

1 COMMITTEE SUBSTITUTE

2 for

3 **H. B. 4510**

4 (By Delegates Lawrence, Poore, L. Phillips,  
5 Cowles, Sponaugle, Fleischauer, Kinsey,  
6 Perdue, Young, Reynolds and Marshall)

7 (Originating in the Committee on the Judiciary)

8 [February 20, 2014]

9

10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §49-2-12a, relating  
12 to legislative findings and declaration of intent for goals  
13 for foster children; requiring the Department of Health and  
14 Human Resources to propose legislative rules; providing that  
15 no new cause of action against the state is created; no  
16 expenditure of funds is required; and notify former foster  
17 parents of child's availability for placement.

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

19 That the Code of West Virginia, 1931, as amended, be amended  
20 by adding thereto a new section, designated §49-2-12a, to read as  
21 follows:

22 **ARTICLE 2. STATE RESPONSIBILITIES FOR THE PROTECTION AND CARE OF**  
23 **CHILDREN.**

24 **§49-2-12a. Legislative findings and declaration of intent for goals**  
25 **for foster children.**

1       (a) The Legislature finds and declares that the design and  
2 delivery of child welfare services should be directed by the  
3 principle that the health and safety of children should be of  
4 paramount concern and, therefore, establishes the following goals  
5 for children in foster care:

6       (1) Protection by a family of his or her own, provided readily  
7 available services and supported through care of an adoptive family  
8 or by plan, a continuing foster family;

9       (2) Nurturing by foster parents who have been selected to meet  
10 his or her individual needs, and who are provided services and  
11 support, including specialized education, so that the child can  
12 grow to reach his or her potential;

13       (3) A safe foster home free of violence, abuse, neglect, and  
14 danger;

15       (4) The ability to communicate with the assigned social worker  
16 or case worker overseeing the child's case and have calls made to  
17 the social worker or case worker returned within a reasonable  
18 period of time;

19       (5) Permission to remain enrolled in the school the child  
20 attended before being placed in foster care, if at all possible;

21       (6) Participation in school extracurricular activities,  
22 community events, and religious practices;

23       (7) Communication with the biological parents if the child  
24 placed in foster care receives any immunizations and whether any  
25 additional immunizations are needed if the child will be

1 transitioning back into a home with his or her biological parents;

2 (8) A bank or savings account established in accordance with  
3 state laws and federal regulations;

4 (9) Identification and other permanent documents, including a  
5 birth certificate, social security card and health records by the  
6 age of 16, to the extent allowed by federal and state law;

7 (10) The use of appropriate communication measures to maintain  
8 contact with siblings if the child placed in foster care is  
9 separated from his or her siblings; and

10 (11) Meaningful participation in a transition plan for those  
11 phasing out of foster care.

12 (b) No person shall have a cause of action against the state  
13 or any of its subdivisions, agencies, contractors, subcontractors,  
14 or agents, based upon the adoption of or failure to provide  
15 adequate funding for the achievement fo these goals by the  
16 Legislature. Nothing herein shall require the expenditure of funds  
17 to meet the goals established herein except funds specifically  
18 appropriated for such purpose.

19 (c) The West Virginia Department of Health and Human Resources  
20 shall promulgate rules in accordance with the provisions of chapter  
21 twenty-nine-a of this code to ensure that a child has an effective  
22 means of being heard if he or she believes the goals of this  
23 section are not being met.

24 (d) When a child who was previously placed into foster care,  
25 but left the custody or guardianship of the department, is again

1 placed into foster care, the department shall notify the foster  
2 parents who most recently cared for the child of the child's  
3 availability for foster care placement to determine if the foster  
4 parents are desirous of seeking a foster care arrangement for the  
5 child. The arrangement may only be made if the foster parents are  
6 otherwise qualified or can become qualified to enter into the  
7 foster care arrangement with the department and if such arrangement  
8 is in the best interests of the child: *Provided, That the*  
9 department may petition the court to waive notification to the  
10 foster parents. This waiver may be granted, ex parte, upon a  
11 showing of compelling circumstances.