission. Any two mem-
bers from different offices represented on the commission
shall be a quorum thereof. The county court of each
county shall at its first term of court of each year enter
an order designating the persons eligible to sit as members
of the county mental hygiene commission.

Sec. 2. Meetings.—All meetings of the commission shall
be held at the county seat, unless it shall be thought best
by the commission to meet at some other place, as in the
case of a mentally ill person whose condition makes it
advisable to meet at or near his residence. The time of
such meetings shall be established by the commission.

Sec. 3. Expenses.—All expenses incurred by the mental
hygiene commission of each county, including compensa-
tion of physicians and other witnesses, shall be such as
may be prescribed by the county court of the county and
shall be paid out of the county treasury.
Article 4. Voluntary Hospitalization.

Section 1. Admissions.—Any person, a resident of this state, who desires the benefit of institutional treatment, may be admitted to one of the state mental hospitals on his own application or, provided such person is willing to enter the hospital, upon the application of a reputable physician. Such admissions shall be subject to the rules and regulations of the board of control. Immediately upon the admission of any voluntary patient, the mental hospital to which he has been admitted shall notify the county clerk of the county of his residence of such admission.

Sec. 2. Release of Voluntary Patients.—The superintendent of the hospital shall release any voluntary patient who has recovered or whose hospitalization he determines to be no longer advisable. He may also release any voluntary patient if to do so, in the judgment of the superintendent, would contribute to the more effective use of the hospital in the care and treatment of the mentally ill.

Such a voluntary patient may at any time request his release by giving to the superintendent verbal notice of his
desire to leave; or the guardian, committee, parent, spouse or adult next-of-kin of such voluntary patient may make such request at any time by giving to the superintendent notice in writing of the patient's desire to leave. The superintendent shall, within forty-eight hours after the receipt of this notice, grant the request unless upon examination the superintendent of the hospital and his staff have determined that the patient is mentally ill and requires further hospitalization. If such determination is made, the superintendent of the hospital shall forthwith forward to the clerk of the county court of the county in which such person is a resident a detailed report of their examination, which report shall immediately be presented to the mental hygiene commission of said county. Such commission shall give full faith and credit to this report, and if satisfied that such person is mentally ill, shall issue an order legally committing the mentally ill person to the hospital making the report, as though the person had been brought before it. All expenses incurred in this proceeding, as well as the hospitalization of the
mentally ill person, shall be borne by the county of which he is a resident.

Article 5. Involuntary Hospitalization.

Section 1. Hospitalization of Mentally Ill Persons by County Mental Hygiene Commission.—If any individual in the county reasonablysuspects any person therein to be mentally ill, he may make complaint under oath to the clerk of the county court, giving such information and stating such facts therein as may be required, and deliver the same to the clerk of the county court, whose duty it shall be to issue a warrant ordering the person suspected and named in such complaint to be brought before the commission at the time and place named therein, that his mental condition may be inquired into. If the clerk of the county court does not deem such suspicion to be reasonable, he may require such complainant to furnish the certificate of a reputable physician showing the suspected person’s condition, before issuing a warrant. Any member of the commission without such complaint may have such warrant issued for any person found in his county whom he shall suspect to be mentally ill.
All such warrants shall be signed by the clerk of the county court and have impressed thereon the seal thereof, and may be addressed to the sheriff of the county or to any constable of any district thereof, or to a special constable appointed for the purpose and named therein; but if any relative or friend of the person so suspected will serve such warrant and cause such suspected person to be brought before the commission, he may be allowed to do so. The officer or person to whom the warrant is addressed shall take the suspected person into custody and bring him before the commission at the time and place named therein.

