

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955



ENROLLED

HOUSE BILL No. 228

(By Mr. Evile)



PASSED Nov 10 1955

In Effect 90 days from Passage

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

D. PITT O'BRIEN
SECRETARY OF STATE

ENROLLED
COMMITTEE SUBSTITUTE FOR
House Bill No. 228

(Originating in the Committee on the Judiciary)

[Passed March 10, 1955; in effect ninety days from passage.]

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That chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by repealed; and that a new chapter of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be enacted, to be designated chapter twenty-seven, to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

5 the Weston state hospital, Spencer state hospital, Hunt-
6 ington state hospital, Barboursville state hospital, Lakin
7 state hospital and the West Virginia training school. Said
8 hospitals shall be managed, directed and controlled by the
9 West Virginia board of control as prescribed in article
10 one, chapter twenty-five of the code, and further as pro-
11 vided in this chapter.

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

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

Sec. 4. *Forms for Committing Patients; Other Records.*

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

6 Whenever a patient is transferred from one state mental
7 hospital to another, his complete record shall be for-
8 warded to the hospital to which the patient is being trans-
9 ferred.

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

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

12 The name of a person so registered shall not be made

13 public, nor shall the register be accessible to anyone ex-
14 cept by order of the board of control or by order of the
15 judge of a court of record.

Article 3. Mental Hygiene Commissions.

Section 1. *County Mental Hygiene Commission.*—There
2 shall be in each county a mental hygiene commission of
3 three members, to be composed of any member of the
4 county court, the prosecuting attorney and/or an assistant
5 prosecuting attorney designated by the prosecuting attor-
6 ney and approved by the county court, and the clerk of
7 the county court and/or a deputy clerk designated by the
8 clerk of the county court and approved by the county
9 court, who shall serve as such without compensation, ex-
10 cept for traveling and other necessary expenses incurred
11 in the discharge of their duties as members of the com-
12 mission, which expenses shall be audited by the county
13 court and paid out of the county treasury. A member of
14 the county court shall be the chairman of the commission.
15 In the absence of a county court member, the prosecuting
16 attorney and/or his designated assistant as herein pro-
17 vided, shall act as such chairman. The clerk of the county

18 court and/or his designated deputy shall be the clerk of
19 the commission and shall keep in a proper book provided
20 for the purpose a full and careful record of all the acts,
21 orders and resolutions of the commission. Any two mem-
22 bers from different offices represented on the commission
23 shall be a quorum thereof. The county court of each
24 county shall at its first term of court of each year enter
25 an order designating the persons eligible to sit as members
26 of the county mental hygiene commission.

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

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

Article 4. Voluntary Hospitalization.

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

Sec. 2. *Release of Voluntary Patients.*—The superin-
2 tendent of the hospital shall release any voluntary patient
3 who has recovered or whose hospitalization he deter-
4 mines to be no longer advisable. He may also release
5 any voluntary patient if to do so, in the judgment of the
6 superintendent, would contribute to the more effective
7 use of the hospital in the care and treatment of the men-
8 tally ill.

9 Such a voluntary patient may at any time request his re-
10 lease by giving to the superintendent verbal notice of his

11 desire to leave; or the guardian, committee, parent, spouse
12 or adult next-of-kin of such voluntary patient may make
13 such request at any time by giving to the superintendent
14 notice in writing of the patient's desire to leave. The
15 superintendent shall, within forty-eight hours after the
16 receipt of this notice, grant the request unless upon ex-
17 amination the superintendent of the hospital and his staff
18 have determined that the patient is mentally ill and re-
19 quires further hospitalization. If such determination is
20 made, the superintendent of the hospital shall forthwith
21 forward to the clerk of the county court of the county in
22 which such person is a resident a detailed report of their
23 examination, which report shall immediately be pre-
24 sented to the mental hygiene commission of said county.
25 Such commission shall give full faith and credit to this
26 report, and if satisfied that such person is mentally ill,
27 shall issue an order legally committing the mentally ill
28 person to the hospital making the report, as though the
29 person had been brought before it. All expenses incurred
30 in this proceeding, as well as the hospitalization of the

31 mentally ill person, shall be borne by the county of
32 which he is a resident.

Article 5. Involuntary Hospitalization.

