

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1965



ENROLLED

*Committee Substitute For*  
HOUSE BILL No. 584

(By Mr. *Speakers, Mr. White, & Mr. Pendergast*)



PASSED March 13, 1965

In Effect ninety days from Passage



FILED IN THE OFFICE OF  
JOE F. BURDET  
SECRETARY OF STATE  
THIS DATE 3-19-65

# 5-86

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 586**  
(Originating in the Committee on the Judiciary)

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

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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  
2 over the age of eighteen years who is incapable or unfit  
3 to properly conduct himself or herself, or his or her  
4 affairs, or is dangerous to himself or herself or others,  
5 by reason of periodical, frequent or constant drunken-  
6 ness, induced either by the use of alcoholic or other  
7 liquors, or of opium, morphine, or other narcotic or in-  
8 toxicating or stupefying substance.

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

**Sec. 6. State Hospital.**—A “state hospital” refers to  
2 Spencer state hospital, Lakin state hospital, Huntington  
3 state hospital, Barboursville state hospital, Weston state  
4 hospital, Colin Anderson center, and any other hospital,  
5 center, or institution, or part thereof, established, main-  
6 tained, and operated by the state or by the state in con-  
7 junction with a political subdivision of the state to pro-

8 vide inpatient care and treatment for the mentally ill,  
9 or mentally retarded, or both.

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

**Sec. 8. Resident of State and County.**—A “resident of  
2 the state” is any person who has had an established resi-  
3 dency in this state for at least one year, and a “resident  
4 of the county” is any person who has had an established  
5 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  
2 article is to improve the administration of the state hos-  
3 pitals, raise the standards of treatment of the mentally  
4 ill and mentally retarded in the state hospitals, encourage  
5 the further development of outpatient and diagnostic  
6 clinics, establish better research and training programs,  
7 and promote the development of mental health.

**Sec. 2. Creation; Composition; Control of State Hos-  
2 pitals.**—There shall be a state department of mental  
3 health, to be known as the department of mental health.

4 It shall be a corporation and, as such, shall have a seal  
5 and may contract and be contracted with. The depart-  
6 ment shall consist of a director of mental health, super-  
7 visors of divisions of the department, and such other  
8 employees as are needed to carry out its functions. The  
9 department shall supervise and control the state hos-  
10 pitals.

**Sec. 4. Powers and Duties of Director.**—The director  
2 shall appoint the superintendents of the state hospitals,  
3 shall supervise and coordinate their medical and fiscal  
4 administration, and may establish uniform policies for  
5 state hospitals. He may transfer a patient from any state  
6 hospital to any other state hospital or clinic under his  
7 control. By agreement between the director of mental  
8 health and the state commissioner of public institutions,  
9 a patient at a state hospital may be transferred to an  
10 institution, other than correctional, under the super-  
11 vision of the state commissioner of public institutions.  
12 The director of mental health shall have all the au-  
13 thority vested in the divisions of the department, as here-  
14 inafter provided, and shall appoint the supervisors of those



15 divisions. He may prescribe rules and regulations to  
16 carry out his authority. The director shall make periodic  
17 reports to the governor and to the Legislature on the con-  
18 dition of the state hospitals and on other matters within  
19 his authority, and shall include recommendations for im-  
20 provement of the state hospitals and any other matters  
21 affecting the mental health of the people of the state.

22 The director is hereby authorized and empowered to  
23 accept and use for the benefit of a state hospital or hos-  
24 pitals, or for any other mental health purpose specified in  
25 this chapter, any gift or devise of any property or thing  
26 which lawfully may be given. If such a gift or devise  
27 is for a specific purpose or for a particular state hospital  
28 or hospitals, it shall be used as specified, and the director  
29 is hereby vested with the title to the property which  
30 is or may be the subject of such gift or devise. Any gift  
31 or devise of any property or thing which lawfully may  
32 be given and whatever profit may arise from its use or  
33 investment shall be deposited in a special revenue fund  
34 with the state treasurer, and shall be used only as speci-  
35 fied by the donor or donors.

36 Whenever it shall become necessary, the department of  
37 mental health may condemn any interest, right or privi-  
38 lege, land or improvement which in its opinion may be  
39 necessary, in the manner provided by law for the acquisi-  
40 tion by this state of property for public purposes. The  
41 state shall be under no obligation to accept and pay for  
42 any property condemned, and shall in no event pay for  
43 the same except from the funds provided; and in any  
44 proceeding to condemn, such orders shall be made by  
45 the court having jurisdiction of the suit, action or pro-  
46 ceedings as may be just to the state and to the owners  
47 of property to be condemned, and a bond or other se-  
48 curity may be required by the court securing such owners  
49 against any loss or damage to be sustained by reason of  
50 the failure of the state to accept and pay for the property,  
51 but such bond or security shall impose no liability  
52 or debt on or of the state as contemplated by the pro-  
53 visions of the constitution of the state in relation to  
54 state debt.

**Sec. 5. Division of Administration; Powers and Duties  
2 of Supervisor.**—There shall be a division of administra-

3 tion in the department of mental health. The supervisor  
4 of this division shall assist the director of the depart-  
5 ment in performing his general administrative duties,  
6 and shall also have the following powers and duties.

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

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

10 (3) To assemble and analyze departmental budget esti-  
11 mates, review requests for transfer of funds, and main-  
12 tain departmental appropriation and fiscal records.

13 (4) To make rules and regulations governing the ad-  
14 ministration and business management of the state hos-  
15 pitals, formulate standard fiscal procedures, and make  
16 recommendations for improvement; to make regulations  
17 concerning any superintendent's trustee fund hereto-  
18 fore established by authority of section three-a, article  
19 one, chapter twenty-five of the official code of West Vir-  
20 ginia, one thousand nine hundred thirty-one, as amended.