Sec. 2. Guardian ad Litem for Suspected Person.—Before proceeding with the hearing of the matter, the commission shall appoint a guardian ad litem, who shall be a competent attorney, for such suspected person, and such guardian shall be present at the hearing and manage the case on behalf of the person suspected. Such attorney shall be paid by the county court. Such suspected person and his counsel shall have the right to cross-examine any witnesses.
Sec. 3. Witnesses.—The proposed patient, the petitioner and all other persons interested, shall be afforded an opportunity to appear at the hearing, to testify and to present and cross-examine witnesses, and the commission may in its discretion receive the testimony of any other person. Among the witnesses there shall be included two reputable physicians duly authorized to practice medicine in this state, who shall separately or together make a mental examination of the suspected person, preferably before the hearing, and each physician shall make out a certificate of the result of such examination, which certificate shall be signed and sworn to by each physician and shall be considered as evidence by the commission. Not more than one physician of any firm or association of physicians practicing medicine together shall sign any such certificate respecting the mental condition of any person suspected of being mentally ill. The proposed patient shall not be required to be present at this hearing unless it is deemed advisable by the commission to better protect his interest. All persons not necessary for the conduct of the proceedings shall be ex-
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cluded, and the hearing shall be conducted in as informal
a manner as may be consistent with orderly procedure
and in a physical setting not likely to have a harmful
effect on the mental health of the proposed patient. The
commission shall receive all relevant and material evi-
dence which may be offered and shall not be bound by
the rules of evidence.

Sec. 4. Disposition of Mentally Ill Persons.—If, upon
completion of the hearing and consideration of the record,
the commission finds that the proposed patient (1) is
mentally ill, and (2) because of his illness is likely to
injure himself or others if allowed to remain at liberty, or
(3) is in need of custody, care or treatment in a mental
hospital and because of his illness lacks sufficient insight
or capacity to make responsible decisions with respect
to his hospitalization, and (4) is a resident of the county
in which the hearing is held, it shall order his hospitaliza-
tion for an indeterminate period or for a temporary ob-
servation period not exceeding six months; otherwise, it
shall dismiss the proceeding. An order for an indetermi-
nate period relieves the patient of legal capacity. If the
order is for a temporary period, the commission may at any time prior to the expiration of such period, on the basis of report by the head of the hospital and such further inquiry as it may deem appropriate, order indeterminate hospitalization of the patient or dismissal of the proceeding. If the commission orders hospitalization of the patient, it will notify the county health officer, who may make a study of the patient's family and environment and report his findings to the superintendent of the hospital receiving the patient.

In lieu of ordering the patient to a mental hospital, the commission may order him delivered to some relative or friend who will agree to take care of him, and take from such relative or friend a bond in the penalty of at least five hundred dollars, with sufficient security to be approved by the commission, payable to the state of West Virginia, with condition to restrain and take proper care of such person until the further order of the commission. But if the person found to be a mentally ill person is not dangerous to himself or to others, or is found harmless, he may be delivered to any relative or friend who
will agree to take proper care of him without such bond if, in the judgment of the commission, the same may be proper.

If the person found to be mentally ill by the commission is a resident of another county of this state, a transcript of the evidence adduced at the hearing of such person, properly certified by the clerk of the county court, shall forthwith be forwarded to the county of which such person is a resident, who shall immediately present such transcript to the mental hygiene commission of said county. Such commission shall give full faith and credit to the evidence contained in such transcript, and, if satisfied that such person is mentally ill, shall order the person to be committed to one of the state hospitals for the mentally ill, as though the person had been brought before it in the first instance. This order shall be transmitted forthwith to the county clerk of the county in which the hearing was held, who shall execute said order promptly. All expenses incurred in this proceeding, as well as for the hospitalization of the mentally ill person, shall be borne by the county of which he is a resident.
If the person found to be mentally ill by the commission is a resident of another state, this information shall be forthwith given to the board of control, which shall make arrangements for his transfer to his native state.

Sec. 5. Transportation; Temporary Detention.—Whenever an individual is about to be hospitalized under the provisions of section four, the commission shall, upon the request of a person having a proper interest in the individual’s hospitalization, permit such person to arrange for the individual’s transportation to the hospital by such means as may be suitable for his mental condition. In lieu of such request, the commission may deliver the patient to the hospital in any manner it may deem proper.

