WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1965

ENROLLED

Committee substitute for
HOUSE BILL No. 584

(By Mr. Speaker, Mr. White, and Mr. Rainwater)

PASSED

Passed: January 13, 1965

In Effect: 60 days from Passage

FILED IN THE OFFICE OF
JOSEPH F. DUNN
SECRETARY OF STATE
THIS DATE 3-19-65
ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 586
(Originating in the Committee on the Judiciary)

[Passed March 13, 1965; in effect ninety days from passage.]

AN ACT to repeal article ten, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal articles one, four, five and six of said chapter twenty-seven and to enact in lieu thereof new articles one, four, five and six; and to amend and reenact sections one, two, four, five, six, seven, eight, nine and ten, article one-a; sections one, two, three, four and five, article two; section two, article three; sections one, three, four and five, article seven; article eight; section
one, article nine; sections, one, two, three and five, article eleven; article twelve, and section two, article thirteen, all of said chapter twenty-seven, relating to mentally ill and mentally retarded persons and inebriates; defining certain words and phrases; relating to the department of mental health; changing the name of the West Virginia training school to Colin Anderson center; relating to the state hospitals as therein defined; changing certain terminology; providing for the voluntary hospitalization of the mentally ill and mentally retarded; providing for the involuntary hospitalization of the mentally ill and mentally retarded on medical certification; providing an emergency procedure for the involuntary hospitalization of the mentally ill on medical certification; providing an emergency procedure for the involuntary hospitalization of the mentally ill without medical certification; providing a legal procedure for the involuntary hospitalization of the mentally ill and mentally retarded; providing for judicial review of an order of commitment to a state hospital entered by a mental hygiene commission; providing for an examination of newly admitted patients; providing
for hospitalization by an agency of the United States; providing for the commitment of inebriates by mental hygiene commissions; providing for the commitment and admission of criminally mentally ill persons and of the return of criminally mentally ill persons upon discharge from a state hospital; providing for the release, discharge and readmission of patients and of escapees; providing for the maintenance of mentally ill and mentally retarded patients; providing for the licensing of hospitals for the mentally ill and mentally retarded by the director of mental health; providing for the appointment of a committee for the mentally ill and mentally retarded; providing the duties of such committee; providing for certain offenses and penalties; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That article ten, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that articles one, four, five and six of said chapter twenty-seven be repealed, and new articles one, four, five and six be enacted in lieu thereof; that sections one, two, four, five, six, seven, eight, nine and ten, article one-a; sections one,
two, three, four and five, article two; section two, article three; sections one, three, four and five; article seven; article eight; section one, article nine; sections one, two, three and five, article eleven; article twelve, and section two, article thirteen, all of said chapter twenty-seven, be amended and reenacted, all to read as follows:

**Article 1. Words and Phrases Defined.**

**Section 1. Definitions for Purposes of Chapter.—**The following words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this article, unless the context clearly requires a different meaning.

**Sec. 2. Mentally Ill.—**A “mentally ill” person is one having a psychiatric or other disease which substantially impairs his mental health.

**Sec. 3. Mentally Retarded.—**A “mentally retarded” person is one having an inadequately developed or impaired intellect, and who because thereof is significantly disabled in his ability to learn and to adapt to the demands of society.
Sec. 4. Inebriate.—An “inebriate” person is any one 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.

Sec. 5. Physician.—A “physician” is a person licensed under the laws of this state to practice medicine or a medical officer of the government of the United States while in this state in the performance of his official duties.

Sec. 6. State Hospital.—A “state hospital” refers to Spencer state hospital, Lakin state hospital, Huntington state hospital, Barboursville state hospital, Weston state hospital, Colin Anderson center, and any other hospital, center, or institution, or part thereof, established, maintained, and operated by the state or by the state in conjunction with a political subdivision of the state to pro-
vide inpatient care and treatment for the mentally ill, or mentally retarded, or both.

Sec. 7. Superintendent.—A “superintendent” is the physician having the administrative responsibility for the state hospital.

Sec. 8. Resident of State and County.—A “resident of the state” is any person who has had an established residency in this state for at least one year, and a “resident of the county” is any person who has had an established residency in a county for at least sixty days.

Article 1-a. Department of Mental Health.

Section 1. Statement of Policy.—The purpose of this article is to improve the administration of the state hospitals, raise the standards of treatment of the mentally ill and mentally retarded in the state hospitals, encourage the further development of outpatient and diagnostic clinics, establish better research and training programs, and promote the development of mental health.

Sec. 2. Creation; Composition; Control of State Hospitals.—There shall be a state department of mental health, to be known as the department of mental health.
It shall be a corporation and, as such, shall have a seal and may contract and be contracted with. The department shall consist of a director of mental health, supervisors of divisions of the department, and such other employees as are needed to carry out its functions. The department shall supervise and control the state hospitals.

**Sec. 4. Powers and Duties of Director.**—The director shall appoint the superintendents of the state hospitals, shall supervise and coordinate their medical and fiscal administration, and may establish uniform policies for state hospitals. He may transfer a patient from any state hospital to any other state hospital or clinic under his control. By agreement between the director of mental health and the state commissioner of public institutions, a patient at a state hospital may be transferred to an institution, other than correctional, under the supervision of the state commissioner of public institutions. The director of mental health shall have all the authority vested in the divisions of the department, as hereinafter provided, and shall appoint the supervisors of those
divisions. He may prescribe rules and regulations to carry out his authority. The director shall make periodic reports to the governor and to the Legislature on the condition of the state hospitals and on other matters within his authority, and shall include recommendations for improvement of the state hospitals and any other matters affecting the mental health of the people of the state.

