

HB 2033

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995

— ● —

ENROLLED

Com. Sub. For
HOUSE BILL No. 2033

(By Delegates *Linch, Piro, Trump and
Staton*)

— ● —

Passed *March 11,* 1995

In Effect *Ninety Days From* Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2033

(BY DELEGATES LINCH, PINO, TRUMP AND STATON)

[Passed March 11, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact sections three and four, article six-a, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section nine, all relating to the commitment of mentally ill, mentally retarded or addicted persons charged with a crime.

Be it enacted by the Legislature of West Virginia:

That sections three and four, article six-a, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section nine, all to read as follows:

ARTICLE 6A. COMMITMENT OF PERSONS CHARGED OR CONVICTED OF A CRIME.

§27-6A-3. Court jurisdiction over persons found not guilty by reason of mental illness, mental retardation or addiction.

1 (a) After the entry of a judgment of not guilty by
2 reason of mental illness, mental retardation or addiction,
3 the court of record shall determine on the record the
4 offense of which the person otherwise would have been
5 convicted, and the maximum sentence he could have
6 received. The court shall commit such defendant to a
7 mental health facility under the jurisdiction of the
8 department of health, with the court retaining jurisdiction
9 over the defendant for the maximum sentence period.

10 (b) If the defendant is released from an in-patient
11 mental health facility while under the jurisdiction of the
12 court, the court may impose such conditions as are
13 necessary to protect the safety of the public.

§27-6A-4. Release from jurisdiction of the court; discharge.

1 (a) No later than thirty days prior to the release of a
2 defendant because of the expiration of the court's
3 jurisdiction, if the defendant's supervising physician
4 believes that the defendant's mental illness or mental
5 retardation or addiction causes the defendant to be
6 dangerous to self or others, the supervising physician shall
7 notify the prosecuting attorney in the county of the court
8 having jurisdiction of such opinion and the basis there-
9 fore. Following this notification, the prosecuting attorney
10 shall file a civil commitment application against the
11 defendant, pursuant to article five of this chapter.

12 (b) The court may discharge a mentally ill or addicted
13 defendant from the court's period of jurisdiction prior to
14 the expiration of the period specified in this section only
15 when the court finds that the person is no longer mentally
16 ill or addicted and that the person is no longer a danger to
17 self or others. The court may discharge a mentally
18 retarded defendant from the court's period of jurisdiction
19 prior to the expiration of the period specified in this
20 section only when the court finds that the person is no
21 longer a danger to self or others. However, a defendant
22 may not be released from the jurisdiction of the court
23 when the defendant's mental illness is in remission solely

24 as a result of medication or hospitalization or other mode
25 of treatment if it can be determined within a reasonable
26 degree of medical certainty that without continued therapy
27 or hospitalization or other mode of treatment, the
28 defendant's mental illness will make him a danger to self
29 or others.

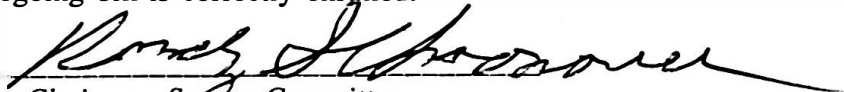
30 (c) Those persons committed under the provisions of
31 this article may be released or discharged from the
32 in-patient mental health facility only upon entry of an
33 order from the court of record which committed the
34 defendant finding that the defenant will not be a danger to
35 self or others if so released, based upon the evidence
36 introduced at the hearing.

37 (d) The court shall promptly conduct a hearing after
38 receipt of the physician's notification referred to in
39 subsection (a) of this section. The clerk shall notify the
40 prosecuting attorney and the victim or next of kin of the
41 victim of the offense for which the person was committed
42 of the hearing. The burden shall be on the victim or next
43 of kin to the victim to keep the court apprised of that
44 person's current mailing address.

§27-6A-9. Development of conditional release plans.

1 The department of health shall, on or before the first
2 day of the regular session of the Legislature in the year
3 one thousand nine hundred ninety-six, provide to the
4 president of the Senate and the speaker of the House of
5 Delegates, a complete proposed plan for the implementat-
6 ion of a conditional release or out-patient status program
7 for persons committed to an in-patient mental health
8 facility due to having been judicially determined to be not
9 guilty by reason of insanity, incompetence to stand trial or
10 civilly committed after having been judicially determined
11 to be a danger to self or others.

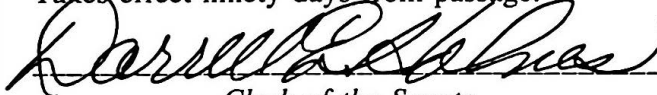
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

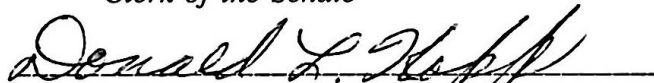

Chairman Senate Committee



Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within _____ this the _____
day of _____, 1995.

Governor



PRESENTED TO THE

GOVERNOR

Date 3/28/95

Time 8:45 am