Pending his removal to a hospital, a person taken into custody or ordered to be hospitalized may be detained in his home, a licensed foster home, or any other suitable facility provided by the county court; but he shall not, except because of lack of such facilities or because of an extreme emergency, be detained in a non-medical facility used for the detention of individuals charged with or con-
vicited of penal offenses. The county health officer, in conjunction with the commission, may take such reasonable measures, including provisions of medical care, as may be necessary to assure proper care of an individual temporarily detained pursuant to this section.

Sec. 6. Emergency Procedure.—Any health or police officer who has reason to believe that an individual is mentally ill and, because of his illness is likely to injure himself or others if allowed to remain at liberty pending a hearing before a mental hygiene commission, may with the help of other persons requested to assist him, take the individual into custody with or without a warrant, apply to a hospital for his admission and transport him thereto. The application for admission shall state the circumstances under which the individual was taken into custody, and the reasons for the officer's belief. The superintendent of the hospital admitting the individual shall forthwith examine him, and if he is found to be mentally ill, shall forward forthwith to the clerk of the county court of the county in which such hospital is located a detailed report of this examination, which report shall
immediately be presented to the mental hygiene comm-
mission of said county. The commission shall thereupon,
and with the greatest possible expedition, cause a hearing
to be held, as provided in this article, except that no
warrant shall be necessary, for the purpose of inquiring
into the mental condition of such patient. Such com-
mission shall consider the detailed report submitted by
the superintendent along with any other evidence which
may be introduced at the hearing. If, after such hearing,
the commission be satisfied that the suspected person is
mentally ill, it shall forward a transcript of the evidence
adduced at the hearing of such person, properly certified
by the clerk of the county court of the county wherein
the matter was heard, to the county clerk of the county
of which such suspected person is a resident, who shall
immediately present such transcript to the mental hygiene
commission of such county; otherwise such person shall
forthwith be released. Such commission shall give full
faith and credit to the evidence contained in the trans-
cript, and, if satisfied that such person is mentally ill,
shall order the person to be committed to the state hospital
to which he was admitted, as though the person had been brought before it in the first instance. All expenses incurred in this proceeding, as well as for the hospitalization of the mentally ill person, shall be borne by the county of which he is a resident.

Article 6. Commitment of Inebriates and Criminally Mentally Ill; Definition.

Section 1. Commitment of Inebriates; Definition.—The word “inebriate”, whenever used in this chapter, shall be construed to mean any person over the age of eighteen years who is incapable or unfit to properly conduct himself or herself, or his or her affairs, or is dangerous to himself or herself or others, by reason of periodical, frequent or constant drunkenness, induced either by the use of alcoholic or other liquors, or of opium, morphine, or other narcotic or intoxicating or stupefying substance. If any individual in a county reasonably suspects any person therein to be an inebriate, he may make complaint under oath to the clerk of the county court, giving such information and stating such facts therein as may be required, and he shall further furnish to said clerk the
certificate of a reputable physician showing the condition
of such suspected person. This complaint and certificate
shall be delivered to the clerk of the county court, whose
duty it shall be to issue a warrant ordering the person
suspected and named in such complaint and certificate to
be brought before the county mental hygiene commission
at a time and place named therein so that his condition
may be inquired into. All such warrants shall be signed
by the clerk of the county court and have impressed
thereon the seal thereof; and may be addressed to the
sheriff of the county or to any constable of any district
thereof, or to a special constable appointed for the pur-
pose and named therein; but if any relative or friend of
the person so suspected will serve such warrant and cause
such suspected person to be brought before the com-
mission, he may be allowed to do so. The officer or person to
whom the warrant is addressed shall take the suspected
person into custody and bring him or her before the com-
mission at the time and place named therein.

Whenever a person apparently an inebriate is so violent
as to endanger his or her own safety, or the safety of
others, any law enforcement officer may, with or without a warrant, take such person into protective custody.