The director is hereby authorized and empowered to accept and use for the benefit of a state hospital or hospitals, or for any other mental health purpose specified in this chapter, any gift or devise of any property or thing which lawfully may be given. If such a gift or devise is for a specific purpose or for a particular state hospital or hospitals, it shall be used as specified, and the director is hereby vested with the title to the property which is or may be the subject of such gift or devise. Any gift or devise of any property or thing which lawfully may be given and whatever profit may arise from its use or investment shall be deposited in a special revenue fund with the state treasurer, and shall be used only as specified by the donor or donors.
Whenever it shall become necessary, the department of mental health may condemn any interest, right or privilege, land or improvement which in its opinion may be necessary, in the manner provided by law for the acquisition by this state of property for public purposes. The state shall be under no obligation to accept and pay for any property condemned, and shall in no event pay for the same except from the funds provided; and in any proceeding to condemn, such orders shall be made by the court having jurisdiction of the suit, action or proceedings as may be just to the state and to the owners of property to be condemned, and a bond or other security may be required by the court securing such owners against any loss or damage to be sustained by reason of the failure of the state to accept and pay for the property, but such bond or security shall impose no liability or debt on or of the state as contemplated by the provisions of the constitution of the state in relation to state debt.

Sec. 5. Division of Administration; Powers and Duties

of Supervisor.—There shall be a division of administra-
tion in the department of mental health. The supervisor of this division shall assist the director of the department in performing his general administrative duties, and shall also have the following powers and duties.

(1) To keep the records of the department, including records transferred from the board of control.

(2) To receive and disburse funds for the department.

(3) To assemble and analyze departmental budget estimates, review requests for transfer of funds, and maintain departmental appropriation and fiscal records.

(4) To make rules and regulations governing the administration and business management of the state hospitals, formulate standard fiscal procedures, and make recommendations for improvement; to make regulations concerning any superintendent's trustee fund heretofore established by authority of section three-a, article one, chapter twenty-five of the official code of West Virginia, one thousand nine hundred thirty-one, as amended.

(5) To have the responsibility for the maintenance of the land and buildings of state hospitals.

(6) To review requisitions for supplies and equip-
mand, and cooperate with the division of purchases in de-
velopment and drafting of specifications.

(7) To handle the personnel records of the department
and to process payrolls.

(8) To enter into contracts for the department.

(9) To develop a civil service system, based on merit
and including job classification and standardization, for
the professional employees of the department and of the
institutions and for any other employees thereof who
are not made subject to such a system by other provi-
ditions of law.

(10) To perform any other duties assigned to the divi-
sion by the director of the department.

Sec. 6. Division of Professional Services; Powers and
Duties of Supervisor; Liaison with Other State Agencies.
—There shall be a division of professional services in the
department of mental health. The supervisor of this divi-
sion shall act primarily in a consultant capacity and shall
make recommendations as to professional aspects of
state hospital management, but shall not exercise direct

supervision of the state hospitals. The supervisor shall have the following powers and duties:

(1) To carry on or stimulate research activities related to medical and psychiatric facilities of the department, and render specialized assistance to hospital superintendents.

(2) To develop professional standards, analyze hospital programs, and inspect individual hospitals.

(3) To assist in recruiting professional staff.

(4) To take primary responsibility for the education and training of professional and subprofessional personnel.

(5) To establish liaison with appropriate state agencies and with private groups interested in mental health, such as the state department of health, the board of probation and parole, the department of education, the board of governors of West Virginia University, and the West Virginia association for mental health, inc.

(6) To license, supervise and inspect any hospital, center or institution, or part thereof, maintained and operated by any political subdivision or by any person,
persons, association or corporation to provide inpatient care and treatment for the mentally ill, or mentally retarded, or both.

(7) To perform any other duties assigned to the division by the director of the department.

Sec. 7. Division of Community Services; Powers and Duties of Supervisors.—There shall be a division of community services in the department of mental health. This division shall administer funds made available to the state of West Virginia and any political subdivision thereof under the national mental health act. The supervisor of this division shall also have the following powers and duties:

(1) To supervise the operation of outpatient psychiatric clinics for adults and children and to develop new clinics. Traveling clinics may be established for rural areas to be operated directly by the division or under its supervision.

(2) To develop a comprehensive and practical program of mental health education of the public, especially at the local level.
(3) To work with county mental hygiene commissions and circuit courts.

(4) To perform any other duties assigned to the division by the director of the department.

Sec. 8. Superintendents to Pay Money to State Treasury Through Department of Mental Health; Appropriations; Deficiency; How Met.—All moneys and funds belonging to the state which shall come into the possession or under the control of the superintendent or other officer of a state hospital under the control of the department of mental health shall be paid to the director of mental health monthly, on or before the tenth day of the month following the month in which such moneys or funds were received, under such rules and regulations as the director shall prescribe. The director shall pay such moneys and funds into the state treasury immediately in the manner provided in article two, chapter twelve of this code.

All moneys appropriated for the department of mental health and state hospitals may be expended on proper requisitions issued by the director of mental health or
his duly authorized agent. Whenever the appropriations
by the Legislature for state hospitals are insufficient to
pay the expenses of conducting such institutions, the
director of mental health shall certify the deficiency to
the governor. The certificate shall state the name of the
state hospital and the items and amount in detail needed,
and the governor may direct payment of the same or any
part thereof out of any appropriation available for that
purpose.