Section 1. *Hospitalization of Mentally Ill Persons by*
2 *County Mental Hygiene Commission.*—If any individual
3 in the county reasonably suspects any person therein to
4 be mentally ill, he may make complaint under oath to
5 the clerk of the county court, giving such information and
6 stating such facts therein as may be required, and de-
7 liver the same to the clerk of the county court, whose
8 duty it shall be to issue a warrant ordering the person
9 suspected and named in such complaint to be brought
10 before the commission at the time and place named
11 therein, that his mental condition may be inquired into.
12 If the clerk of the county court does not deem such sus-
13 picion to be reasonable, he may require such complainant
14 to furnish the certificate of a reputable physician showing
15 the suspected person's condition, before issuing a war-
16 rant. Any member of the commission without such com-
17 plaint may have such warrant issued for any person found
18 in his county whom he shall suspect to be mentally ill.

19 All such warrants shall be signed by the clerk of the
20 county court and have impressed thereon the seal thereof,
21 and may be addressed to the sheriff of the county or to
22 any constable of any district thereof, or to a special con-
23 stable appointed for the purpose and named therein; but
24 if any relative or friend of the person so suspected will
25 serve such warrant and cause such suspected person to
26 be brought before the commission, he may be allowed
27 to do so. The officer or person to whom the warrant is
28 addressed shall take the suspected person into custody
29 and bring him before the commission at the time and
30 place named therein.

Sec. 2. *Guardian ad Litem for Suspected Person.*—

2 Before proceeding with the hearing of the matter, the
3 commission shall appoint a guardian ad litem, who shall
4 be a competent attorney, for such suspected person, and
5 such guardian shall be present at the hearing and man-
6 age the case on behalf of the person suspected. Such
7 attorney shall be paid by the county court. Such sus-
8 pected person and his counsel shall have the right to
9 cross-examine any witnesses.

Sec. 3. *Witnesses.*—The proposed patient, the petitioner
2 and all other persons interested, shall be afforded an op-
3 portunity to appear at the hearing, to testify and to pre-
4 sent and cross-examine witnesses, and the commission
5 may in its discretion receive the testimony of any other
6 person. Among the witnesses there shall be included
7 two reputable physicians duly authorized to practice
8 medicine in this state, who shall separately or together
9 make a mental examination of the suspected person, pre-
10 ferably before the hearing, and each physician shall make
11 out a certificate of the result of such examination, which
12 certificate shall be signed and sworn to by each physician
13 and shall be considered as evidence by the commission.
14 Not more than one physician of any firm or association
15 of physicians practicing medicine together shall sign any
16 such certificate respecting the mental condition of any
17 person suspected of being mentally ill.

18 The proposed patient shall not be required to be present
19 at this hearing unless it is deemed advisable by the com-
20 mission to better protect his interest. All persons not
21 necessary for the conduct of the proceedings shall be ex-

22 cluded, and the hearing shall be conducted in as informal
23 a manner as may be consistent with orderly procedure
24 and in a physical setting not likely to have a harmful
25 effect on the mental health of the proposed patient. The
26 commission shall receive all relevant and material evi-
27 dence which may be offered and shall not be bound by
28 the rules of evidence.

Sec. 4. *Disposition of Mentally Ill Persons.*—If, upon
2 completion of the hearing and consideration of the record,
3 the commission finds that the proposed patient (1) is
4 mentally ill, and (2) because of his illness is likely to
5 injure himself or others if allowed to remain at liberty, or
6 (3) is in need of custody, care or treatment in a mental
7 hospital and because of his illness lacks sufficient insight
8 or capacity to make responsible decisions with respect
9 to his hospitalization, and (4) is a resident of the county
10 in which the hearing is held, it shall order his hospitaliza-
11 tion for an indeterminate period or for a temporary ob-
12 servation period not exceeding six months; otherwise, it
13 shall dismiss the proceeding. An order for an indetermi-
14 nate period relieves the patient of legal capacity. If the

15 order is for a temporary period, the commission may at
16 any time prior to the expiration of such period, on the
17 basis of report by the head of the hospital and such fur-
18 ther inquiry as it may deem appropriate, order inde-
19 terminate hospitalization of the patient or dismissal of the
20 proceeding. If the commission orders hospitalization of
21 the patient, it will notify the county health officer, who
22 may make a study of the patient's family and environ-
23 ment and report his findings to the superintendent of the
24 hospital receiving the patient.

