

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 161

(By Senators Foster, Palumbo, Klempa, Fanning,
Unger, Kessler (Mr. President), Jenkins, Browning,
Kirkendoll, Wills, Yost, Stollings and McCabe)

[Originating in the Committee on the Judiciary;
reported January 25, 2012.]

A BILL to amend and reenact §49-6A-1, §49-6A-2, §49-6A-8 and §49-6A-10 of the Code of West Virginia, 1931, as amended, all relating to mandatory reporting of abuse and neglect of children; adding promoting adult responsibility and prevention to the purpose; adding certain persons to the mandatory reporting list for all abuse or neglect of children; creating a requirement that all adults report sexual abuse of children; requiring law enforcement who receive a report of sexual abuse to alert the Department of Health and Human Resources;

encouraging law-enforcement agencies to coordinate in investigating a report; increasing the criminal penalties for failure to report; creating a crime and criminal penalties for all adults who fail to report sexual abuse of children; and requiring and amending certain educational programs and trainings.

Be it enacted by the Legislature of West Virginia:

That §49-6A-1, §49-6A-2, §49-6A-8 and §49-6A-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

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

§49-6A-1. Purpose.

1 It is the purpose of this article, through the complete
2 reporting of child abuse and neglect, to protect the best
3 interests of the child, to offer protective services in order to
4 prevent any further harm to the child or any other children
5 living in the home, to stabilize the home environment, to
6 preserve family life whenever possible, to promote adult
7 responsibility for protecting children and to encourage
8 cooperation among the states to prevent future incidents of
9 child abuse and neglect and in dealing with the problems of
10 child abuse and neglect.

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

1 (a) ~~When~~ Any medical, dental or mental health profes-
2 sional, Christian Science practitioner, religious healer,
3 school teacher or other school personnel, social service
4 worker, child care or foster care worker, emergency medical
5 services personnel, peace officer or law-enforcement official,
6 humane officer, member of the clergy, circuit court judge,
7 family court judge, employee of the Division of Juvenile
8 Services, ~~or~~ magistrate, youth camp administrator or
9 counselor, employee, coach or volunteer of an entity that
10 provides organized activities for children, or commercial film
11 or photographic print processor who has reasonable cause to
12 suspect that a child is neglected or abused or observes the
13 child being subjected to conditions that are likely to result in
14 abuse or neglect ~~such person~~ shall immediately, and not
15 more than forty-eight hours after suspecting this abuse or
16 neglect, report the circumstances or cause a report to be
17 made to the Department of Health and Human Resources:
18 *Provided*, That in any case where the reporter believes that
19 the child suffered serious physical abuse or sexual abuse or

20 sexual assault, the reporter shall also immediately report, or
21 cause a report to be made, to the State Police and any
22 law-enforcement agency having jurisdiction to investigate
23 the complaint: *Provided, however,* That any person required
24 to report under this article who is a member of the staff or
25 volunteer of a public or private institution, school, entity
26 that provides organized activities for children, facility or
27 agency shall also immediately notify the person in charge of
28 ~~such~~ the institution, school, entity that provides organized
29 activities for children, facility or agency, or a designated
30 agent thereof, who ~~shall~~ may supplement the report or cause
31 ~~a~~ an additional report to be made.

32 (b) Any person over the age of eighteen who has actual
33 knowledge of or observes any sexual abuse or sexual assault
34 of a child, shall immediately, and not more than forty-eight
35 hours after obtaining actual knowledge of or observing the
36 sexual abuse or sexual assault, report the circumstances or
37 cause a report to be made to the State Police or other law-
38 enforcement agency having jurisdiction to investigate the
39 report. The law-enforcement agency that receives a report
40 under this subsection shall report the allegations to the

41 Department of Health and Human Resources and coordinate
42 with any other law-enforcement agency, as necessary to
43 investigate the report.

44 (c) ~~However,~~ Nothing in this article is intended to
45 prevent individuals from reporting suspected abuse or
46 neglect on their own behalf. In addition to those persons and
47 officials specifically required to report situations involving
48 suspected abuse or neglect of children, any other person may
49 make a report if such person has reasonable cause to suspect
50 that a child has been abused or neglected in a home or
51 institution or observes the child being subjected to condi-
52 tions or circumstances that would reasonably result in abuse
53 or neglect.

§49-6A-8. Failure to report; penalty.

1 Any person, official or institution required by this article
2 to report a case involving a child known or suspected to be
3 abused or neglected, or required by section five of this article
4 to forward a copy of a report of serious injury, who know-
5 ingly fails to do so or knowingly prevents another person
6 acting reasonably from doing so, ~~shall be~~ is guilty of a
7 misdemeanor and, upon conviction thereof, shall be confined

8 in jail not more than ~~ten~~ thirty days or fined not more than
9 ~~\$100~~ \$1,000, or both.

§49-6A-10. Educational programs.

1 ~~Within available funding and as appropriate, Subject to~~
2 appropriation in the budget bill, the state department shall
3 conduct educational and training programs ~~with the staff of~~
4 ~~the state department~~, for persons required to report sus-
5 pected abuse or neglect, and the general public, as well as
6 implement evidence-based programs that reduce incidents of
7 child maltreatment including sexual abuse. Training for
8 persons require to report and the general public shall include
9 indicators of child abuse and neglect, tactics used by sexual
10 abusers, how and when to make a report, and protective
11 factors that prevent abuse and neglect in order to promote
12 adult responsibility for protecting children, encourage
13 maximum reporting of child abuse and neglect, and to
14 improve communication, cooperation and coordination
15 among all agencies involved in the identification, prevention
16 and treatment of the abuse and neglect of children.

(NOTE: The purpose of this bill is to expand the list of those required to report abuse and neglect of children, require all persons to report sexual abuse of children, and increase the fine for those who fail to report.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)