Sec. 9. Transfer of Control, Records and Property from
the Board of Control to the Department of Mental Health.
—The control of the financial, business and all other
affairs of state hospitals is hereby transferred from the
state board of control to the department of mental health,
and, as its chief executive officer, the director shall, in
respect to the control, management and property of such
state hospitals, have the same rights and powers and shall
perform the same duties and functions as were heretofore
exercised or performed by the state board of control.
The title to all property of such state hospitals is hereby
transferred to and vested in the department of mental 
health.

Sec. 10. Transfer of Records and Personnel from De-
partment of Health to Division of Community Services.—
The state department of health shall transfer to the divi-
sion of community services of the department of mental 
health all of the records of the bureau of mental health 
and all records pertaining to the state hospitals. Persons 
employed by the state department of health in that bu-
reau may also be transferred to this division. All per-
sons now employed by the various guidance clinics in 
the state shall be under the supervision of this division.

Article 2. State Hospitals and Colin Anderson Center.

Section 1. Locations; Continuation; Management.—
The state hospitals 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 Colin Anderson center. Said state hospitals shall 
be managed, directed and controlled by the department
of mental health as provided in article one-a of this chapter.

All references in this code or elsewhere in law to the "West Virginia training school" shall be taken and construed to mean and to refer to the "Colin Anderson center."

Sec. 2. Superintendents.—The superintendent of a state hospital shall be appointed for an indefinite period. The superintendent of a state hospital, other than a state hospital or center maintained and operated exclusively for the care and treatment of the mentally retarded, shall be a qualified psychiatrist with some experience in a psychiatric facility. Preference shall be given to diplomates of the American board of psychiatry and neurology and to persons who are certified by the committee on the certification of mental hospital administrators. The superintendent of the Colin Anderson center, or of any other state hospital or center maintained and operated exclusively for the care and treatment of the mentally retarded, shall be a person qualified to supervise a hospital for mentally retarded.
The superintendent, subject to civil service regulations, shall have the power to appoint all assistants and employees required for the management of his institution; but the number of such assistants and employees, and their compensation, shall first be fixed by the director of mental health.

The superintendent shall be furnished living quarters, household furniture, board, fuel and lights for himself and his family. The director of mental health may designate other officers to receive these emoluments, as determined by the character of their duties.

Sec. 3. Rules as to Patients.—The director of mental health shall have authority to make rules, not contrary to law, regulating the admission of patients to the state hospitals, the care, maintenance and treatment of patients therein, and the release, trial visit and discharge of patients therefrom.

Sec. 4. Forms for Committing Patients; Other Records.
—The director of mental health shall have authority to prepare, prescribe and have printed forms to be used for commitment to and discharge from the state hospitals.
Sec. 5. Reports by Superintendents; Records of Director of Mental Health.—The superintendent of each state hospital shall furnish to the director of mental health such information as he may require concerning admissions, discharges, deaths and other matters. From this and other information available to the director of mental health, he shall keep such records as are necessary to enable him to have current information concerning the extent of mental illness in the state. The names of individuals shall not be accessible to any one except by permission of the director of mental health, or by order of the judge of a court of record.


Section 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 person whose condition makes it advisable to meet at or near his residence. The time of such meetings shall be established by the commission.

Article 4. Voluntary Hospitalization.
Section 1. Authority to Receive Voluntary Patients.—

2 The superintendent of a state hospital, subject to the availability of suitable accommodations, and subject further to the rules and regulations promulgated by the director of mental health, shall admit for diagnosis, care and treatment any individual:

7 (1) Over twenty-one years of age who is mentally ill, mentally retarded or who has symptoms of mental illness or mental retardation and makes application for hospitalization; or

11 (2) Under twenty-one years of age who is mentally ill or mentally retarded or who has symptoms of mental illness or mental retardation and there is application therefor in his behalf (a) by the parents of such person, or (b) if only one parent is living, then by the such parent, or (c) if the parents be living separate and apart, by the one to whom was awarded the custody of such person, or (d) if there is a guardian entitled to the custody of such person, then by such guardian.

Sec. 2. Release of Voluntary Patients.—The superintendent of a state hospital shall release any voluntary
patient who, in his opinion, has recovered, or whose hospitalization he determines to be no longer advisable.

Sec. 3. Right to Release on Application.—A voluntary patient who requests his release or whose release is requested in writing, by his parents, parent, guardian, spouse, or adult next of kin shall be released forthwith except that:

(1) If the patient was admitted on his own application and the request for release is made by a person other than the patient, release shall be conditioned upon the agreement of the patient thereto;

(2) If the patient is under twenty-one years of age, his release prior to becoming twenty-one years of age may be conditioned upon the consent of the person or persons who applied for his admission;

(3) If, within ninety-six hours of the receipt of the request, the superintendent of the state hospital in which the patient is confined files with the clerk of the county court of the county in which the patient is a resident, or the clerk of the county court of the county where the
hospital is situated, an application for involuntary hospitalization as provided in section four, article five of this chapter, release may be postponed pending a decision on the application by the mental hygiene commission. Notwithstanding any other provision of this chapter, legal proceedings for hospitalization shall not be commenced with respect to a voluntary patient unless release of the patient has been requested by him or the individual or individuals who applied for his admission.

Article 5. Involuntary Hospitalization.