25 In lieu of ordering the patient to a mental hospital, the
26 commission may order him delivered to some relative or
27 friend who will agree to take care of him, and take from
28 such relative or friend a bond in the penalty of at least
29 five hundred dollars, with sufficient security to be ap-
30 proved by the commission, payable to the state of West
31 Virginia, with condition to restrain and take proper care
32 of such person until the further order of the commission.
33 But if the person found to be a mentally ill person is
34 not dangerous to himself or to others, or is found harm-
35 less, he may be delivered to any relative or friend who

36 will agree to take proper care of him without such bond
37 if, in the judgment of the commission, the same may be
38 proper.

39 If the person found to be mentally ill by the commission
40 is a resident of another county of this state, a transcript
41 of the evidence adduced at the hearing of such person,
42 properly certified by the clerk of the county court, shall
43 forthwith be forwarded to the county of which such per-
44 son is a resident, who shall immediately present such
45 transcript to the mental hygiene commission of said
46 county. Such commission shall give full faith and credit
47 to the evidence contained in such transcript, and, if satis-
48 fied that such person is mentally ill, shall order the per-
49 son to be committed to one of the state hospitals for the
50 mentally ill, as though the person had been brought be-
51 fore it in the first instance. This order shall be trans-
52 mitted forthwith to the county clerk of the county in
53 which the hearing was held, who shall execute said order
54 promptly. All expenses incurred in this proceeding, as
55 well as for the hospitalization of the mentally ill person,
56 shall be borne by the county of which he is a resident.

57 If the person found to be mentally ill by the commis-
58 sion is a resident of another state, this information shall
59 be forthwith given to the board of control, which shall
60 make arrangements for his transfer to his native state.

Sec. 5. *Transportation; Temporary Detention.*—When-
2 ever an individual is about to be hospitalized under the
3 provisions of section four, the commission shall, upon
4 the request of a person having a proper interest in the
5 individual's hospitalization, permit such person to ar-
6 range for the individual's transportation to the hospital
7 by such means as may be suitable for his mental condi-
8 tion. In lieu of such request, the commission may deliver
9 the patient to the hospital in any manner it may deem
10 proper.

11 Pending his removal to a hospital, a person taken into
12 custody or ordered to be hospitalized may be detained in
13 his home, a licensed foster home, or any other suitable
14 facility provided by the county court; but he shall not,
15 except because of lack of such facilities or because of an
16 extreme emergency, be detained in a non-medical facility
17 used for the detention of individuals charged with or con-

18 victed of penal offenses. The county health officer, in
19 conjunction with the commission, may take such reason-
20 able measures, including provisions of medical care, as
21 may be necessary to assure proper care of an individual
22 temporarily detained pursuant to this section.

Sec. 6. *Emergency Procedure.*—Any health or police
2 officer who has reason to believe that an individual is
3 mentally ill and, because of his illness is likely to injure
4 himself or others if allowed to remain at liberty pending
5 a hearing before a mental hygiene commission, may with
6 the help of other persons requested to assist him, take
7 the individual into custody with or without a warrant,
8 apply to a hospital for his admission and transport him
9 thereto. The application for admission shall state the
10 circumstances under which the individual was taken into
11 custody, and the reasons for the officer's belief. The su-
12 perintendent of the hospital admitting the individual shall
13 forthwith examine him, and if he is found to be mentally
14 ill, shall forward forthwith to the clerk of the county
15 court of the county in which such hospital is located a
16 detailed report of this examination, which report shall

17 immediately be presented to the mental hygiene com-
18 mission of said county. The commission shall thereupon,
19 and with the greatest possible expedition, cause a hearing
20 to be held, as provided in this article, except that no
21 warrant shall be necessary, for the purpose of inquiring
22 into the mental condition of such patient. Such com-
23 mission shall consider the detailed report submitted by
24 the superintendent along with any other evidence which
25 may be introduced at the hearing. If, after such hearing,
26 the commission be satisfied that the suspected person is
27 mentally ill, it shall forward a transcript of the evidence
28 adduced at the hearing of such person, properly certified
29 by the clerk of the county court of the county wherein
30 the matter was heard, to the county clerk of the county
31 of which such suspected person is a resident, who shall
32 immediately present such transcript to the mental hygiene
33 commission of such county; otherwise such person shall
34 forthwith be released. Such commission shall give full
35 faith and credit to the evidence contained in the trans-
36 cript, and, if satisfied that such person is mentally ill,
37 shall order the person to be committed to the state hospital

