

# **WEST VIRGINIA LEGISLATURE**

**SECOND REGULAR SESSION, 2012**



# **ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR**

**House Bill No. 4327**

(By Delegates Hatfield, D. Poling, Brown and Staggers)



Passed March 10, 2012

To Take Effect Ninety Days From Passage

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COMMITTEE SUBSTITUTE

FOR

## H. B. 4327

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(BY DELEGATES HATFIELD, D. POLING, BROWN  
AND STAGGERS)

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[Passed March 10, 2012; to take effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-44-1 and §16-44-2, all relating to requiring pulse oximetry testing for newborns; setting forth legislative findings; authorizing the Commissioner of the Bureau of Public Health to require testing; providing timing requirements for testing; and requiring the commissioner to adopt procedural and legislative rules.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-44-1 and §16-44-2, all to read as follows:

### **ARTICLE 44. THE PULSE OXIMETRY NEWBORN TESTING ACT.**

#### **§16-44-1. Legislative findings.**

1       The Legislature finds and declares that:

2 (1) Congenital heart defects are structural abnormalities  
3 of the heart that are present at birth; congenital heart defects  
4 range in severity from simple problems such as holes between  
5 chambers of the heart, to severe malformations, such as the  
6 complete absence of one or more chambers or valves; some  
7 critical congenital heart defects can cause severe and  
8 life-threatening symptoms which require intervention within  
9 the first days of life;

10 (2) According to the United States Secretary of Health  
11 and Human Services' Advisory Committee on Heritable  
12 Disorders in Newborns and Children, congenital heart disease  
13 affects approximately seven to nine of every thousand live  
14 births in the United States and Europe; the federal Centers for  
15 Disease Control and Prevention states that congenital heart  
16 defects are the leading cause of infant death due to birth  
17 defects;

18 (3) Current methods for detecting congenital heart defects  
19 generally include prenatal ultrasound screening and repeated  
20 clinical examinations; while prenatal ultrasound screenings  
21 can detect some major congenital heart defects, these  
22 screenings, alone, identify less than half of all congenital  
23 heart defect cases, and critical congenital heart defect cases  
24 are often missed during routine clinical exams performed  
25 prior to a newborn's discharge from a birthing facility;

26 (4) Pulse oximetry is a noninvasive test that estimates the  
27 percentage of hemoglobin in blood that is saturated with  
28 oxygen; when performed on a newborn when the baby is  
29 twenty-four to forty-eight hours of age, or as late as possible  
30 if the baby is to be discharged from the hospital before he or  
31 she is twenty-four hours of age, pulse oximetry screening is  
32 often more effective at detecting critical, life-threatening  
33 congenital heart defects which otherwise go undetected by  
34 current screening methods; newborns with abnormal pulse

35 oximetry results require immediate confirmatory testing and  
36 intervention; and

37 (5) Many newborn lives could potentially be saved by  
38 earlier detection and treatment of congenital heart defects if  
39 birthing facilities in the state were required to perform this  
40 simple, noninvasive newborn screening in conjunction with  
41 current congenital heart defect screening methods.

**§16-44-2. Pulse oximetry screening required; definition; rules.**

1 (a) The Commissioner of the Bureau for Public Health  
2 shall require each birthing facility licensed by the Department  
3 of Health and Human Resources to perform a pulse oximetry  
4 screening on every newborn in its care, when the baby is  
5 twenty-four to forty-eight hours of age, or as late as possible  
6 if the baby is to be discharged from the hospital before he or  
7 she is twenty-four hours of age.

8 (b) As used in this article, "birthing facility" means an  
9 inpatient or ambulatory health care facility licensed by the  
10 Department of Health and Human Resources that provides  
11 birthing and newborn care services.

12 (c) The commissioner shall adopt procedural rules and  
13 propose legislative rules for legislative approval, in  
14 accordance with the provisions of article three, chapter  
15 twenty-nine-a of this code, that are necessary to carry out the  
16 purposes of this article.



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

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

To take effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2012.

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*Governor*