Section 1. Hospitalization on Medical Certification.—

Any individual may be admitted to a state hospital upon:

(a) Written application to the state hospital by his parents or parent, guardian, spouse, adult next of kin or friend, a health officer or public welfare caseworker familiar with the case of the individual, or the head of any institution where such individual may be, and

(b) Certification by two physicians that they have examined the individual, and that they are of the opinion that he is mentally ill or mentally retarded and:
(1) Because of his mental illness or mental retardation may injure himself or others if allowed to remain at liberty, or

(2) Is in need of care or treatment in a hospital, and because of his mental illness or mental retardation, lacks sufficient insight or capacity to make responsible application therefor.

The certifications by the licensed physicians may be made jointly or separately as the regulations of the director of mental health may prescribe. In the case of a licensed physician who examines the individual to determine whether or not he is mentally ill or mentally retarded, the physician's fee shall be paid by the patient or responsible relative. If, in the opinion of the county court, the patient or responsible relative is unable to pay such fee, the county court shall make such payment as such county court shall prescribe. An individual with respect to whom such certifications have been issued may not be admitted on the basis thereof at any time after the expiration of fifteen days from the last examination.

The superintendent of the state hospital admitting the

33 individual shall forthwith make a report thereof to the
director of mental health.
35 If the certification by one of the examining physicians
states the opinion that the individual because of his men-
tal illness or mental retardation may injure himself or
38 others if allowed to remain at liberty, the clerk of any
39 county court of the county in which the individual is a
40 resident or present may, upon application of the exam-
ining physician or of the person or persons seeking the
42 admission of the individual, direct any health or police
43 officer to take the individual into custody and transport
44 him to the appropriate state hospital.

Sec. 2. Hospitalization on Medical Certification; Emer-
gency Procedure.—Any individual may be admitted to a
state hospital upon:
2 (a) Written application to the state hospital by any
5 health officer or police officer stating his belief that the
6 individual, because of symptoms of mental illness, may
7 cause injury to himself or others if not immediately re-
8 strained, and the grounds for such belief, and
9 (b) A certification by at least one physician that he
has examined the individual and is of the opinion that
the individual is mentally ill, and because of his illness,
may injure himself or others if not immediately re-
strained.

Any individual with respect to whom such certification
has been issued may not be admitted on the basis thereof
at any time after the expiration of three days from the
date of such examination. The superintendent of the
state hospital admitting the individual shall forthwith
make a report thereof to the director of mental health.

Sec. 3. Hospitalization Without Medical Certification;

Emergency Procedure.—When any health officer or police
officer has reason to believe that an individual is mentally
ill and because of his illness may injure himself or others
if allowed to remain at liberty while awaiting an exam-
ination and certification by a physician, such health or
police officer may take the individual into custody, apply
to a state 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
12 superintendent of the state hospital admitting the individ-
13 ual shall forthwith make a report thereof to the director
14 of mental health.

Sec. 4. Hospitalization Upon County Court Order;

2 Legal Procedure.—Proceedings for the involuntary hos-
3 pitalization of an individual may be commenced by the
4 filing of a written application and the certificate or state-
5 ment hereinafter provided with the clerk of the county
6 court of the county of which the individual is a resident
7 or where he may be found, by his parents or parent,
8 guardian, spouse, adult next of kin or friend, or by a
9 physician, a health officer or public welfare caseworker
10 familiar with the case of the individual, or the head of
11 any institution in which such individual may be. Such
12 applicant shall file with his application the certificate
13 of a physician stating that in his opinion the individual
14 is mentally ill or mentally retarded and should be hos-
15 pitalized or a statement by the applicant that the in-
16 dividual has refused to submit to examination by a phys-
17 ian.

18 Upon receipt of an application, the clerk shall give
notice thereof to the individual and to the individual's spouse, parents or parent and guardian, or if the individual does not have a spouse, parents or parent or guardian, to the individual's adult next of kin. Such notice shall be given within fifteen days after receipt of the application by the clerk and shall be transmitted to such person or persons at his or their last known address by registered or certified mail, return receipt requested.

As soon as practicable after notice of the commencement of proceedings is given, the mental hygiene commission shall appoint two physicians to examine the individual and report to the mental hygiene commission their findings as to the mental condition of the individual and his need for custody, care or treatment in a hospital.

If the designated physicians report to the mental hygiene commission that the individual has refused to submit to an examination, the mental hygiene commission shall order him to submit to such examination. Such an order may be enforced by the issuance of a warrant ordering the individual to be taken into custody pending
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40 examination by the designated physicians. All such war-
41 rants shall be signed by the clerk on order of the mental
42 hygiene commission and directed to the sheriff of the
43 county or to any constable of any district thereof, or
44 to a special constable appointed for the purpose and
45 named therein.

46 If the report of one or both of the designated physicians
47 is to the effect that the individual is mentally ill or men-
48 tally retarded, the mental hygiene commission shall forth-
49 with fix a date for and have the clerk of the county court
50 give notice of the hearing to the individual, the applicant
51 or applicants, and to the individual's spouse, parents or
52 parent and guardian, or if the individual does not have
53 a spouse, parents or parent or guardian, to the individual's
54 adult next of kin. Such notice shall be transmitted to
55 such person or persons at his or their last known address
56 by registered or certified mail, return receipt requested,
57 and shall be received by such person or persons not less
58 than five days prior to the date of the hearing.