When such suspected person is brought before the county mental hygiene commission, this commission shall proceed to examine such person as outlined in article five of this chapter. If such person is found to be an inebriate by the commission after proper hearing, he shall be committed to one of the state's mental hospitals, or any other institution hereafter established for inebriates, for a minimum period of thirty days. After said period, he shall be released therefrom when, in the opinion of the superintendent of the institution, he has received the maximum benefit from such hospitalization. In all such cases the law applicable to mentally ill persons shall be applicable to such inebriate except that such inebriate shall not forfeit his legal capacity as in the case of a mentally ill person who has been legally committed.

Sec. 2. Commitment and Admission of Criminally Mentally Ill Persons.—If any person charged with or convicted of crime be found, in the court before which he is charged or was convicted, to be mentally ill, and if such court
shall order him to be confined in one of the state hospitals, he shall be received and confined in it. The sheriff or other officer of the court by which the order is made shall immediately proceed to ascertain whether a vacancy exists in a state hospital; and until it is ascertained that there is a vacancy, such person shall be kept in the jail of the county of such court.

Sec. 3. Return of Criminally Mentally Ill Person Upon Discharge from Hospital.—When any person charged with crime confined in a state hospital has recovered from his mental illness, the superintendent shall give notice thereof to the clerk of the county court by whose order he was confined and deliver him to the proper officer upon order of the court.

When any person convicted of a crime and sentenced to the penitentiary confined in a state hospital shall have recovered from such mental illness, he shall be forthwith returned to prison. Any time spent in such hospital shall be computed as part of the term for which he was sentenced. If the sentence of such convict expire while such
14 convict is in the hospital, then upon his recovery he shall
15 be discharged from said hospital.

Article 7. Release, Discharge and Readmission of Patients; Escapees.

Section 1. Discharge.—The superintendent of a mental
2 hospital shall as frequently as practicable examine, or
3 cause to be examined, every patient, and whenever he
4 determines that the condition justifying involuntary
5 hospitalization no longer obtain, discharge the patient and
6 immediately make a report thereof to the board of control
7 and to the county clerk of the county wherein the patient
8 is a resident. This discharge restores said patient to legal
9 capacity.

Sec. 2. Release of Patients on Convalescent Status
2 (Trial Visit).—The superintendent of a hospital may
3 release an improved patient on convalescent status (trial
4 visit) when he believes such release is in the best interest
5 of the patient. Releases on convalescent status shall in-
6 clude provisions for continuing responsibility to and by
7 the hospital, including a plan of treatment on an outside
8 or non-hospital patient basis, if possible. Prior to the
end of a year on convalescent status, and not less fre-
quently than annually thereafter, the superintendent of
the hospital shall reexamine the facts relating to the
hospitalization of the patient on convalescent status and
consider any further facts regarding the patient's mental
health during such convalescence, and if he determines
that in view of the condition of the patient hospitalization
is no longer necessary, he shall discharge the patient.

Sec. 3. Released as Unimproved.—The superintendent
of a hospital may release a patient as unimproved when
the patient's family or friends, or committee or guardian,
or other responsible persons, request his release and are
willing and able to take proper care of said patient outside
the hospital, taking from such relative, friend, committee,
 guardian or responsible person a bond in the penalty of at
least five hundred dollars, with sufficient security to be
approved by the superintendent, payable to the state of
West Virginia, conditioned to restrain and take proper
care of such patient until the further order of the super-
intendent. Reports shall be made by those in charge of
said patient at least once every six months to the super-
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14 intendent of the hospital. No discharge shall be given to
15 said patient until he has returned to the hospital for
16 examination by the superintendent and staff thereof and
17 it has been determined that he is no longer mentally ill.
18 Where such discharges or releases are granted as indi-
19 cated in sections one, two and three above, the super-
20 intendent of the hospital shall report the same to the
21 board of control and to the county clerk of the county of
22 which the patient is a resident.

Sec. 4. Readmission of Patients.—While any patient is
2 out of the hospital on release or convalescent status (trial
3 visit), or released as unimproved, he may be at any time
4 readmitted to the hospital on the basis of the original
5 commitment. If there is reason to believe that it is to the
6 best interest of the patient to be hospitalized, the super-
7 intendent of the hospital may issue an order for the im-
8 mediate rehospitalization of the patient. This order shall
9 be sent to the mental hygiene commission of the county
10 wherein the patient is a resident or present. Any indi-
11 vidual member of said commission at any time may,
12 endorse this order and authorize any health or police
officer to take the patient into custody and transport him
to the hospital where the order originated.