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

23 (6) To review requisitions for supplies and equip-

24 ment, and cooperate with the division of purchases in de-  
25 velopment and drafting of specifications.

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

28 (8) To enter into contracts for the department.

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

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

**Sec. 6. Division of Professional Services; Powers and**

**2 Duties of Supervisor; Liaison with Other State Agencies.**

3 —There shall be a division of professional services in the  
4 department of mental health. The supervisor of this divi-  
5 sion shall act primarily in a consultant capacity and shall  
6 make recommendations as to professional aspects of  
7 state hospital management, but shall not exercise direct

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

10 (1) To carry on or stimulate research activities re-  
11 lated to medical and psychiatric facilities of the depart-  
12 ment, and render specialized assistance to hospital su-  
13 perintendents.

14 (2) To develop professional standards, analyze hos-  
15 pital programs, and inspect individual hospitals.

16 (3) To assist in recruiting professional staff.

17 (4) To take primary responsibility for the education  
18 and training of professional and subprofessional person-  
19 nel.

20 (5) To establish liaison with appropriate state agencies  
21 and with private groups interested in mental health, such  
22 as the state department of health, the board of proba-  
23 tion and parole, the department of education, the board  
24 of governors of West Virginia University, and the West  
25 Virginia association for mental health, inc.

26 (6) To license, supervise and inspect any hospital,  
27 center or institution, or part thereof, maintained and  
28 operated by any political subdivision or by any person,

29 persons, association or corporation to provide inpatient  
30 care and treatment for the mentally ill, or mentally re-  
31 tarded, or both.

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

**Sec. 7. Division of Community Services; Powers and**

2 **Duties of Supervisors.**—There shall be a division of  
3 community services in the department of mental health.

4 This division shall administer funds made available to  
5 the state of West Virginia and any political subdivision  
6 thereof under the national mental health act. The super-  
7 visor of this division shall also have the following powers  
8 and duties:

9 (1) To supervise the operation of outpatient psychi-  
10 atric clinics for adults and children and to develop new  
11 clinics. Traveling clinics may be established for rural  
12 areas to be operated directly by the division or under  
13 its supervision.

14 (2) To develop a comprehensive and practical pro-  
15 gram of mental health education of the public, especially  
16 at the local level.

17 (3) To work with county mental hygiene commis-  
18 sions and circuit courts.

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

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

15 All moneys appropriated for the department of mental  
16 health and state hospitals may be expended on proper  
17 requisitions issued by the director of mental health or

18 his duly authorized agent. Whenever the appropriations  
19 by the Legislature for state hospitals are insufficient to  
20 pay the expenses of conducting such institutions, the  
21 director of mental health shall certify the deficiency to  
22 the governor. The certificate shall state the name of the  
23 state hospital and the items and amount in detail needed,  
24 and the governor may direct payment of the same or any  
25 part thereof out of any appropriation available for that  
26 purpose.

**Sec. 9. Transfer of Control, Records and Property from**

**2 the Board of Control to the Department of Mental Health.**

3 —The control of the financial, business and all other  
4 affairs of state hospitals is hereby transferred from the  
5 state board of control to the department of mental health,  
6 and, as its chief executive officer, the director shall, in  
7 respect to the control, management and property of such  
8 state hospitals, have the same rights and powers and shall  
9 perform the same duties and functions as were heretofore  
10 exercised or performed by the state board of control.  
11 The title to all property of such state hospitals is hereby



12 transferred to and vested in the department of mental  
13 health.

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

**Article 2. State Hospitals and Colin Anderson Center.**

**Section 1. Locations; Continuation; Management.—**  
2 The state hospitals heretofore established at Weston,  
3 Spencer, Huntington, Barboursville, Lakin and St. Marys  
4 shall be continued and known respectively as the Weston  
5 state hospital, Spencer state hospital, Huntington state  
6 hospital, Barboursville state hospital, Lakin state hospital  
7 and the Colin Anderson center. Said state hospitals shall  
8 be managed, directed and controlled by the department

9 of mental health as provided in article one-a of this chap-  
10 ter.

11 All references in this code or elsewhere in law to the  
12 "West Virginia training school" shall be taken and con-  
13 strued to mean and to refer to the "Colin Anderson  
14 center."

**Sec. 2. Superintendents.**—The superintendent of a state  
2 hospital shall be appointed for an indefinite period. The  
3 superintendent of a state hospital, other than a state hos-  
4 pital or center maintained and operated exclusively for  
5 the care and treatment of the mentally retarded, shall  
6 be a qualified psychiatrist with some experience in a  
7 psychiatric facility. Preference shall be given to diplo-  
8 mates of the American board of psychiatry and neurology  
9 and to persons who are certified by the committee on  
10 the certification of mental hospital administrators. The  
11 superintendent of the Colin Anderson center, or of any  
12 other state hospital or center maintained and operated  
13 exclusively for the care and treatment of the mentally  
14 retarded, shall be a person qualified to supervise a hos-  
15 pital for mentally retarded.

16 The superintendent, subject to civil service regula-  
17 tions, shall have the power to appoint all assistants and  
18 employees required for the management of his institu-  
19 tion; but the number of such assistants and employees,  
20 and their compensation, shall first be fixed by the director  
21 of mental health.

22 The superintendent shall be furnished living quarters,  
23 household furniture, board, fuel and lights for himself  
24 and his family. The director of mental health may desig-  
25 nate other officers to receive these emoluments, as de-  
26 termined by the character of their duties.