59 The individual, the applicant, and all persons entitled
60 to notice of such hearing, shall be afforded an opportunity
to appear at the hearing, to testify, and to present and
cross-examine witnesses, and the mental hygiene com-
mission may in its discretion receive the testimony of
any other person. The individual shall not be required
to be present, and all persons not necessary for the con-
duct of the proceedings shall be excluded, except that
the mental hygiene commission shall admit and hear
persons having a legitimate interest in the proceedings.
The hearings shall be conducted in as informal a manner
as may be consistent with orderly procedure. The mental
hygiene commission shall receive all relevant and mater-
ial evidence which may be offered and shall not be bound
by the rules of evidence. The mental hygiene commis-
sion shall appoint a guardian ad litem who shall be a
competent attorney, for the individual, and said guardian
shall be present at the hearing and protect the interests
of the individual. The mental hygiene commission may
allow such guardian ad litem a reasonable fee for his
services which shall be paid by the county court to the
extent that funds are made available in the county
budget.
If, upon completion of the hearing and consideration of the record, the mental hygiene commission finds that the individual is mentally ill or mentally retarded, and:

(1) Because of his illness or retardation is likely to injure himself or others if allowed to remain at liberty, or

(2) Is in need of custody, care or treatment in a hospital and, because of his illness or retardation lacks sufficient insight or capacity to make responsible decisions with respect to his hospitalization, and

(3) Is a resident of the county in which the hearing is held, the mental hygiene commission may order his hospitalization for an indeterminate period or for a temporary observation period not exceeding six months.

If the order is for a temporary period the mental hygiene commission may at any time prior to the expiration of such period, on the basis of report by the superintendent of the state hospital in which the patient is confined and such further inquiry as may seem appropriate, order indeterminate hospitalization of the patient or dismissal of the proceeding.
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103 If the mental hygiene commission finds that the individual is not mentally ill or mentally retarded, the proceeding shall be dismissed. If the commission finds that the individual is mentally ill or mentally retarded but because of such illness or retardation is not likely to injure himself or others if allowed to remain at liberty, the proceeding shall be dismissed. If the commission finds that the individual is mentally ill or mentally retarded and that because of such illness or retardation is not likely to injure himself or others if allowed to remain at liberty and that such individual has sufficient insight or capacity to make responsible decisions with respect to his hospitalization, the proceeding shall be dismissed.

117 If the mental hygiene commission is satisfied that hospitalization should be ordered but finds that the individual is not a resident of the county in which the hearing is held, 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 clerk of the county court of the county of which such person
is a resident, who shall immediately present such transcript to the mental hygiene commission of said county.

If the mental hygiene commission of the county of the residence of the individual is satisfied from the evidence contained in such transcript that such individual should be hospitalized as determined by the standards set forth above, the mental hygiene commission shall order the appropriate hospitalization as though the person had been brought before the mental hygiene commission in the first instance. This order shall be transmitted forthwith to the clerk of the county court of the county in which the hearing was held, who shall execute said order promptly.

In lieu of ordering the patient to a state hospital, the mental hygiene commission may order him delivered to some responsible person who will agree to take care of him, and take from such responsible person a bond in the penalty of at least five hundred dollars, with sufficient security to be approved by the mental hygiene commission, payable to the state of West Virginia, with condition to restrain and take proper care of such person
33 [Enr. Com. Sub. for H. B. No. 586]

145 until the further order of the court or judge. But if the
146 person found to be a mentally ill or mentally retarded
147 person is not dangerous to himself or to others, or is
148 found harmless, he may be delivered to any responsible
149 person who will agree to take proper care of him without
150 such bond, if in the judgment of the commission the
151 same may be proper.

152 If the person found to be mentally ill or mentally re-
153 tarded by the mental hygiene commission is a resident
154 of another state, this information shall be forthwith given
155 to the director of mental health, who shall make appro-
156 priate arrangements for his transfer to the state of his
157 residence, except as qualified by the interstate compact
158 on mental health.

159 The superintendent of the state hospital admitting a
160 patient pursuant to proceedings under this section shall
161 forthwith make a report of such admission to the director
162 of mental health.

163 All expenses incurred in this proceeding, including the
164 fees of the designated physicians, shall be borne by the
165 county of which the patient is a resident.
The entry of an order ordering hospitalization for an indeterminate period shall relieve the patient of legal capacity.

The clerk of the county court in which an order directing hospitalization is entered shall immediately upon entry thereof forward a certified copy of same to the clerk of the county court of the county of which the patient is a resident.

Sec. 5. Judicial Review.—Any person adversely affected by any order of commitment entered by the mental hygiene commission under this article may seek review thereof by appeal to the appropriate circuit court, and jurisdiction is hereby conferred upon such court to hear and entertain such appeals upon application made therefor in the manner and within the time provided by law for civil appeals generally.

Any person hospitalized pursuant to section four of this article shall be entitled to have his case reviewed by the mental hygiene commission which committed him. Such review shall be obtained by a petition filed therein by such person or by that of his spouse, relative, guardian
or friend. Upon receipt of any such petition, the commission shall conduct or cause to be conducted proceedings as specified in said section four: Provided, That no such re-examination shall be had if the petition is filed sooner than six months after entry of the order of hospitalization or sooner than one year after the filing of a previous petition of re-examination in accordance with the provisions of this section.

Sec. 6. Examination of Newly Admitted Patients.—The superintendent of the state hospital shall arrange for preliminary psychiatric examination of every patient hospitalized pursuant to the provisions of sections one, two or three of this article. If such examination is not completed within five days after the date of admission, or if the physician designated by the superintendent cannot certify that in his opinion the patient is mentally ill or mentally retarded and is likely to injure himself or others if allowed to be at liberty or because of his mental illness or mental retardation lacks sufficient capacity to continue hospitalization of his own volition, the patient shall be immediately discharged or permitted to change
his status to that of voluntary hospitalization and there-
after treated according to the provisions of article four of
this chapter.