Sec. 5. Return of Escapees; Veterans.—If any person
confined in a state hospital escape therefrom, the super-
intendent thereof shall issue a notice, giving the name
and description of the person escaping, and requesting
his apprehension and return to the hospital, and may
offer such reward for the return of such person as the
board of control may authorize. The superintendent may
issue a warrant directed to the sheriff of the county, com-
manding him to arrest and carry such escaped person
back to the hospital, which warrant the sheriff may
execute in any part of the state. If such person flee to
another state, the superintendent shall notify the board
of control, and the board shall take such action as it may
deeem proper in the premises for the return of such person
to the hospital.

If any veteran duly committed to a veterans hospital
or other veterans institution, either within or without the
state, escape or elope therefrom and any person make
complaint, under oath, to the clerk of the county court
of the county from which such veteran was so committed, giving such information and stating such facts therein as may be required, or if any veteran duly committed to a veterans hospital or other veterans institution, either within or without the state, escape or elope therefrom and the superintendent or chief officer of such hospital or institution issue notice to the clerk of the county court of the county from which such veteran was so committed, giving the name and description of such veteran and requesting his apprehension and return to such hospital or institution, the clerk, upon receipt of such complaint or of such notice, may issue a warrant directed to the sheriff of the county commanding him to arrest and carry such veteran back to such hospital or institution, which warrant the sheriff may execute in any part of the state.

The sheriff or other person making any arrest under this section shall be paid such compensation as is provided for like services in other cases, and such additional compensation in any case as the board of control may think reasonable and just.

The foregoing provisions shall likewise apply to any
veteran released from a veterans hospital or other veterans institution, either within or without the state, on trial visit or on parole whose conduct becomes such as to warrant his return to such hospital or institution.

Article 8. Maintenance of Mentally Ill Patients.

Section 1. Maintenance of Patients; Reimbursement.—

The cost of the maintenance of patients admitted to the state mental institutions shall be paid out of funds appropriated for the respective institutions, but the institutions, through the board of control, shall have a right of reimbursement for all or any part of such maintenance, in no case to exceed two dollars per day, from each patient or from the committee or guardian of the estate of the patient, or if that be insufficient, then from the patient's husband, wife, children, father and mother, or any of them. If a relative so liable does not reside in this state and has no estate or debts due him within the state by means of which the liability can be enforced against him, the other relatives shall be liable as provided by this section. In exercising this right of reimbursement the board of control may, whenever it is deemed just and
expedient to do so, exonerate any person chargeable with such maintenance from the payment thereof in whole or in part, if it finds that he is unable to pay or that payment would work an undue hardship on him or on those dependent upon him.

There shall be no discrimination on the part of the institution as to food, care, protection, treatment or re habilitation, between patients who pay for their maintenance and those who are unable to do so.

The provisions of this section apply only to the state mental hospitals proper, and not to the clinics attached thereto.

It shall be the responsibility of the board of control to determine the ability of the patient or of his relatives to pay for his maintenance.

Sec. 2. When and How Counties to Pay.—If the state mental institution is unable to collect a minimum of fifty dollars per annum toward the maintenance of a patient, whether on a voluntary or involuntary status, the county of which the patient is a resident shall annually pay into the state treasury for credit to the appropriate institution
the difference between the amount, if any, collected by
the institution and the sum of fifty dollars.

At every levy term of each county court it shall esti-
mate for and levy a sufficient amount to meet all such
expenses. The superintendent of such hospital, on or
before the tenth day of January of each year, shall certify
to the auditor a list of all the patients in the hospital
during the whole or any part of the preceding year for
which the counties are to pay, showing on such list under
the name of the county, the number from each county
and length of time he was in said hospital during the
year, and showing the amount due from each county for
each patient, and the total amount due from each county
for the year. As soon as such list is received by the
auditor he shall charge to each county the amount appear-
ing to be due from the certificates of the superintendents.