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

**Sec. 4. Forms for Committing Patients; Other Records.**  
2 —The director of mental health shall have authority to  
3 prepare, prescribe and have printed forms to be used for  
4 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.

**Article 3. Mental Hygiene Commission.**

**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  
3 availability of suitable accommodations, and subject fur-  
4 ther to the rules and regulations promulgated by the di-  
5 rector of mental health, shall admit for diagnosis, care  
6 and treatment any individual:

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

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

**Sec. 2. Release of Voluntary Patients.—**The superin-  
2 tendent of a state hospital shall release any voluntary

3 patient who, in his opinion, has recovered, or whose hos-  
4 pitalization he determines to be no longer advisable.

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

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

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

14 (3) If, within ninety-six hours of the receipt of the  
15 request, the superintendent of the state hospital in which  
16 the patient is confined files with the clerk of the county  
17 court of the county in which the patient is a resident, or  
18 the clerk of the county court of the county where the

19 hospital is situated, an application for involuntary hos-  
20 pitalization as provided in section four, article five of this  
21 chapter, release may be postponed pending a decision  
22 on the application by the mental hygiene commission.

23 Notwithstanding any other provision of this chapter,  
24 legal proceedings for hospitalization shall not be com-  
25 menced with respect to a voluntary patient unless re-  
26 lease of the patient has been requested by him or the  
27 individual or individuals who applied for his admission.

**Article 5. Involuntary Hospitalization.**

**Section 1. Hospitalization on Medical Certification.—**

2 Any individual may be admitted to a state hospital  
3 upon:

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

9 (b) Certification by two physicians that they have  
10 examined the individual, and that they are of the opinion  
11 that he is mentally ill or mentally retarded and:

12 (1) Because of his mental illness or mental retarda-  
13 tion may injure himself or others if allowed to remain  
14 at liberty, or

15 (2) Is in need of care or treatment in a hospital, and  
16 because of his mental illness or mental retardation, lacks  
17 sufficient insight or capacity to make responsible appli-  
18 cation therefor.

19 The certifications by the licensed physicians may be  
20 made jointly or separately as the regulations of the direc-  
21 tor of mental health may prescribe. In the case of a  
22 licensed physician who examines the individual to deter-  
23 mine whether or not he is mentally ill or mentally re-  
24 tardated, the physician's fee shall be paid by the patient  
25 or responsible relative. If, in the opinion of the county  
26 court, the patient or responsible relative is unable to  
27 pay such fee, the county court shall make such payment  
28 as such county court shall prescribe. An individual with  
29 respect to whom such certifications have been issued may  
30 not be admitted on the basis thereof at any time after  
31 the expiration of fifteen days from the last examination.  
32 The superintendent of the state hospital admitting the



33 individual shall forthwith make a report thereof to the  
34 director of mental health.

35 If the certification by one of the examining physicians  
36 states the opinion that the individual because of his men-  
37 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-  
41 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-**

2 **gency Procedure.**—Any individual may be admitted to a  
3 state hospital upon:

4 (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

10 has examined the individual and is of the opinion that  
11 the individual is mentally ill, and because of his illness,  
12 may injure himself or others if not immediately re-  
13 strained.

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

**Sec. 3. Hospitalization Without Medical Certification;**

2 **Emergency Procedure.**—When any health officer or police  
3 officer has reason to believe that an individual is mentally  
4 ill and because of his illness may injure himself or others  
5 if allowed to remain at liberty while awaiting an exam-  
6 ination and certification by a physician, such health or  
7 police officer may take the individual into custody, apply  
8 to a state hospital for his admission and transport him  
9 thereto. The application for admission shall state the  
10 circumstances under which the individual was taken  
11 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 ician.

18 Upon receipt of an application, the clerk shall give

19 notice thereof to the individual and to the individual's  
20 spouse, parents or parent and guardian, or if the individ-  
21 ual does not have a spouse, parents or parent or guardian,  
22 to the individual's adult next of kin. Such notice shall  
23 be given within fifteen days after receipt of the applica-  
24 tion by the clerk and shall be transmitted to such person  
25 or persons at his or their last known address by regis-  
26 tered or certified mail, return receipt requested.

27 As soon as practicable after notice of the commence-  
28 ment of proceedings is given, the mental hygiene com-  
29 mission shall appoint two physicians to examine the in-  
30 dividual and report to the mental hygiene commission  
31 their findings as to the mental condition of the individual  
32 and his need for custody, care or treatment in a hos-  
33 pital.

34 If the designated physicians report to the mental hy-  
35 giene commission that the individual has refused to  
36 submit to an examination, the mental hygiene commission  
37 shall order him to submit to such examination. Such  
38 an order may be enforced by the issuance of a warrant  
39 ordering the individual to be taken into custody pending

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

61 to appear at the hearing, to testify, and to present and  
62 cross-examine witnesses, and the mental hygiene com-  
63 mission may in its discretion receive the testimony of  
64 any other person. The individual shall not be required  
65 to be present, and all persons not necessary for the con-  
66 duct of the proceedings shall be excluded, except that  
67 the mental hygiene commission shall admit and hear  
68 persons having a legitimate interest in the proceedings.  
69 The hearings shall be conducted in as informal a manner  
70 as may be consistent with orderly procedure. The mental  
71 hygiene commission shall receive all relevant and mater-  
72 ial evidence which may be offered and shall not be bound  
73 by the rules of evidence. The mental hygiene commis-  
74 sion shall appoint a guardian ad litem who shall be a  
75 competent attorney, for the individual, and said guardian  
76 shall be present at the hearing and protect the interests  
77 of the individual. The mental hygiene commission may  
78 allow such guardian ad litem a reasonable fee for his  
79 services which shall be paid by the county court to the  
80 extent that funds are made available in the county  
81 budget.