If, in the opinion of the designated examining phy-
sician, the patient is mentally ill or mentally retarded
and is likely to injure himself or others if allowed to be
at liberty or because of his mental illness or mental re-
tardation lacks sufficient capacity to continue hospitaliza-
tion of his own volition, the superintendent shall, within
thirty days from the date of such determination by the
designated examining physician, institute legal proceed-
ings as provided in section four of this article. If such
proceedings are not instituted within such thirty-day
period, the patient shall be immediately released or per-
mitted to change his status to that of voluntary hospitali-
zation and thereafter treated according to the provisions
of article four of this chapter.

Notwithstanding any other provisions of this article,
when any person is hospitalized pursuant to the provisions
of sections one, two or three of this article, such person
or his spouse, relative, guardian or friend may demand
in writing that such person be released from the state hospital. Upon receipt of such demand by the superintendent, the superintendent shall either release such person or forthwith institute legal proceedings as specified in section four of this article. The superintendent of the state hospital shall make arrangements for informing each person hospitalized therein under the provisions of sections one, two or three of this article of his rights under this section. The superintendent shall also assist any such person in making such written demand.

Sec. 7. Hospitalization by an Agency of the United States.—If an individual ordered to be hospitalized pursuant to section four of this article is eligible for hospital care or treatment by any agency of the United States, then, upon receipt of a certificate from such agency showing that facilities are available and that the individual is eligible for care or treatment therein, the mental hygiene commission may order him to be placed in the custody of such agency for hospitalization. When any such individual is admitted pursuant to the order of such
mental hygiene commission to any hospital or institution established, maintained or operated by any agency of the United States within or without the state, he shall be subject to the rules and regulations of such agency. The chief officer of any hospital or institution operated by such agency and in which the individual is so hospitalized, shall with respect to such individual be vested with the same powers as the superintendents of state hospitals or the director of mental health within this state with respect to detention, custody, transfer, conditional release, or discharge of patients. Jurisdiction is retained in the appropriate mental hygiene commission of this state at any time to inquire into the mental condition of an individual so hospitalized, and to determine the necessity for continuance of his hospitalization, and every order of hospitalization issued pursuant to this section is so conditioned.

Article 6. Commitment of Inebriates and Criminally Mentally Ill.

Section 1. Commitment of Inebriates.—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 infor-
mation and stating such facts therein as may be required,
and he shall further furnish to said clerk the certificate
of a physician showing the condition of such person. The
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 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 purpose and named therein; but if any relative
or friend of the person so suspected will serve such
warrant and cause such 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 such
person into custody and bring him or her before the commission 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 person is brought before the county mental hygiene commission, the commission shall follow the procedures set forth in sections, two, three, four and five of this article.

Sec. 2. Guardian Ad Litem to Be Appointed.—Before proceeding with the hearing of the matter, the commission shall appoint a guardian ad litem, who shall be a competent attorney, for such 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 person and his counsel shall have the right to cross-examine any witnesses.

Sec. 3. Witnesses.—The person suspected, the complainant and all other persons having a legitimate and proper interest therein shall be afforded an opportunity
to appear at the hearing, to testify and present and cross-

examine witnesses, and the commission may in its dis-

cretion receive the testimony of any other person. Among

the witnesses there shall be included two physicians who

shall separately or together make an examination of such

person, preferably before the hearing, and each physician

shall make out a certificate of the result of the examina-

tion, which certificate shall be signed and sworn to by

each physician and shall be considered as evidence by the

commission.

Such person shall not be required to be present at this

hearing unless it be deemed advisable by the commission

to better protect his interests. All persons not necessary

for the conduct of the hearing shall be excluded, but the

commission shall admit and hear persons having a legi-
timate and proper interest in the hearing. The hearing

shall be conducted in as informal a manner as may be

consistent with orderly procedure in a physical setting

not likely to have a harmful effect on the mental condi-
tion of the person suspected. The commission shall re-
ceive all legitimate and material evidence which shall be

offered and shall not be bound by the rules of evidence.
Sec. 4. Disposition of Inebriates.—(a) If, upon completion of the hearing and consideration of the record, the commission finds that the person suspected is an inebriate and:

(1) Is in need of custody, care or treatment in a hospital and, because of his illness, lacks sufficient insight or capacity to make responsible decisions with respect to his hospitalization, and

(2) Is a resident of the county in which the hearing is held, the commission may order such person to be committed to a state hospital, or any institution hereafter established for inebriates, for a minimum period of thirty days. If the commission finds that the person suspected is not an inebriate or that subparagraph (1) is not applicable, then the proceeding shall be dismissed. If the commission is satisfied that such person should be committed but finds that the person is not a resident of the county in which the hearing is held, the commission shall proceed as set forth in subsection (b) hereof.

(b) If the person found to be an inebriate and to be in need of custody, care or treatment as aforesaid 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 clerk of the county court of the
county of which such person is a resident, who shall
immediately present such transcript to the mental
hygiene commission of said county. Such commis-
sion shall give full faith and credit to the evidence
contained in such transcript, and, if satisfied that such
person is an inebriate and is in need of such custody, care
or treatment, shall order the person to be committed to a
state hospital, or other institution hereafter established
for inebriates, for a minimum period of thirty days, 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 court 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 such inebriate, shall be
borne by the county of which he is a resident.
Sec. 5. Transportation; Temporary Detention.—Whenever a person has been ordered to be hospitalized under the provisions of section four of this article, the commission shall, upon the request of a person having a proper interest in the individual’s transportation to the state hospital by such means as may be suitable for his mental and physical condition. In lieu of such request, the commission may deliver the inebriate to the state hospital in any manner which it may deem proper.