38 to which he was admitted, as though the person had been
39 brought before it in the first instance. All expenses in-
40 curred in this proceeding, as well as for the hospitaliza-
41 tion of the mentally ill person, shall be borne by the
42 county of which he is a resident.

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

Section 1. *Commitment of Inebriates; Definition.*—The
2 word “inebriate”, whenever used in this chapter, shall be
3 construed to mean any person over the age of eighteen
4 years who is incapable or unfit to properly conduct him-
5 self or herself, or his or her affairs, or is dangerous to
6 himself or herself or others, by reason of periodical, fre-
7 quent or constant drunkenness, induced either by the
8 use of alcoholic or other liquors, or of opium, morphine,
9 or other narcotic or intoxicating or stupefying substance.
10 If any individual in a county reasonably suspects any
11 person therein to be an inebriate, he may make complaint
12 under oath to the clerk of the county court, giving such
13 information and stating such facts therein as may be
14 required, and he shall further furnish to said clerk the

15 certificate of a reputable physician showing the condition
16 of such suspected person. This complaint and certificate
17 shall be delivered to the clerk of the county court, whose
18 duty it shall be to issue a warrant ordering the person
19 suspected and named in such complaint and certificate to
20 be brought before the county mental hygiene commission
21 at a time and place named therein so that his condition
22 may be inquired into. All such warrants shall be signed
23 by the clerk of the county court and have impressed
24 thereon the seal thereof; and may be addressed to the
25 sheriff of the county or to any constable of any district
26 thereof, or to a special constable appointed for the pur-
27 pose and named therein; but if any relative or friend of
28 the person so suspected will serve such warrant and cause
29 such suspected person to be brought before the commis-
30 sion, he may be allowed to do so. The officer or person to
31 whom the warrant is addressed shall take the suspected
32 person into custody and bring him or her before the com-
33 mission at the time and place named therein.

34 Whenever a person apparently an inebriate is so violent
35 as to endanger his or her own safety, or the safety of

36 others, any law enforcement officer may, with or without
37 a warrant, take such person into protective custody.

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

Sec. 2. *Commitment and Admission of Criminally Men-*
2 *tally Ill Persons.*—If any person charged with or convicted
3 of crime be found, in the court before which he is charged
4 or was convicted, to be mentally ill, and if such court

5 shall order him to be confined in one of the state hospitals,
6 he shall be received and confined in it. The sheriff or
7 other officer of the court by which the order is made shall
8 immediately proceed to ascertain whether a vacancy ex-
9 ists in a state hospital; and until it is ascertained that
10 there is a vacancy, such person shall be kept in the jail
11 of the county of such court.

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

8 When any person convicted of a crime and sentenced
9 to the penitentiary confined in a state hospital shall have
10 recovered from such mental illness, he shall be forthwith
11 returned to prison. Any time spent in such hospital shall
12 be computed as part of the term for which he was sen-
13 tenced. 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;
Escapes.**

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

9 end of a year on convalescent status, and not less fre-
10 quently than annually thereafter, the superintendent of
11 the hospital shall reexamine the facts relating to the
12 hospitalization of the patient on convalescent status and
13 consider any further facts regarding the patient's mental
14 health during such convalescence, and if he determines
15 that in view of the condition of the patient hospitalization
16 is no longer necessary, he shall discharge the patient.

Sec. 3. *Released as Unimproved.*—The superintendent
2 of a hospital may release a patient as unimproved when
3 the patient's family or friends, or committee or guardian,
4 or other responsible persons, request his release and are
5 willing and able to take proper care of said patient outside
6 the hospital, taking from such relative, friend, committee,
7 guardian or responsible person a bond in the penalty of at
8 least five hundred dollars, with sufficient security to be
9 approved by the superintendent, payable to the state of
10 West Virginia, conditioned to restrain and take proper
11 care of such patient until the further order of the super-
12 intendent. Reports shall be made by those in charge of
13 said patient at least once every six months to the super-

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

13 officer to take the patient into custody and transport him
14 to the hospital where the order originated.

