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SB 13

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2006

ENROLLED

SENATE BILL NO. 13

(By Senator Yoder, et al)

PASSED March 8, 2006

In Effect 90 days from Passage

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Senate Bill No. 13

(BY SENATORS YODER, GUILLS, CARUTH, FOSTER AND UNGER)

[Passed March 8, 2006; in effect ninety days from passage.]

AN ACT to amend and reenact §7-10-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §9-6-9 of said code; to amend said code by adding thereto a new section, designated §9-6-9a; to amend and reenact §48-27-702 of said code; to amend and reenact §49-6A-2 of said code; and to amend said code by adding thereto a new section, designated §49-6A-2b, all relating to requiring cross-reporting among child protective service workers, adult protective service workers, law-enforcement officers and humane officers of suspected child abuse or neglect, suspected abuse or neglect of incapacitated or elderly adults, suspected animal cruelty or inhumane treatment or suspected domestic violence; and providing penalties.

Be it enacted by the Legislature of West Virginia:

That §7-10-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §9-6-9 of said code be amended and reenacted; that said code be amended by adding thereto a

new section, designated §9-6-9a; that §48-27-702 of said code be amended and reenacted; that §49-6A-2 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §49-6A-2b, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 10. HUMANE OFFICERS.

§7-10-2. Duty of humane officers; reporting requirement when abuse or neglect of individuals suspected; prohibition against interference with humane officers; penalties.

1 (a) It is the duty of humane officers to prevent the
2 perpetration or continuance of any act of cruelty upon any
3 animal and to investigate and, upon probable cause, to
4 cause the arrest and assist in the prosecution of any person
5 engaging in such cruel and forbidden practices. Upon
6 reasonable cause, and as provided by law, such officers
7 have the right to access and inspection of records and
8 property as may be reasonably necessary to any investiga-
9 tion.

10 (b) Whenever a humane officer, pursuant to an investi-
11 gation of animal cruelty, forms a reasonable suspicion that
12 a minor child, or incapacitated or elderly person, is the
13 victim of abuse or neglect or has a suspicion of domestic
14 violence, he or she shall report the suspicion and the
15 grounds therefor. In the event of suspected child abuse or
16 neglect, the humane officer shall report to the local child
17 protective services agency of the Department of Health
18 and Human Resources in accordance with the provisions
19 of section five, article six-a, chapter forty-nine of this
20 code. In the event of suspected abuse or neglect of an
21 incapacitated or elderly person, he or she shall report to
22 the department's local adult protective services agency in
23 accordance with the provisions of section eleven, article
24 six, chapter nine of this code. In the event of suspected
25 domestic violence, he or she shall report to the State Police

26 in accordance with the provisions of article twenty-seven,
27 chapter forty-eight of this code.

28 (c) Any person who interferes with, obstructs or resists
29 any humane officer in the discharge of his or her duty is
30 guilty of a misdemeanor and, upon conviction thereof,
31 shall be fined not less than one hundred nor more than five
32 hundred dollars or confined in jail not more than thirty
33 days, or both fined and confined. Any penalties imposed
34 for a violation of this subsection shall be imposed in
35 addition to any penalties the person incurs for cruel or
36 inhumane treatment of any animal.

CHAPTER 9. HUMAN SERVICES.

ARTICLE 6. SOCIAL SERVICES FOR ADULTS.

§9-6-9. Mandatory reporting of incidences of abuse, neglect or emergency situation.

1 (a) If any medical, dental or mental health professional,
2 Christian Science practitioner, religious healer, social
3 service worker, law-enforcement officer, humane officer,
4 state or regional ombudsman or any employee of any
5 nursing home or other residential facility has reasonable
6 cause to believe that an incapacitated adult or facility
7 resident is or has been neglected, abused or placed in an
8 emergency situation, or if such person observes an inca-
9 pacitated adult or facility resident being subjected to
10 conditions that are likely to result in abuse, neglect or an
11 emergency situation, the person shall immediately report
12 the circumstances pursuant to the provisions of section
13 eleven of this article: *Provided*, That nothing in this
14 article is intended to prevent individuals from reporting on
15 their own behalf.

16 (b) In addition to those persons and officials specifically
17 required to report situations involving suspected abuse or
18 neglect of an incapacitated adult or facility resident or the
19 existence of an emergency situation, any other person may
20 make such a report.

21 (c) The secretary shall develop a form for the filing of
22 written complaints, as provided by section eleven of this
23 article, and provide these forms to all nursing homes or
24 other residential facilities, hospitals, ombudsmen and
25 adult protective service agencies in this state. The forms
26 shall be designed to protect the identity of the complain-
27 ant, if desired, and to facilitate the prompt filing of
28 complaints.