Within ten days after the receipt of such certificates the
auditor shall make out a copy thereof for each county
and certify the same to the county court thereof, which
list shall show the name of each patient in such hospital
from the county during the year, the length of time he
was in such hospital during the year, the amount charged 
for each patient, and the total amount charged on account 
of all such patients from the county; and such total 
amount shall constitute a debt against the county due the 
state. Whenever there is in the state treasury a sum of 
money due any county from any source, the same shall 
be at once applied on the debt aforesaid against the 
county, and the fact of such application of such fund 
shall be reported by the auditor to the county court of 
the county, which report shall be a receipt for the amount 
therein named.

Sec. 3. Care of Patients in Boarding Homes.—The board 
of control may, upon the recommendation of the super-
intendent of the institution, provide care in a suitable 
boarding home for any patient in a state mental institu-
tion, if the condition of the patient is such that his and 
the public welfare will not be prejudiced thereby. A 
patient in a boarding home shall be deemed to be a 
patient of the institution from which he was removed 
and shall, on the approval of the superintendent, be 
placed under the supervision of a psychiatric social work-
er employed by the institution. All patients in such homes shall be visited at least once every three months, and if upon the visitation they are found to be abused, neglected or improperly cared for, they shall be returned to the institution or placed in a better boarding home. The cost of the boarding home care shall be paid by the institution from which he was removed.

Article 9. Private Hospitals.

Section 1. Permit from Board of Control; Regulations.

—No private hospital for the care and treatment of mentally ill persons for compensation shall be established unless a permit therefor shall be first obtained from the board of control. The application for such permit shall be accompanied by a plan of the premises to be occupied, and with such other data and facts as the board may require. The board of control may make such terms and regulations in regard to the conduct of such hospital as it may think proper and necessary. The board of control, or any member thereof, or any person authorized by the board to so do, shall have full authority to investigate and inspect such private hospital; and the board of control
14 may revoke the permit of any such hospital for good
15 cause, after reasonable notice to the superintendent or
16 other person in charge thereof.

Article 10. West Virginia Training School.

Section 1. Persons Who May be Admitted.—There shall
2 be admitted to the West Virginia Training School any
3 person mentally ill from birth or from an early age, so
4 pronounced that he is unable to care for himself and man-
5 age his affairs with ordinary prudence and who, because
6 of such mental illness, is a menace to the happiness and
7 welfare of himself or others in the community, and re-
8 quires care, training or control for the protection of him-
9 self or of others. This type of person is usually classified
10 as a mental defective. Should the school at any time not
11 be able to accommodate all persons of such class offered
12 for admission, preference in admission shall be given to
13 children between the ages of seven and fourteen years,
14 inclusive, who are capable of being trained and of attend-
15 ing to their own physical needs. No deaf or blind per-
16 sons shall be admitted.

Sec. 2. Proceedings for Commitment.—Mental defec-
tives shall be admitted to said school in the following manner:

(a) The county mental hygiene commission shall have jurisdiction of all applications for commitment of persons to said school. Any relative of a person affected may make application, by complaint under oath, to have the person adjudged a mental defective; but when the relatives of a mental defective person either neglect or refuse to place such person in said school, or in some private institution of like nature, and shall permit him or her to go at large, then any reputable citizen of the county may, by complaint under oath, make application to the mental hygiene commission for such commitment; and such complaint shall not be subject to exception for defects of form. When application is filed for commitment of an alleged mentally defective person, the commission shall appoint two physicians to examine such person and determine whether or not he is mentally defective. Both these physicians shall be selected as being the most capable physicians available because of knowledge of and training in mental medicine, and neither of them shall be
related in any wise to the person sought to be committed.

(b) Where any court of the state has on trial before it a prisoner for an offense, and the judge shall have cause to believe that the prisoner is mentally defective, he may appoint two physicians as aforesaid to examine the prisoner, to ascertain whether or not he is in reality mentally defective; and if such physicians shall pronounce the prisoner to be mentally defective, the judge may commit him to said school.