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

16 If any veteran duly committed to a veterans hospital
17 or other veterans institution, either within or without the
18 state, escape or elope therefrom and any person make
19 complaint, under oath, to the clerk of the county court

20 of the county from which such veteran was so committed,
21 giving such information and stating such facts therein
22 as may be required, or if any veteran duly committed to a
23 veterans hospital or other veterans institution, either
24 within or without the state, escape or elope therefrom and
25 the superintendent or chief officer of such hospital or
26 institution issue notice to the clerk of the county court
27 of the county from which such veteran was so committed,
28 giving the name and description of such veteran and re-
29 questing his apprehension and return to such hospital or
30 institution, the clerk, upon receipt of such complaint or
31 of such notice, may issue a warrant directed to the sheriff
32 of the county commanding him to arrest and carry such
33 veteran back to such hospital or institution, which war-
34 rant the sheriff may execute in any part of the state.

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

40 The foregoing provisions shall likewise apply to any

41 veteran released from a veterans hospital or other vet-
42 erans institution, either within or without the state, on
43 trial visit or on parole whose conduct becomes such as to
44 warrant his return to such hospital or institution.

Article 8. Maintenance of Mentally Ill Patients.

Section 1. *Maintenance of Patients; Reimbursement.*—

2 The cost of the maintenance of patients admitted to the
3 state mental institutions shall be paid out of funds ap-
4 propriated for the respective institutions, but the institu-
5 tions, through the board of control, shall have a right of
6 reimbursement for all or any part of such maintenance,
7 in no case to exceed two dollars per day, from each
8 patient or from the committee or guardian of the estate
9 of the patient, or if that be insufficient, then from the
10 patient's husband, wife, children, father and mother, or
11 any of them. If a relative so liable does not reside in this
12 state and has no estate or debts due him within the state
13 by means of which the liability can be enforced against
14 him, the other relatives shall be liable as provided by this
15 section. In exercising this right of reimbursement the
16 board of control may, whenever it is deemed just and

17 expedient to do so, exonerate any person chargeable with
18 such maintenance from the payment thereof in whole or
19 in part, if it finds that he is unable to pay or that payment
20 would work an undue hardship on him or on those de-
21 pendent upon him.

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

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

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

Sec. 2. *When and How Counties to Pay.*—If the state
2 mental institution is unable to collect a minimum of fifty
3 dollars per annum toward the maintenance of a patient,
4 whether on a voluntary or involuntary status, the county
5 of which the patient is a resident shall annually pay into
6 the state treasury for credit to the appropriate institution

7 the difference between the amount, if any, collected by
8 the institution and the sum of fifty dollars.

9 At every levy term of each county court it shall esti-
10 mate for and levy a sufficient amount to meet all such
11 expenses. The superintendent of such hospital, on or
12 before the tenth day of January of each year, shall certify
13 to the auditor a list of all the patients in the hospital
14 during the whole or any part of the preceding year for
15 which the counties are to pay, showing on such list under
16 the name of the county, the number from each county
17 and length of time he was in said hospital during the
18 year, and showing the amount due from each county for
19 each patient, and the total amount due from each county
20 for the year. As soon as such list is received by the
21 auditor he shall charge to each county the amount appear-
22 ing to be due from the certificates of the superintendents.
23 Within ten days after the receipt of such certificates the
24 auditor shall make out a copy thereof for each county
25 and certify the same to the county court thereof, which
26 list shall show the name of each patient in such hospital
27 from the county during the year, the length of time he

28 was in such hospital during the year, the amount charged
29 for each patient, and the total amount charged on account
30 of all such patients from the county; and such total
31 amount shall constitute a debt against the county due the
32 state. Whenever there is in the state treasury a sum of
33 money due any county from any source, the same shall
34 be at once applied on the debt aforesaid against the
35 county, and the fact of such application of such fund
36 shall be reported by the auditor to the county court of
37 the county, which report shall be a receipt for the amount
38 therein named.