**§9-6-9a. Mandatory reporting suspected of animal cruelty by
adult protective service workers.**

1 In the event an adult protective service worker, in
2 response to a report mandated by section nine of this
3 article, forms a reasonable suspicion that an animal is the
4 victim of cruel or inhumane treatment, he or she shall
5 report the suspicion and the basis therefor to the county
6 humane officer provided under section one, article ten,
7 chapter seven of this code within twenty-four hours of the
8 response to the report.

CHAPTER 48. DOMESTIC RELATIONS.

ARTICLE 27. PREVENTION AND TREATMENT OF DOMESTIC VIOLENCE.

**§48-27-702. Law-enforcement officers to provide information,
transportation and to report suspicions of
animal cruelty.**

1 (a) Any law-enforcement officer responding to an alleged
2 incident of domestic violence shall inform the parties of
3 the availability of the possible remedies provided by this
4 article and the possible applicability of the criminal laws
5 of this state. Any law-enforcement officer investigating an
6 alleged incident of domestic violence shall advise the
7 victim of such violence of the availability of the family
8 protection shelter to which such person may be admitted.

9 (b) If there is reasonable cause to believe that a person is
10 a victim of domestic violence or is likely to be a victim of
11 domestic violence, a law-enforcement officer responding

12 to an alleged incident of domestic violence shall, in
13 addition to providing the information required in subsec-
14 tion (a) of this section, provide transportation for or
15 facilitate transportation of the victim, upon the request of
16 such victim, to a shelter or an appropriate court.

17 (c) Whenever a law-enforcement officer, pursuant to a
18 response to an alleged incident of domestic violence, forms
19 a reasonable suspicion that an animal is a victim of cruel
20 or inhumane treatment, he or she shall report the suspicion
21 and the grounds therefor to the county humane officer
22 within twenty-four hours of the response to the alleged
23 incident of domestic violence.

CHAPTER 49. CHILD WELFARE.

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

§49-6A-2. Persons mandated to report suspected abuse and neglect.

1 When any medical, dental or mental health professional,
2 Christian Science practitioner, religious healer, school
3 teacher or other school personnel, social service worker,
4 child care or foster care worker, emergency medical
5 services personnel, peace officer or law-enforcement
6 official, humane officer, member of the clergy, circuit
7 court judge, family court judge, employee of the Division
8 of Juvenile Services or magistrate has reasonable cause to
9 suspect that a child is neglected or abused or observes the
10 child being subjected to conditions that are likely to result
11 in abuse or neglect, such person shall immediately, and not
12 more than forty-eight hours after suspecting this abuse,
13 report the circumstances or cause a report to be made to
14 the Department of Health and Human Resources: *Pro-*
15 *vided*, That in any case where the reporter believes that
16 the child suffered serious physical abuse or sexual abuse
17 or sexual assault, the reporter shall also immediately
18 report, or cause a report to be made, to the State Police

19 and any law-enforcement agency having jurisdiction to
20 investigate the complaint: *Provided, however,* That any
21 person required to report under this article who is a
22 member of the staff of a public or private institution,
23 school, facility or agency shall immediately notify the
24 person in charge of such institution, school, facility or
25 agency, or a designated agent thereof, who shall report or
26 cause a report to be made. However, nothing in this article
27 is intended to prevent individuals from reporting on their
28 own behalf.

29 In addition to those persons and officials specifically
30 required to report situations involving suspected abuse or
31 neglect of children, any other person may make a report if
32 such person has reasonable cause to suspect that a child
33 has been abused or neglected in a home or institution or
34 observes the child being subjected to conditions or circum-
35 stances that would reasonably result in abuse or neglect.

**§49-6A-2b. Mandatory reporting of suspected animal cruelty by
child protective service workers.**

1 In the event a child protective service worker, in re-
2 sponse to a report mandated by section two of this article,
3 forms a reasonable suspicion that an animal is the victim
4 of cruel or inhumane treatment, he or she shall report the
5 suspicion and the basis therefor to the county humane
6 officer provided under section one, article ten, chapter
7 seven of this code within twenty-four hours of the re-
8 sponse to the report.

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

Clancy White
.....
Chairman Senate Committee

R. Burr
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Harold E. Holmes
.....
Clerk of the Senate

Gregg W. Sawyer
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

Robert A. Witt
.....
Speaker House of Delegates

The within *is approved* this the *22nd* ...
Day of *March* 2006.

Paul M. Hunt
.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 17 2006

Time 11:10am