Pending his removal to a state hospital, an inebriate taken into custody or ordered to be hospitalized may be detained in his home, or any other suitable facility provided by the county court; but he shall not, except because of a lack of such facility or because of an extreme emergency, be detained in a non-medical facility used for the detention for individuals charged with or convicted of penal offenses.

Sec. 6. Release of Inebriates.—After expiration of said minimum thirty-day period, the inebriate shall not be released until, in the opinion of the superintendent of the state hospital, he has received the maximum benefit from
such hospitalization. In all cases dealing with the com-
mittance of inebriates, the provisions of article seven of
this chapter relating to the release, discharge and re-
admission of mentally ill and mentally retarded persons
shall apply. An inebriate shall not forfeit his legal ca-
pacity by virtue of being committed as an inebriate.

Sec. 7. Commitment and Admission of Criminally Men-
tally Ill Persons.—If any person charged with or con-
victed 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 or-
der 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. 8. 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 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 state hospi-
tal shall be computed as part of the term for which he
was sentenced. If the sentence of such convict expires
while such convict is in the state hospital, then upon his
recovery he shall be discharged from said state hospital.

Article 7. Release, Discharge and Re-admission of Patients;
Escapees.

Section 1. Discharge.—The superintendent of a state
hospital shall continually review the case of each indi-
vidual confined in such hospital and shall as frequently
as practicable cause a complete staff examination of ev-
ery patient, and whenever it is determined that the con-
dition justifying involuntary hospitalization no longer
obtains, the superintendent shall discharge the patient
and immediately make a report thereof to the mental
hygiene commission, or the clerk of the county court of
the county in which the involuntary hospitalization was
ordered, and to the county clerk of the county wherein
the patient is a resident. This discharge restores said
patient to legal capacity.

Sec. 3. Released as Unimproved.—The superintendent
of a state hospital may release a patient as unimproved
when any responsible person requests the patient’s re-
lease and is willing and able to take proper care of the
patient outside the state hospital, taking from such re-
sponsible person a bond in the penalty of at least five hun-
dred 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 pati-
et until the further order of the superintendent. Re-
ports shall be made by those in charge of said patient at
least once every six months to the superintendent of the
state hospital. No discharge shall be given to said pati-
et until he has returned to the state hospital for exam-
ination by the superintendent and staff thereof and it has
been determined that he is no longer in need of hospital-
ization.

Where such discharges or releases are granted as pro-
vided in sections one, two and three of this article, the
superintendent of the state hospital shall report the same
to the director of mental health and to the mental hygiene
commission, or the clerk of the county court, which or-
dered the involuntary hospitalization, as the case may
be, and to the county clerk of the county of which the
patient is a resident.

Sec. 4. Re-admission of Patients.—While any patient is
out of the state hospital under the provisions of section
two of this article, he may be at any time re-admitted to
the hospital on the basis of the original commitment. If
there is reason to believe that it is to the best interest of
the patient to be hospitalized, the superintendent of the
state hospital may issue an order for the immediate rehos-
pitalization of the patient. This order shall be sent to the
mental hygiene commission or to the clerk of the court
which ordered his admission, as the case may be. A copy
of such order shall also be sent to the clerk of the county
court of the county of the patient's residence. If the original hospitalization was ordered by the commission, any member of such commission may endorse the superintendent's order and authorize any health officer or police officer to take the patient into custody and transport him to the state hospital where the order originated.

Sec. 5. Return of Escapees; Veterans.—If any person confined in a state hospital escapes therefrom, the superintendent thereof shall issue a notice, giving the name and description of the person escaping, and requesting his apprehension and return to the state hospital, and may offer such reward for the return of such person as the director of mental health may authorize. The superintendent may issue a warrant directed to the sheriff of the county in which the patient is a resident, commanding him to arrest and transport such escaped person back to the state hospital, which warrant the sheriff may execute in any part of the state. If such person goes to another state, the superintendent shall notify the director of mental health, and he shall take such action as he may

15 deem proper for the return of such person to the state hospital.

16 If any veteran duly committed to a veterans' hospital
17 or other veterans' institution, either within or without
18 the 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 upon the order of the mental hygiene commission, or to
22 the clerk of the circuit court by which such veteran was
23 so committed, giving such information and stating such
24 facts therein as may be required, or if any veteran duly
25 committed to a veterans' hospital or other veterans' in-
26 stitution, either within or without the state, escape or
27 elope therefrom and the superintendent or chief officer
28 of such hospital or institution issues notice to the clerk
29 of the county court of the county from which such vet-
30 eran was so committed upon the order of the mental hy-
31 giene commission, or to the clerk of the circuit court by
32 which such veteran was so committed, giving the name
33 and description of such veteran and requesting his ap-
34prehension and return to such hospital or institution, the
clerk of the county court or circuit court, as the case may be, upon receipt of such complaint or of such notice, may issue a warrant directed to the sheriff of the county from which the veteran was so committed commanding him to arrest and transport 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 director of mental health 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 or Mentally Retarded Patients.

