

COMMITTEE SUBSTITUTE

FOR

**H. B. 4327**

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

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(Originating in the Committee on the Judiciary)  
[February 20, 2012]

A BILL 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; 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  
5        between chambers of the heart, to severe malformations,  
6        such as the complete absence of one or more chambers or  
7        valves; some critical congenital heart defects can cause  
8        severe and life-threatening symptoms which require  
9        intervention within 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  
13       disease affects approximately seven to nine of every  
14       thousand live births in the United States and Europe; the  
15       federal Centers for Disease Control and Prevention states that

16 congenital heart defects are the leading cause of infant death  
17 due to birth defects;

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

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

35 current screening methods; newborns with abnormal pulse  
36 oximetry results require immediate confirmatory testing and  
37 intervention; and

38 (5) Many newborn lives could potentially be saved by  
39 earlier detection and treatment of congenital heart defects if  
40 birthing facilities in the state were required to perform this  
41 simple, noninvasive newborn screening in conjunction with  
42 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  
3 Department of Health and Human Resources to perform a  
4 pulse oximetry screening on every newborn in its care, when  
5 the baby is twenty-four to forty-eight hours of age, or as late  
6 as possible if the baby is to be discharged from the hospital  
7 before he or 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.