82 If, upon completion of the hearing and consideration  
83 of the record, the mental hygiene commission finds that  
84 the individual is mentally ill or mentally retarded, and:

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

88 (2) Is in need of custody, care or treatment in a hos-  
89 pital and, because of his illness or retardation lacks suffi-  
90 cient insight or capacity to make responsible decisions  
91 with respect to his hospitalization, and

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

96 If the order is for a temporary period the mental hy-  
97 giene commission may at any time prior to the expira-  
98 tion of such period, on the basis of report by the super-  
99 intendent of the state hospital in which the patient is  
100 confined and such further inquiry as may seem appro-  
101 priate, order indeterminate hospitalization of the patient  
102 or dismissal of the proceeding.

103 If the mental hygiene commission finds that the in-  
104 dividual is not mentally ill or mentally retarded, the  
105 proceeding shall be dismissed. If the commission finds  
106 that the individual is mentally ill or mentally retarded  
107 but because of such illness or retardation is not likely  
108 to injure himself or others if allowed to remain at liberty,  
109 the proceeding shall be dismissed. If the commission  
110 finds that the individual is mentally ill or mentally re-  
111 tarded and that because of such illness or retardation  
112 is not likely to injure himself or others if allowed to  
113 remain at liberty and that such individual has sufficient  
114 insight or capacity to make responsible decisions with  
115 respect to his hospitalization, the proceeding shall be  
116 dismissed.

117 If the mental hygiene commission is satisfied that hos-  
118 pitalization should be ordered but finds that the individual  
119 is not a resident of the county in which the hearing is  
120 held, a transcript of the evidence adduced at the hearing  
121 of such person, properly certified by the clerk of the  
122 county court, shall forthwith be forwarded to the clerk  
123 of the county court of the county of which such person



124 is a resident, who shall immediately present such trans-  
125 cript to the mental hygiene commission of said county.  
126 If the mental hygiene commission of the county of the  
127 residence of the individual is satisfied from the evidence  
128 contained in such transcript that such individual should  
129 be hospitalized as determined by the standards set forth  
130 above, the mental hygiene commission shall order the  
131 appropriate hospitalization as though the person had been  
132 brought before the mental hygiene commission in the  
133 first instance. This order shall be transmitted forthwith  
134 to the clerk of the county court of the county in which  
135 the hearing was held, who shall execute said order  
136 promptly.

137 In lieu of ordering the patient to a state hospital, the  
138 mental hygiene commission may order him delivered  
139 to some responsible person who will agree to take care  
140 of him, and take from such responsible person a bond  
141 in the penalty of at least five hundred dollars, with suffi-  
142 cient security to be approved by the mental hygiene  
143 commission, payable to the state of West Virginia, with  
144 condition to restrain and take proper care of such person

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.

166 The entry of an order ordering hospitalization for an  
167 indeterminate period shall relieve the patient of legal  
168 capacity.

169 The clerk of the county court in which an order direct-  
170 ing hospitalization is entered shall immediately upon  
171 entry thereof forward a certified copy of same to the clerk  
172 of the county court of the county of which the patient  
173 is a resident.

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

9 Any person hospitalized pursuant to section four of  
10 this article shall be entitled to have his case reviewed  
11 by the mental hygiene commission which committed him.  
12 Such review shall be obtained by a petition filed therein  
13 by such person or by that of his spouse, relative, guardian

14 or friend. Upon receipt of any such petition, the com-  
15 mission shall conduct or cause to be conducted proceed-  
16 ings as specified in said section four: *Provided*, That no  
17 such re-examination shall be had if the petition is filed  
18 sooner than six months after entry of the order of hos-  
19 pitalization or sooner than one year after the filing of a  
20 previous petition of re-examination in accordance with  
21 the provisions of this section.

**Sec. 6. Examination of Newly Admitted Patients.**—The  
2 superintendent of the state hospital shall arrange for pre-  
3 liminary psychiatric examination of every patient hos-  
4 pitalized pursuant to the provisions of sections one, two  
5 or three of this article. If such examination is not com-  
6 pleted within five days after the date of admission, or  
7 if the physician designated by the superintendent cannot  
8 certify that in his opinion the patient is mentally ill or  
9 mentally retarded and is likely to injure himself or others  
10 if allowed to be at liberty or because of his mental ill-  
11 ness or mental retardation lacks sufficient capacity to  
12 continue hospitalization of his own volition, the patient  
13 shall be immediately discharged or permitted to change

14 his status to that of voluntary hospitalization and there-  
15 after treated according to the provisions of article four  
16 of this chapter.

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

31 Notwithstanding any other provisions of this article,  
32 when any person is hospitalized pursuant to the provisions  
33 of sections one, two or three of this article, such person  
34 or his spouse, relative, guardian or friend may demand

35 in writing that such person be released from the state  
36 hospital. Upon receipt of such demand by the superin-  
37 tendent, the superintendent shall either release such  
38 person or forthwith institute legal proceedings as speci-  
39 fied in section four of this article. The superintendent  
40 of the state hospital shall make arrangements for in-  
41 forming each person hospitalized therein under the pro-  
42 visions of sections one, two or three of this article of  
43 his rights under this section. The superintendent shall  
44 also assist any such person in making such written de-  
45 mand.

