

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4169

BY DELEGATE MASTERS

[Passed March 11, 2026; in effect 90 days from
passage (June 9, 2026)]

FILED

2025 APR - 1 P 10:42

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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1 AN ACT to amend and reenact §61-7A-5 of the Code of West Virginia, 1931, as amended, relating
2 to petitions to regain the right to possess firearms; aligning mental health examination
3 requirements with those required for involuntary hospitalizations; and providing for the
4 qualifications of certain professionals authorize to sign a verified certificate of mental
5 health examination.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 7A. STATE MENTAL HEALTH REGISTRY; REPORTING OF PERSONS
PROSCRIBED FROM FIREARM POSSESSION DUE TO MENTAL CONDITION
TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM;
LEGISLATIVE FINDINGS; DEFINITIONS; REPORTING REQUIREMENTS;
REINSTATEMENT OF RIGHTS PROCEDURES.**

§61-7A-5. Petition to regain right to possess firearms.

1 (a) Any person who is prohibited from possessing a firearm pursuant to the provisions of
2 §61-7-7 or by provisions of federal law by virtue solely of having previously been adjudicated to
3 be mentally defective or to having a prior involuntary commitment to a mental institution pursuant
4 to §27-5-4(l) of this code may petition the circuit court of the county of his or her residence to
5 regain the ability to lawfully possess a firearm.

6 (b) Petitioners prohibited from possession of firearms due to a mental health disability,
7 must include in the petition for relief from disability:

8 (1) A listing of facilities and location addresses of all prior mental health treatment received
9 by petitioner;

10 (2) An authorization, signed by the petitioner, for release of mental health records to the
11 prosecuting attorney of the county; and

12 (3) A verified certificate of mental health examination by a physician, psychologist,
13 licensed professional counselor practicing in compliance with §30-31-1 *et seq.* of this code,

14 licensed independent clinical social worker practicing in compliance with the provisions of §30-
15 30-1 *et seq.* of this code, an advanced nurse practitioner with psychiatric certification practicing
16 in compliance with §30-7-1 *et seq.* of this code, or a physician assistant practicing in compliance
17 with §30-3E-1 *et seq.* of this code occurring within 30 days prior to filing of the petition which
18 supports that the petitioner is competent and not likely to act in a manner dangerous to public
19 safety: *Provided*, That a licensed professional counselor, a licensed independent clinical social
20 worker, an advanced nurse practitioner with psychiatric certification, or a physician assistant may
21 only perform the examination if he or she has previously been authorized by an order of the circuit
22 court to do so, the order having found that the licensed professional counselor, the licensed
23 independent clinical social worker, advanced nurse practitioner with psychiatric certification, or a
24 physician assistant has particularized expertise in the areas of mental health and mental hygiene
25 or substance use disorder sufficient to make the determinations required by the provisions of this
26 subsection.

27 (c) The court may only consider petitions for relief due to mental health adjudications or
28 commitments that occurred in this state, and only give the relief specifically requested in the
29 petition.

30 (d) In determining whether to grant the petition, the court shall receive and consider at a
31 minimum evidence:

32 (1) Concerning the circumstances regarding the firearms disabilities imposed by 18 U.S.C.
33 §922(g)(4);

34 (2) The petitioner's record which must include the petitioner's mental health and criminal
35 history records; and

36 (3) The petitioner's reputation developed through character witness statements,
37 testimony, or other character evidence.

38 (e) If the court finds by clear and convincing evidence that the person is competent and
39 capable of exercising the responsibilities concomitant with the possession of a firearm, will not be

likely to act in a manner dangerous to public safety, and that granting the relief will not be contrary to public interest, the court may enter an order allowing the petitioner to possess a firearm. If the order denies petitioner's ability to possess a firearm, the petitioner may appeal the denial, which appeal is to include the record of the circuit court rendering the decision.

(f) All proceedings for relief to regain firearm or ammunition rights shall be reported or recorded and maintained for review.

(g) The prosecuting attorney or one of his or her assistants shall represent the state in all proceedings for relief to regain firearm rights and provide the court the petitioner's criminal history records.

(h) The written petition, certificate, mental health or substance abuse treatment records and any papers or documents containing substance abuse or mental health information of the petitioner, filed with the circuit court, are confidential. These documents may not be open to inspection by any person other than the prosecuting attorney or one of his or her assistants only for purposes of representing the state in and during these proceedings and by the petitioner and his or her counsel. No other person may inspect these documents, except upon authorization of the petitioner or his or her legal representative or by order of the court, and these records may not be published except upon the authorization of the petitioner or his or her legal representative.

(i) The circuit clerk of each county shall provide the Superintendent of the West Virginia State Police, or his or her designee, and the Administrator of the West Virginia Supreme Court of Appeals, or his or her designee, with a certified copy of any order entered pursuant to the provisions of this section which removes a petitioner's prohibition to possess firearms. If the order restores the petitioner's ability to possess a firearm, petitioner's name shall be promptly removed from the central state mental health registry and the superintendent or administrator shall forthwith inform the Federal Bureau of Investigation, the United States Attorney General, or other federal entity operating the National Instant Criminal Background Check System of the court action.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.



Clerk of the House of Delegates



Clerk of the Senate

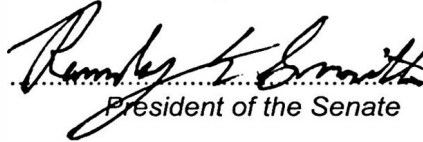
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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Originated in the House of Delegates.

In effect 90 days from passage.



Speaker of the House of Delegates



President of the Senate

The within is approved this the 1st
Day of April, 2026.


Governor

PRESENTED TO THE GOVERNOR

MAR 13 2013

Time 10:20 AM