Sec. 3. *Care of Patients in Boarding Homes.*—The board
2 of control may, upon the recommendation of the super-
3 intendent of the institution, provide care in a suitable
4 boarding home for any patient in a state mental institu-
5 tion, if the condition of the patient is such that his and
6 the public welfare will not be prejudiced thereby. A
7 patient in a boarding home shall be deemed to be a
8 patient of the institution from which he was removed
9 and shall, on the approval of the superintendent, be
10 placed under the supervision of a psychiatric social work-

11 er employed by the institution. All patients in such
12 homes shall be visited at least once every three months,
13 and if upon the visitation they are found to be abused,
14 neglected or improperly cared for, they shall be returned
15 to the institution or placed in a better boarding home.
16 The cost of the boarding home care shall be paid by the
17 institution from which he was removed.

Article 9. Private Hospitals.

Section 1. *Permit from Board of Control; Regulations.*

2 —No private hospital for the care and treatment of men-
3 tally ill persons for compensation shall be established
4 unless a permit therefor shall be first obtained from the
5 board of control. The application for such permit shall
6 be accompanied by a plan of the premises to be occupied,
7 and with such other data and facts as the board may re-
8 quire. The board of control may make such terms and
9 regulations in regard to the conduct of such hospital as
10 it may think proper and necessary. The board of control,
11 or any member thereof, or any person authorized by the
12 board to so do, shall have full authority to investigate and
13 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-

2 tives shall be admitted to said school in the following
3 manner:

4 (a) The county mental hygiene commission shall have
5 jurisdiction of all applications for commitment of persons
6 to said school. Any relative of a person affected may make
7 application, by complaint under oath, to have the person
8 adjudged a mental defective; but when the relatives of
9 a mental defective person either neglect or refuse to
10 place such person in said school, or in some private in-
11 stitution of like nature, and shall permit him or her to
12 go at large, then any reputable citizen of the county may,
13 by complaint under oath, make application to the mental
14 hygiene commission for such commitment; and such com-
15 plaint shall not be subject to exception for defects of
16 form. When application is filed for commitment of an
17 alleged mentally defective person, the commission shall
18 appoint two physicians to examine such person and deter-
19 mine whether or not he is mentally defective. Both
20 these physicians shall be selected as being the most cap-
21 able physicians available because of knowledge of and
22 training in mental medicine, and neither of them shall be

23 related in any wise to the person sought to be committed.

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

32 In either of the cases named above, the physicians mak-
33 ing the examination shall be required to make a complete
34 and thorough examination, both mental and physical,
35 and shall be required to make to the commission or court
36 appointing them a certificate as to their findings in the
37 matter. This certificate shall be in the form prescribed
38 by the West Virginia board of control, and shall be made
39 in duplicate, one copy of the same being sent with the
40 patient when committed to the school, and the other copy
41 being filed with the commission or court committing such
42 person; and it shall be the duty of the superintendent of

43 said school to refuse admission of any person unless he or
44 she shall present a copy of such certificate.

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

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

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

10 for the cure and prevention of mental defectiveness or
11 disease.

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

Sec. 5. *Name of Site "Spring Run."*—The name of the
2 site of the "West Virginia Training School" shall here-
3 after be known as "Spring Run."

Article 11. Committee; Disposition of Property.

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

Sec. 2. *Bond; Refusal to Act or Failure to Qualify; Ap-*

2 *pointment of Another; Committal to Sheriff.*—The county
3 court, when making the appointment of such committee,
4 shall take from him a bond in such penalty and with such
5 surety as it shall deem sufficient, with condition that the
6 person so appointed will well and truly account for and
7 pay over to the person entitled thereto all property and
8 moneys which may come into his hands by virtue of such
9 appointment, and with such other conditions as the court
10 may require. If any person so appointed as committee
11 refuse the trust or shall fail for ten days succeeding his
12 appointment to give bond as aforesaid, the court, on the
13 motion of any party interested, or at its own instance,
14 may appoint some other person as committee, taking from
15 him bond as above provided, or may commit the estate
16 of such mentally ill person to the sheriff of the county,
17 who shall act as such committee without giving any bond
18 as such, and he and the sureties on his official bond shall
19 be liable for the faithful performance of the trust.