**Sec. 7. Hospitalization by an Agency of the United**  
2 **States.**—If an individual ordered to be hospitalized pur-  
3 suant to section four of this article is eligible for hospital  
4 care or treatment by any agency of the United States,  
5 then, upon receipt of a certificate from such agency show-  
6 ing that facilities are available and that the individual  
7 is eligible for care or treatment therein, the mental  
8 hygiene commission may order him to be placed in the  
9 custody of such agency for hospitalization. When any  
10 such individual is admitted pursuant to the order of such

11 mental hygiene commission to any hospital or institution  
12 established, maintained or operated by any agency of  
13 the United States within or without the state, he shall  
14 be subject to the rules and regulations of such agency.  
15 The chief officer of any hospital or institution operated  
16 by such agency and in which the individual is so hospi-  
17 talized, shall with respect to such individual be vested  
18 with the same powers as the superintendents of state  
19 hospitals or the director of mental health within this  
20 state with respect to detention, custody, transfer, condi-  
21 tional release, or discharge of patients. Jurisdiction is  
22 retained in the appropriate mental hygiene commission  
23 of this state at any time to inquire into the mental condi-  
24 tion of an individual so hospitalized, and to determine  
25 the necessity for continuance of his hospitalization, and  
26 every order of hospitalization issued pursuant to this  
27 section is so conditioned.

**Article 6. Commitment of Inebriates and Criminally Mentally**

**III.**

**Section 1. Commitment of Inebriates.**—If any indi-  
2 individual in a county reasonably suspects any person

3 therein to be an inebriate, he may make complaint under  
4 oath to the clerk of the county court, giving such infor-  
5 mation and stating such facts therein as may be required,  
6 and he shall further furnish to said clerk the certificate  
7 of a physician showing the condition of such person. The  
8 complaint and certificate shall be delivered to the clerk  
9 of the county court, whose duty it shall be to issue a  
10 warrant ordering the person named in such complaint  
11 and certificate to be brought before the county mental  
12 hygiene commission at a time and place named therein  
13 so that his condition may be inquired into. All such  
14 warrants shall be signed by the clerk of the county court  
15 and have impressed thereon the seal thereof; and may be  
16 addressed to the sheriff of the county or to any constable  
17 of any district thereof, or to a special constable appointed  
18 for the purpose and named therein; but if any relative  
19 or friend of the person so suspected will serve such  
20 warrant and cause such person to be brought before the  
21 commission, he may be allowed to do so. The officer or  
22 person to whom the warrant is addressed shall take such



23 person into custody and bring him or her before the com-  
24 mission at the time and place named therein.

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

29 When such person is brought before the county mental  
30 hygiene commission, the commission shall follow the  
31 procedures set forth in sections, two, three, four and five  
32 of this article.

**Sec. 2. Guardian Ad Litem to Be Appointed.**—Before  
2 proceeding with the hearing of the matter, the commis-  
3 sion shall appoint a guardian ad litem, who shall be a  
4 competent attorney, for such person, and such guardian  
5 shall be present at the hearing and manage the case on  
6 behalf of the person suspected. Such attorney shall be  
7 paid by the county court. Such person and his counsel  
8 shall have the right to cross-examine any witnesses.

**Sec. 3. Witnesses.**—The person suspected, the com-  
2 plainant and all other persons having a legitimate and  
3 proper interest therein shall be afforded an opportunity

4 to appear at the hearing, to testify and present and cross-  
5 examine witnesses, and the commission may in its dis-  
6 cretion receive the testimony of any other person. Among  
7 the witnesses there shall be included two physicians who  
8 shall separately or together make an examination of such  
9 person, preferably before the hearing, and each physician  
10 shall make out a certificate of the result of the examina-  
11 tion, which certificate shall be signed and sworn to by  
12 each physician and shall be considered as evidence by the  
13 commission.

14 Such person shall not be required to be present at this  
15 hearing unless it be deemed advisable by the commission  
16 to better protect his interests. All persons not necessary  
17 for the conduct of the hearing shall be excluded, but the  
18 commission shall admit and hear persons having a legi-  
19 timate and proper interest in the hearing. The hearing  
20 shall be conducted in as informal a manner as may be  
21 consistent with orderly procedure in a physical setting  
22 not likely to have a harmful effect on the mental condi-  
23 tion of the person suspected. The commission shall re-  
24 ceive all legitimate and material evidence which shall be  
25 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

22 resident of another county of this state, a transcript of the  
23 evidence adduced at the hearing of such person, properly  
24 certified by the clerk of the county court, shall forthwith  
25 be forwarded to the clerk of the county court of the  
26 county of which such person is a resident, who shall  
27 immediately present such transcript to the mental  
28 hygiene commission of said county. Such commis-  
29 sion shall give full faith and credit to the evidence  
30 contained in such transcript, and, if satisfied that such  
31 person is an inebriate and is in need of such custody, care  
32 or treatment, shall order the person to be committed to a  
33 state hospital, or other institution hereafter established  
34 for inebriates, for a minimum period of thirty days, as  
35 though the person had been brought before it in the first  
36 instance. This order shall be transmitted forthwith to  
37 the county clerk of the county court of the county in  
38 which the hearing was held, who shall execute said order  
39 promptly. All expenses incurred in this proceeding, as  
40 well as for the hospitalization of such inebriate, shall be  
41 borne by the county of which he is a resident.

**Sec. 5. Transportation; Temporary Detention.—**When-

2 ever a person has been ordered to be hospitalized under  
3 the provisions of section four of this article, the commis-  
4 sion shall, upon the request of a person having a proper  
5 interest in the individual's transportation to the state  
6 hospital by such means as may be suitable for his mental  
7 and physical condition. In lieu of such request, the com-  
8 mission may deliver the inebriate to the state hospital  
9 in any manner which it may deem proper.