In either of the cases named above, the physicians making the examination shall be required to make a complete and thorough examination, both mental and physical, and shall be required to make to the commission or court appointing them a certificate as to their findings in the matter. This certificate shall be in the form prescribed by the West Virginia board of control, and shall be made in duplicate, one copy of the same being sent with the patient when committed to the school, and the other copy being filed with the commission or court committing such person; and it shall be the duty of the superintendent of
said school to refuse admission of any person unless he or
she shall present a copy of such certificate.

The commission or court, by order, shall designate some
reputable person to convey such mentally defective per-
son to the school and to protect such person until such
time as he or she can be conveyed to the institution. When
any female is taken to the school, a female attendant shall
be provided.

All expenses connected with the commitment of per-
sons hereunder and conveying of such mentally defective
person to the school shall be borne by the county of which
such person is a resident.

Sec. 3. Training and Treatment of Inmates.—The train-
ing and treatment of persons admitted to the school shall
be along such educational, medical and industrial lines
as have proved most effective in approved institutions for
mental defectives. The medical staff of such institution,
and the medical staffs of Weston, Spencer and Huntington
state hospitals, are hereby authorized to administer such
medical treatment and perform such surgical operations
for the inmates therein as may be necessary and expedient
for the cure and prevention of mental defectiveness or disease.

Sec. 4. Discharge or Parole of Inmates.—When, in the judgment of the superintendent of the school, a patient or inmate thereof shall, under the treatment and training given therein, improve mentally and physically to such an extent as to no longer constitute a menace to himself or herself or others, the superintendent shall have the right, and it shall be his duty, to discharge or parole such person, under such rules and regulations as the board of control may prescribe.

Sec. 5. Name of Site “Spring Run.”—The name of the site of the “West Virginia Training School” shall hereafter be known as “Spring Run.”

Article 11. Committee; Disposition of Property.

Section 1. To be Appointed by County Court.—When a person is found to be mentally ill by any court or by the county mental hygiene commission, or is committed to a state hospital by the county court, the county court shall appoint a committee for him.

Sec. 2. Bond; Refusal to Act or Failure to Qualify; Ap-
pointment of Another; Committal to Sheriff.—The county court, when making the appointment of such committee, shall take from him a bond in such penalty and with such surety as it shall deem sufficient, with condition that the person so appointed will well and truly account for and pay over to the person entitled thereto all property and moneys which may come into his hands by virtue of such appointment, and with such other conditions as the court may require. If any person so appointed as committee refuse the trust or shall fail for ten days succeeding his appointment to give bond as aforesaid, the court, on the motion of any party interested, or at its own instance, may appoint some other person as committee, taking from him bond as above provided, or may commit the estate of such mentally ill person to the sheriff of the county, who shall act as such committee without giving any bond as such, and he and the sureties on his official bond shall be liable for the faithful performance of the trust.

Sec. 3. Appraisement of Estate.—The county court, whenever any committee is appointed for a mentally ill person, shall appoint appraisers and cause to be made,
returned and recorded an appraisement of the property, both real and personal, of any such person in the same manner, to the same extent, within the same time, and subject to the same regulations and conditions as required by law for the estate of a deceased person.

Sec. 4. *Powers and Duties Generally.*—The committee of any such person shall be entitled to the custody and control of his person when he resides in the state and is not confined in a state hospital or in jail, and shall take possession of his estate, and may sue or be sued in respect thereto, and for the recovery of debts due to and from such person. He shall preserve such estate and manage it to the best advantage; shall apply the personal estate, or so much thereof as may be necessary, to the payment of the debts of such person, and the rents and profits of the residue of his estate, real and personal, and the residue of the personal estate, or so much as may be necessary, to the maintenance of such person, and of his family, if any; and shall make due accounting as required by law, and surrender the estate, or as much as he may be accountable for, to such person in case he shall be restored
to sanity, or, in case of his death without having been restored to sanity, the real estate to his heirs or devisees, and the personal estate to his executors or administrators.