Sec. 3. *Appraisement of Estate.*—The county court,
2 whenever any committee is appointed for a mentally ill
3 person, shall appoint appraisers and cause to be made,

4 returned and recorded an appraisalment of the property,
5 both real and personal, of any such person in the same
6 manner, to the same extent, within the same time, and
7 subject to the same regulations and conditions as required
8 by law for the estate of a deceased person.

Sec. 4. *Powers and Duties Generally.*—The committee
2 of any such person shall be entitled to the custody and
3 control of his person when he resides in the state and is
4 not confined in a state hospital or in jail, and shall take
5 possession of his estate, and may sue or be sued in respect
6 thereto, and for the recovery of debts due to and from
7 such person. He shall preserve such estate and manage
8 it to the best advantage; shall apply the personal estate,
9 or so much thereof as may be necessary, to the payment
10 of the debts of such person, and the rents and profits of
11 the residue of his estate, real and personal, and the resi-
12 due of the personal estate, or so much as may be necessary,
13 to the maintenance of such person, and of his family, if
14 any; and shall make due accounting as required by law,
15 and surrender the estate, or as much as he may be ac-
16 countable for, to such person in case he shall be restored

17 to sanity, or, in case of his death without having been
18 restored to sanity, the real estate to his heirs or devisees,
19 and the personal estate to his executors or administrators.

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

Article 12. Offenses.

Section 1. *Malicious Making of Medical Certificate or*
2 *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 mali-
8 ciously 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

10 to being so fined, he shall be imprisoned not exceeding
11 sixty days.

Sec. 3. *Miscellaneous Offenses.*—If any person shall
2 entice any patient from any of said hospitals who has
3 been legally committed thereto, or attempt to do so; or
4 shall counsel, cause, influence or assist, or attempt to do
5 so, any such patient to escape or attempt to escape there-
6 from, or harbor or conceal any such patient who has
7 escaped therefrom; or shall, without the permission of
8 the superintendent of any such hospital, give or sell to
9 any such patient, whether on the premises thereof or
10 elsewhere, any money, firearms, drugs, cigarettes, tobacco,
11 or any other article whatever; or shall receive from the
12 hands of any such patient anything of value, whether
13 belonging to the state or not; or shall cause or influence,
14 or attempt to cause or influence, any such patient to vio-
15 late any rule or to rebel against the government or dis-
16 cipline of such institution; or shall tease, pester, annoy,
17 or molest any such patient, he shall be guilty of a mis-
18 demeanor, and on conviction thereof, shall be fined not
19 less than ten nor more than one hundred dollars, or im-

20 prisoned not exceeding six months, or, in the discretion
21 of the court, both fined and imprisoned. If any person
22 shall aid or abet the commission of any of the foregoing
23 offenses, or aid or abet an attempt to commit the same,
24 he shall be guilty the same as if he were the principal,
25 and be punished as above provided. In the trial of an
26 indictment for committing any of the above named of-
27 fenses, the accused may be found guilty of an attempt
28 to commit the same, or of aiding or abetting another in
29 committing or in an attempt to commit the same. If
30 any person, not her husband, shall have sexual intercourse
31 with any female patient who is an inmate of any of said
32 hospitals, he shall be guilty of a felony, and on conviction
33 thereof, shall be confined in the penitentiary not less than
34 ten nor more than fifteen years; and if such female patient
35 be under sixteen years of age, he shall be imprisoned not
36 less than ten nor more than twenty years.

Article 13. Laws Repealed; Constitutionality.

Section 1. *Laws Repealed.*—All other laws or parts of
2 law inconsistent with the provisions of this chapter are
3 hereby repealed to the extent of any such inconsistency.

Sec. 2. *Constitutionality*.—If any section, subsection,
2 subdivision, paragraph, sentence or clause of this chapter
3 is held invalid or unconstitutional, such decision shall not
4 affect the remaining portions of this chapter.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

W. T. Buchanan Jr
Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage

Howard Meyer
Clerk of the Senate

U. Blankenship
Clerk of the House of Delegates

Ralph Bean
President of the Senate

[Signature]
Speaker House of Delegates

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

William C. Marland
Governor



Filed in the Office of the Secretary of State
of West Virginia **MAR 17 1955**
D. PITT O'BRIEN
SECRETARY OF STATE