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

**Sec. 6. Release of Inebriates.—**After expiration of said  
2 minimum thirty-day period, the inebriate shall not be  
3 released until, in the opinion of the superintendent of the  
4 state hospital, he has received the maximum benefit from

5 such hospitalization. In all cases dealing with the com-  
6 mitment of inebriates, the provisions of article seven of  
7 this chapter relating to the release, discharge and re-  
8 admission of mentally ill and mentally retarded persons  
9 shall apply. An inebriate shall not forfeit his legal ca-  
10 pacity by virtue of being committed as an inebriate.

**Sec. 7. Commitment and Admission of Criminally Men-**  
2 **tally Ill Persons.**—If any person charged with or con-  
3 victed of crime be found, in the court before which he  
4 is charged or was convicted, to be mentally ill, and if  
5 such court shall order him to be confined in one of the  
6 state hospitals, he shall be received and confined in it.  
7 The sheriff or other officer of the court by which the or-  
8 der is made shall immediately proceed to ascertain  
9 whether a vacancy exists in a state hospital; and until  
10 it is ascertained that there is a vacancy, such person shall  
11 be kept in the jail of the county of such court.

**Sec. 8. 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 thereof

5 to the clerk of the court by whose order he was confined  
6 and deliver him to the proper officer upon order of the  
7 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 state hospi-  
12 tal shall be computed as part of the term for which he  
13 was sentenced. If the sentence of such convict expires  
14 while such convict is in the state hospital, then upon his  
15 recovery he shall be discharged from said state hospital.

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

**Section 1. Discharge.**—The superintendent of a state  
2 hospital shall continually review the case of each indi-  
3 vidual confined in such hospital and shall as frequently  
4 as practicable cause a complete staff examination of ev-  
5 ery patient, and whenever it is determined that the con-  
6 dition justifying involuntary hospitalization no longer  
7 obtains, the superintendent shall discharge the patient  
8 and immediately make a report thereof to the mental

9 hygiene commission, or the clerk of the county court of  
10 the county in which the involuntary hospitalization was  
11 ordered, and to the county clerk of the county wherein  
12 the patient is a resident. This discharge restores said  
13 patient to legal capacity.

**Sec. 3. Released as Unimproved.**—The superintendent  
2 of a state hospital may release a patient as unimproved  
3 when any responsible person requests the patient's re-  
4 lease and is willing and able to take proper care of the  
5 patient outside the state hospital, taking from such re-  
6 sponsible person a bond in the penalty of at least five hun-  
7 dred dollars, with sufficient security to be approved by  
8 the superintendent, payable to the state of West Virginia,  
9 conditioned to restrain and take proper care of such pati-  
10 ent until the further order of the superintendent. Re-  
11 ports shall be made by those in charge of said patient at  
12 least once every six months to the superintendent of the  
13 state hospital. No discharge shall be given to said pati-  
14 ent until he has returned to the state hospital for exam-  
15 ination by the superintendent and staff thereof and it has



16 been determined that he is no longer in need of hospital-  
17 ization.

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

**Sec. 4. Re-admission of Patients.**—While any patient is  
2 out of the state hospital under the provisions of section  
3 two of this article, he may be at any time re-admitted to  
4 the hospital on the basis of the original commitment. If  
5 there is reason to believe that it is to the best interest of  
6 the patient to be hospitalized, the superintendent of the  
7 state hospital may issue an order for the immediate rehos-  
8 pitalization of the patient. This order shall be sent to the  
9 mental hygiene commission or to the clerk of the court  
10 which ordered his admission, as the case may be. A copy  
11 of such order shall also be sent to the clerk of the county

12 court of the county of the patient's residence. If the or-  
13 iginal hospitalization was ordered by the commission, any  
14 member of such commission may endorse the superin-  
15 tendent's order and authorize any health officer or police  
16 officer to take the patient into custody and transport him  
17 to the state hospital where the order originated.

**Sec. 5. Return of Escapees; Veterans.**—If any person  
2 confined in a state hospital escapes 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 state hospital, and  
6 may offer such reward for the return of such person as  
7 the director of mental health may authorize. The superin-  
8 tendent may issue a warrant directed to the sheriff of the  
9 county in which the patient is a resident, commanding  
10 him to arrest and transport such escaped person back  
11 to the state hospital, which warrant the sheriff may exe-  
12 cute in any part of the state. If such person goes to an-  
13 other state, the superintendent shall notify the director  
14 of mental health, and he shall take such action as he may

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

17 If any veteran duly committed to a veterans' hospital  
18 or other veterans' institution, either within or without  
19 the state, escape or elope therefrom and any person make  
20 complaint, under oath, to the clerk of the county court  
21 of the county from which such veteran was so committed  
22 upon the order of the mental hygiene commission, or to  
23 the clerk of the circuit court by which such veteran was  
24 so committed, giving such information and stating such  
25 facts therein as may be required, or if any veteran duly  
26 committed to a veterans' hospital or other veterans' in-  
27 stitution, either within or without the state, escape or  
28 elope therefrom and the superintendent or chief officer  
29 of such hospital or institution issues notice to the clerk  
30 of the county court of the county from which such vet-  
31 eran was so committed upon the order of the mental hy-  
32 giene commission, or to the clerk of the circuit court by  
33 which such veteran was so committed, giving the name  
34 and description of such veteran and requesting his ap-  
35 prehension and return to such hospital or institution, the

36 clerk of the county court or circuit court, as the case may  
37 be, upon receipt of such complaint or of such notice, may  
38 issue a warrant directed to the sheriff of the county from  
39 which the veteran was so committed commanding him to  
40 arrest and transport such veteran back to such hospital  
41 or institution, which warrant the sheriff may execute in  
42 any part of the state.

