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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001



ENROLLED

House Bill No. 2418

(By Delegates Givens, Douglas,
Fleischauer, Mezzatesta and Trump)



Passed March 19, 2001

In Effect Ninety Days from Passage

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OFFICE OF WEST VIRGINIA
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COMMITTEE SUBSTITUTE

FOR

H. B. 2418

(BY DELEGATES GIVENS, DOUGLAS,
FLEISCHAUER, MEZZATESTA AND TRUMP)

[Passed March 19, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact section nine, article six-a, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to child abuse and neglect; authorizing the division of child protective services to issue administrative subpoenas in order to locate certain children; providing for service; and invoking judicial aid to compel compliance therewith.

Be it enacted by the Legislature of West Virginia:

That section nine, article six-a, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 6A. REPORTS OF CHILDREN SUSPECTED TO BE ABUSED OR
NEGLECTED.**

§49-6A-9. Establishment of child protective services; general duties and powers; cooperation of other state agencies.

1 (a) The state department shall establish or designate in
2 every county a local child protective services office to perform
3 the duties and functions set forth in this article.

4 (b) The local child protective service shall investigate all
5 reports of child abuse or neglect: *Provided*, That under no
6 circumstances shall investigating personnel be relatives of the
7 accused, the child or the families involved. In accordance with
8 the local plan for child protective services, it shall provide
9 protective services to prevent further abuse or neglect of
10 children and provide for or arrange for and coordinate and
11 monitor the provision of those services necessary to ensure the
12 safety of children. The local child protective service shall be
13 organized to maximize the continuity of responsibility, care and
14 service of individual workers for individual children and
15 families: *Provided, however*, That under no circumstances may
16 the secretary or his or her designee promulgate rules or estab-
17 lish any policy which restricts the scope or types of alleged
18 abuse or neglect of minor children which are to be investigated
19 or the provision of appropriate and available services.

20 Each local child protective service office shall:

21 (1) Receive or arrange for the receipt of all reports of
22 children known or suspected to be abused or neglected on a
23 twenty-four hour, seven-day-a-week basis and cross-file all
24 such reports under the names of the children, the family, any
25 person substantiated as being an abuser or neglected by
26 investigation of the department of health and human resources,
27 with use of such cross-filing of such person's name limited to
28 the internal use of the department;

29 (2) Provide or arrange for emergency children's services to
30 be available at all times;

31 (3) Upon notification of suspected child abuse or neglect,
32 commence or cause to be commenced a thorough investigation
33 of the report and the child's environment. As a part of this
34 response, within fourteen days, there shall be: A face-to-face
35 interview with the child or children, and the development of a
36 protection plan, if necessary for the safety or health of the child,
37 which may involve law-enforcement officers or the court;

38 (4) Respond immediately to all allegations of imminent
39 danger to the physical well-being of the child or of serious
40 physical abuse. As a part of this response, within seventy-two
41 hours, there shall be: A face-to-face interview with the child or
42 children; and the development of a protection plan which may
43 involve law-enforcement officers or the court; and

44 (5) In addition to any other requirements imposed by this
45 section, when any matter regarding child custody is pending,
46 the circuit court or family law master may refer allegations of
47 child abuse and neglect to the local child protective service for
48 investigation of the allegations as defined by this chapter and
49 require the local child protective service to submit a written
50 report of the investigation to the referring circuit court or family
51 law master within the time frames set forth by the circuit court
52 or family law master.

53 (c) In those cases in which the local child protective service
54 determines that the best interests of the child require court
55 action, the local child protective service shall initiate the
56 appropriate legal proceeding.

57 (d) The local child protective service shall be responsible
58 for providing, directing or coordinating the appropriate and
59 timely delivery of services to any child suspected or known to

60 be abused or neglected, including services to the child's family
61 and those responsible for the child's care.

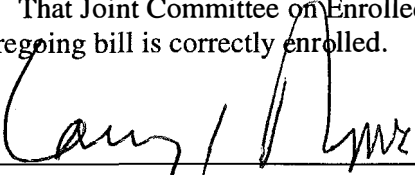
62 (e) To carry out the purposes of this article, all departments,
63 boards, bureaus and other agencies of the state or any of its
64 political subdivisions and all agencies providing services under
65 the local child protective service plan shall, upon request,
66 provide to the local child protective service such assistance and
67 information as will enable it to fulfill its responsibilities.

68 (f)(1) In order to obtain information regarding the location
69 of a child who is the subject of an allegation of abuse or
70 neglect, the secretary of the department of health and human
71 resources may serve, by certified mail or personal service, an
72 administrative subpoena on any person, corporation, partner-
73 ship, business or organization, for an appearance by the person
74 served or for the production of information leading to the
75 location of such child.

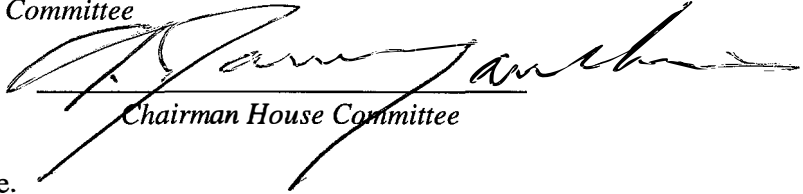
76 (2) In case of disobedience to the subpoena, in compelling
77 the personal appearance of any person so served or the produc-
78 tion of documents and things, the secretary may invoke the aid
79 of (A) the circuit court with jurisdiction over the served party,
80 if the person served is a resident, or (B) the circuit court of the
81 county in which the local child protective services office
82 conducting the investigation is located, if the person served is
83 a non-resident.

84 (3) A circuit court shall not enforce an administrative
85 subpoena unless it finds that (A) the investigation is one the
86 division of child protective services is authorized to make, and
87 is being conducted pursuant to a legitimate purpose, (B) the
88 inquiry is relevant to that purpose, (C) the inquiry is not too
89 broad or indefinite, (D) the information sought is not already in
90 the possession of the division of child protective services, and
91 (E) any administrative steps required by law have been fol-
92 lowed.

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



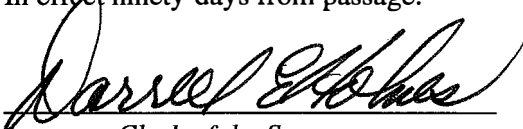
Chairman Senate Committee



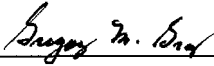
Chairman House Committee

Originating in the House.

In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

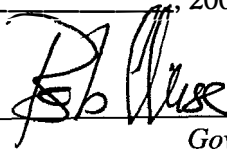


President of the Senate



Speaker of the House of Delegates

The within is approved this the 28th
day of March, 2001.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/23/01

Time 12:10 pm