Sec. 5. Mortgage, Lease or Sale of Realty.—If the personal estate of such mentally ill person be insufficient for the discharge of his debts, or if such estate or the residue thereof after payment of the debts, and the rents and profits of his real estate, be insufficient for his maintenance and that of his family, if any, the committee of such mentally ill person may proceed, as provided in article one, chapter thirty-seven of this code, to obtain authority to mortgage, lease or sell so much of the real estate of such mentally ill person as may be necessary for the purposes aforesaid, or any of them; setting forth in the bill or petition the particulars and the amount of the estate, real and personal, the application which may have been made of any personal estate, and an account of the debts and demands existing against the estate.

Article 12. Offenses.

Section 1. Malicious Making of Medical Certificate or Complaint as to Sanity.—Any physician who shall sign a
3 certificate respecting the sanity of any person without
4 having made the examination as provided for by this
5 chapter, or shall make any statement in any such certifi-
6 cate maliciously for the purpose of having such person
7 declared mentally ill, and any person who shall malici-
8 ously make application to any mental hygiene com-
9 mission or other tribunal for the purpose of having another
10 person declared mentally ill, shall be guilty of a mis-
11 demeanor, and upon conviction thereof, shall be fined not
12 exceeding five hundred dollars, or imprisoned not exceed-
13 ing one year, or both fined and imprisoned at the discre-
14 tion of the court.

Sec. 2. Trespass on Grounds of Hospital or Training
2 School.—The enclosed premises and the lands adjoining
3 the same belonging to any one of said state hospitals or
4 training school, are hereby declared private grounds; and
5 if any person be found thereon without authority or per-
6 mission or good excuse, he shall be deemed a trespasser,
7 and on conviction thereof, shall be fined not exceeding
8 twenty-five dollars; and if it shall appear that he was
9 thereon for any unlawful or immoral purpose, in addition
to being so fined, he shall be imprisoned not exceeding sixty days.

Sec. 3. Miscellaneous Offenses.—If any person shall entice any patient from any of said hospitals who has been legally committed thereto, or attempt to do so; or shall counsel, cause, influence or assist, or attempt to do so, any such patient to escape or attempt to escape therefrom, or harbor or conceal any such patient who has escaped therefrom; or shall, without the permission of the superintendent of any such hospital, give or sell to any such patient, whether on the premises thereof or elsewhere, any money, firearms, drugs, cigarettes, tobacco, or any other article whatever; or shall receive from the hands of any such patient anything of value, whether belonging to the state or not; or shall cause or influence, or attempt to cause or influence, any such patient to violate any rule or to rebel against the government or discipline of such institution; or shall tease, pester, annoy, or molest any such patient, he shall be guilty of a misdemeanor, and on conviction thereof, shall be fined not less than ten nor more than one hundred dollars, or im-
prisoned not exceeding six months, or, in the discretion of the court, both fined and imprisoned. If any person shall aid or abet the commission of any of the foregoing offenses, or aid or abet an attempt to commit the same, he shall be guilty the same as if he were the principal, and be punished as above provided. In the trial of an indictment for committing any of the above named offenses, the accused may be found guilty of an attempt to commit the same, or of aiding or abetting another in committing or in an attempt to commit the same. If any person, not her husband, shall have sexual intercourse with any female patient who is an inmate of any of said hospitals, he shall be guilty of a felony, and on conviction thereof, shall be confined in the penitentiary not less than ten nor more than fifteen years; and if such female patient be under sixteen years of age, he shall be imprisoned not less than ten nor more than twenty years.

Article 13. Laws Repealed; Constitutionality.

Section 1. Laws Repealed.—All other laws or parts of law inconsistent with the provisions of this chapter are hereby repealed to the extent of any such inconsistency.
Sec. 2. Constitutionality.—If any section, subsection, subdivision, paragraph, sentence or clause of this chapter is held invalid or unconstitutional, such decision shall not affect the remaining portions of this chapter.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 16 day of March, 1955.

Governor

Filed in the Office of the Secretary of State of West Virginia, MAR 17, 1955.

D. Pitt O'Brien
SECRETARY OF STATE