43 The sheriff or other person making any arrest under  
44 this section shall be paid such compensation as is pro-  
45 vided for like services in other cases, and such additional  
46 compensation in any case as the director of mental health  
47 may think reasonable and just.

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

**Article 8. Maintenance of Mentally Ill or Mentally Retarded  
Patients.**

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

2 The cost of the maintenance of patients admitted to the

3 state hospitals shall be paid out of funds appropriated  
4 for the respective state hospitals, but the state hospitals,  
5 through the director of mental health, shall have a right  
6 of reimbursement for all or any part of such maintenance,  
7 in no case to exceed five dollars per day, from each pati-  
8 ent or from the committee or guardian of the estate of  
9 the patient, or if that be insufficient, then from the pati-  
10 ent's husband, wife, children, father and mother, or any  
11 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 director of mental health may, whenever it is deemed  
17 just and expedient to do so, exonerate any person charge-  
18 able with such maintenance from the payment thereof  
19 in whole or in part, if the director finds that such person  
20 is unable to pay or that payment would work an undue  
21 hardship on him or on those dependent upon him.

22 There shall be no discrimination on the part of the state  
23 hospital as to food, care, protection, treatment or reha-

24 bilitation, between patients who pay for their mainte-  
25 nance and those who are unable to do so.

26 It shall be the responsibility of the director of mental  
27 health to determine the ability of the patient or of his  
28 relatives to pay for his maintenance.

**Sec. 2. When and How Counties to Pay.**—If the state  
2 hospital is unable to collect a minimum of one hundred  
3 fifty dollars per annum toward the maintenance of a  
4 patient, whether on a voluntary or involuntary status,  
5 the county of which the patient is a resident shall annu-  
6 ally pay into the state treasury for credit to the approp-  
7 riate state hospital the difference between the amount,  
8 if any, collected by the institution and the sum of one  
9 hundred fifty dollars.

10 At every levy term of each county court it shall esti-  
11 mate for and levy a sufficient amount to meet all such  
12 expenses. The superintendent of such state hospital, on  
13 or before the tenth day of January of each year, shall  
14 certify to the auditor a list of all the patients in the state  
15 hospital during the whole or any part of the preceding  
16 year for which the counties are to pay, showing on such

17 list under the name of the county, the number from each  
18 county and length of time they were in the state hospital  
19 during the year, and showing the amount due from each  
20 county for each patient, and the total amount due from  
21 each county for the year. As soon as such list is received  
22 by the auditor he shall charge to each county the amount  
23 appearing to be due from the certificates of the superin-  
24 tendents. Within ten days after the receipt of such cer-  
25 tificates the auditor shall make out a copy thereof for  
26 each county and certify the same to the county court  
27 thereof, which list shall show the name of each patient in  
28 such state hospital from the county during the year, the  
29 length of time he was in such state hospital during the  
30 year, the amount charged for each patient, and the total  
31 amount charged on account of all such patients from the  
32 county; and such total amount shall constitute a debt  
33 against the county due the state. Whenever there is in  
34 the state treasury a sum of money due any county from  
35 any source, the same shall be at once applied on the debt  
36 aforesaid against the county, and the fact of such appli-  
37 cation of such fund shall be reported by the auditor to the

38 county court of the county, which report shall be a re-  
39 ceipt for the amount therein named.

**Sec. 3. Care of Patients in Boarding Homes.**—The di-  
2 rector of mental health may, upon the recommendation  
3 of the superintendent of the state hospital, provide care  
4 in a suitable boarding home for any patient in a state  
5 hospital, if the condition of the patient is such that his  
6 and the public welfare will not be prejudiced thereby.  
7 A patient in a boarding home shall be deemed to be a  
8 patient of the state hospital from which he was removed  
9 and shall, on the approval of the superintendent, be placed  
10 under the supervision of a psychiatric social worker em-  
11 ployed by the state hospital. All patients in such homes  
12 shall be visited at least once every three months, and if  
13 upon the visitation they are found to be abused, neglected  
14 or improperly cared for, they shall be returned to the  
15 state hospital or placed in a better boarding home. The  
16 cost of the boarding home care shall be paid by the state  
17 hospital from which he was removed.

#### **Article 9. Licensing of Hospitals.**

**Section 1. License from Director of Mental Health;**  
2 **Regulations.**—No hospital, center or institution, or part



3 thereof, to provide inpatient care and treatment for the  
4 mentally ill, or mentally retarded, or both, shall be estab-  
5 lished, maintained or operated by any political subdivision  
6 or by any person, persons, association or corporation un-  
7 less a license therefor shall be first obtained from the de-  
8 rector of mental health. The application for such license  
9 shall be accompanied by a plan of the premises to be oc-  
10 cupied, and such other data and facts that the director may  
11 require. He may make such terms and regulations in re-  
12 gard to the conduct of such hospital, center or institution,  
13 or part thereof, as he may think proper and necessary.  
14 He, or any person authorized by him, shall have author-  
15 ity to investigate and inspect such hospital, center or in-  
16 stitution, or part thereof; and the director of mental  
17 health may revoke the license of any such hospital, cen-  
18 ter or institution, or part thereof, for good cause after  
19 reasonable notice to the superintendent or other person  
20 in charge thereof.

**Article 11. Committee; Disposition of Property.**

**Section 1. To Be Appointed by County Court.—**When

2 a person is found to be mentally ill or mentally retarded

3 by the county mental hygiene commission the county  
4 court shall appoint a committee for him.