Section 1. Maintenance of Patients; Reimbursement.—

The cost of the maintenance of patients admitted to the
state hospitals shall be paid out of funds appropriated for the respective state hospitals, but the state hospitals, through the director of mental health, shall have a right of reimbursement for all or any part of such maintenance, in no case to exceed five 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 director of mental health 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 the director finds that such person 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 state hospital as to food, care, protection, treatment or reha-
bilitation, between patients who pay for their maintenance and those who are unable to do so.

It shall be the responsibility of the director of mental health 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 hospital is unable to collect a minimum of one hundred 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 state hospital the difference between the amount, if any, collected by the institution and the sum of one hundred fifty dollars.

At every levy term of each county court it shall estimate for and levy a sufficient amount to meet all such expenses. The superintendent of such state 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 state 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 they were in the state 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
appearing to be due from the certificates of the superin-
tendents. Within ten days after the receipt of such cer-
tificates 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 state hospital from the county during the year, the
length of time he was in such state 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 appli-
cation of such fund shall be reported by the auditor to the
Sec. 3. Care of Patients in Boarding Homes.—The director of mental health may, upon the recommendation of the superintendent of the state hospital, provide care in a suitable boarding home for any patient in a state hospital, 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 state hospital from which he was removed and shall, on the approval of the superintendent, be placed under the supervision of a psychiatric social worker employed by the state hospital. 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 state hospital or placed in a better boarding home. The cost of the boarding home care shall be paid by the state hospital from which he was removed.

Article 9. Licensing of Hospitals.

Section 1. License from Director of Mental Health; Regulations.—No hospital, center or institution, or part
thereof, to provide inpatient care and treatment for the mentally ill, or mentally retarded, or both, shall be established, maintained or operated by any political subdivision or by any person, persons, association or corporation unless a license therefor shall be first obtained from the director of mental health. The application for such license shall be accompanied by a plan of the premises to be occupied, and such other data and facts that the director may require. He may make such terms and regulations in regard to the conduct of such hospital, center or institution, or part thereof, as he may think proper and necessary. He, or any person authorized by him, shall have authority to investigate and inspect such hospital, center or institution, or part thereof; and the director of mental health may revoke the license of any such hospital, center or institution, or part thereof, for good cause after reasonable notice to the superintendent or other person in charge thereof.

Article 11. Committee; Disposition of Property.

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

Sec. 2. Bond; Refusal to Act or Failure to Qualify;
Appointment of Another; Committal to Sheriff.—The
county court, when making the appointment of such com-
mittee, shall take from him a bond in such penalty and
with such surety as it shall deem sufficient, with condi-
tion that the person so appointed will well and truly ac-
count 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 condi-
tions as the court may require. If any person so ap-
pointed as committee refuses the trust or shall fail for ten
days succeeding his appointment to give bond as afore-
said, 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 or mentally
retarded 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
or mentally retarded person, shall appoint appraisers and
cause to be made, returned and recorded an appraisement
of the property, both real and personal, of any such per-
son in the same manner, to the same extent, within the
same time, and subject to the same regulations and con-
ditions as required by law for the estate of a deceased
person.

Sec. 5. Mortgage, Lease or Sale of Realty.—If the per-
sonal estate of such mentally ill or mentally retarded
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 in-
sufficient for his maintenance and that of his family, if
any, the committee of such mentally ill or mentally re-
tarded 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 or mentally retarded person as may be nec-
essary 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 account of
the debts and demands existing against the estate.

Article 12. Offenses.

Section 1. Malicious Making of Medical Certificate or
Complaint as to Mental Condition.—Any physician who
shall sign a certificate respecting the mental condition of
any person without having made the examination as pro-
vided for by this chapter, or shall make any statement
in any such certificate maliciously for the purpose of hav-
ing such person declared mentally ill, mentally retarded
or an inebriate, and any person who shall maliciously make
application to any circuit court or mental hygiene commis-
sion for the purpose of having another person declared
mentally ill, mentally retarded, or an inebriate, shall be
guilty of a misdemeanor, and upon conviction thereof,
shall be fined not exceeding five hundred dollars, or im-
prisoned not exceeding one year, or both fined and im-
prisoned at the discretion of the court.
Sec. 2. Trespass on Grounds of State Hospitals.—The enclosed premises and the lands adjoining the same belonging to any one of the state hospitals are hereby declared private grounds; and if any person be found thereon without authority, permission or good excuse, he shall be deemed a trespasser, and on conviction thereof, shall be fined not exceeding twenty-five dollars; and if it shall appear that he was thereon for any unlawful or immoral purpose, in addition to being fined, he shall be imprisoned not exceeding sixty days.

Sec. 3. Miscellaneous Offenses.—If any person shall entice any patient from any state hospital 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 whatsoever; 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
hospital; or shall tease, pester, annoy, or molest any such
patient, he shall be guilty of a misdemeanor, and on con-
viction thereof, shall be fined not less than ten nor more
than one hundred dollars, or imprisoned not exceeding
six months, or, in the discretion of the court, both fined
and imprisoned. If any person shall aid or abet the com-
misson of any of the foregoing offenses, or aid or abet
an attempt to commit the same, he shall be guilty of 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 aid-
ing 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
a patient of any of said state 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; Severability.

Section 2. Severability.—If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or its application, and to this end the provisions of this chapter are declared to be severable.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

James E. Loof
Chairman House Committee

Originated in the House.

Takes effect ninety 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 19 day of March, 1965.

Governor
Presented to the Governor's Office
March 19, 1965
4:10 P.M.