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

**Sec. 3. Appraisalment of Estate.**—The county court,  
2 whenever any committee is appointed for a mentally ill  
3 or mentally retarded person, shall appoint appraisers and  
4 cause to be made, returned and recorded an appraisalment  
5 of the property, both real and personal, of any such per-  
6 son in the same manner, to the same extent, within the  
7 same time, and subject to the same regulations and con-  
8 ditions as required by law for the estate of a deceased  
9 person.

**Sec. 5. Mortgage, Lease or Sale of Realty.**—If the per-  
2 sonal estate of such mentally ill or mentally retarded  
3 person be insufficient for the discharge of his debts, or  
4 if such estate or the residue thereof after payment of the  
5 debts, and the rents and profits of his real estate, be in-  
6 sufficient for his maintenance and that of his family, if  
7 any, the committee of such mentally ill or mentally re-  
8 tarded person may proceed, as provided in article one,  
9 chapter thirty-seven of this code, to obtain authority to  
10 mortgage, lease or sell so much of the real estate of such  
11 mentally ill or mentally retarded person as may be nec-  
12 essary for the purposes aforesaid, or any of them; setting

13 forth in the bill or petition the particulars and the amount  
14 of the estate, real and personal, the application which may  
15 have been made of any personal estate, and account of  
16 the debts and demands existing against the estate.

**Article 12. Offenses.**

**Section 1. Malicious Making of Medical Certificate or**

2 **Complaint as to Mental Condition.**—Any physician who  
3 shall sign a certificate respecting the mental condition of  
4 any person without having made the examination as pro-  
5 vided for by this chapter, or shall make any statement  
6 in any such certificate maliciously for the purpose of hav-  
7 ing such person declared mentally ill, mentally retarded  
8 or an inebriate, and any person who shall maliciously make  
9 application to any circuit court or mental hygiene commis-  
10 sion for the purpose of having another person declared  
11 mentally ill, mentally retarded, or an inebriate, shall be  
12 guilty of a misdemeanor, and upon conviction thereof,  
13 shall be fined not exceeding five hundred dollars, or im-  
14 prisoned not exceeding one year, or both fined and im-  
15 prisoned at the discretion of the court.

**Sec. 2. Trespass on Grounds of State Hospitals.**—The  
2 enclosed premises and the lands adjoining the same be-  
3 longing to any one of the state hospitals are hereby de-  
4 clared private grounds; and if any person be found there-  
5 on without authority, permission or good excuse, he  
6 shall be deemed a trespasser, and on conviction thereof,  
7 shall be fined not exceeding twenty-five dollars; and if  
8 it shall appear that he was thereon for any unlawful or  
9 immoral purpose, in addition to being fined, he shall be  
10 imprisoned not exceeding sixty days.

**Sec. 3. Miscellaneous Offenses.**—If any person shall  
2 entice any patient from any state hospital who has been  
3 legally committed thereto, or attempt to do so; or shall  
4 counsel, cause, influence or assist, or attempt to do so, any  
5 such patient to escape or attempt to escape therefrom,  
6 or harbor or conceal any such patient who has escaped  
7 therefrom; or shall, without the permission of the super-  
8 intendent of any such hospital, give or sell to any such  
9 patient, whether on the premises thereof or elsewhere,  
10 any money, firearms, drugs, cigarettes, tobacco, or any  
11 other article whatsoever; or shall receive from the hands

12 of any such patient anything of value, whether belonging  
13 to the state or not; or shall cause or influence, or attempt  
14 to cause or influence, any such patient to violate any rule  
15 or to rebel against the government or discipline of such  
16 hospital; or shall tease, pester, annoy, or molest any such  
17 patient, he shall be guilty of a misdemeanor, and on con-  
18 viction thereof, shall be fined not less than ten nor more  
19 than one hundred dollars, or imprisoned not exceeding  
20 six months, or, in the discretion of the court, both fined  
21 and imprisoned. If any person shall aid or abet the com-  
22 mission of any of the foregoing offenses, or aid or abet  
23 an attempt to commit the same, he shall be guilty of the  
24 same as if he were the principal, and be punished as above  
25 provided. In the trial of an indictment for committing  
26 any of the above named offenses, the accused may be  
27 found guilty of an attempt to commit the same, or of aid-  
28 ing or abetting another in committing or in an attempt to  
29 commit the same. If any person, not her husband, shall  
30 have sexual intercourse with any female patient who is  
31 a patient of any of said state hospitals, he shall be guilty

32 of a felony, and on conviction thereof, shall be confined  
33 in the penitentiary not less than ten nor more than fifteen  
34 years; and if such female patient be under sixteen years  
35 of age, he shall be imprisoned not less than ten nor more  
36 than twenty years.

**Article 13. Laws Repealed; Severability.**

**Section 2. Severability.**—If any provision of this chap-  
2 ter or the application thereof to any person or circum-  
3 stance is held invalid, such invalidity shall not affect other  
4 provisions or applications of the chapter which can be  
5 given effect without the invalid provision or its applica-  
6 tion, and to this end the provisions of this chapter are  
7 declared to be severable.

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

*C. Ray Fisher*  
Chairman Senate Committee

*James W. Loop*  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

*J. Howard Meigs*  
Clerk of the Senate

*C. A. Blankenship*  
Clerk of the House of Delegates

*Howard Y. Garrison*  
President of the Senate

*A. Levan White*  
Speaker House of Delegates

The within approved this the 19  
day of March, 1965.

*Stuette C. Smith*  
Governor



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