

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

ENROLLED

House Bill 4551

BY DELEGATES HILL AND PACK

(BY REQUEST OF THE WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES)

[Passed March 5, 2020; in effect ninety days from
passage.]

1 AN ACT to amend and reenact §49-4-112 of the Code of West Virginia, 1931, as amended,
2 relating to subsidies; providing for adoption subsidies; providing for legal guardianship
3 subsidies; updating availability; requiring payment for attorney's fees; updating
4 requirements for insurance coverage; requiring certification; eliminating requirements with
5 respect to child who is dependent of voluntary licensed child placing agency; prohibiting
6 subsidy payment under certain circumstances; requiring adoptive parents and legal
7 guardians receiving subsidy to inform department; and making technical changes.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. COURT ACTIONS.

§49-4-112. Subsidized adoption and legal guardianship; conditions.

1 (a) From funds appropriated to the Department of Health and Human Resources, the
2 secretary shall establish a system of assistance for facilitating the adoption or legal guardianship
3 of children. An adoption subsidy shall be available for children who are legally free for adoption
4 and who are dependents of the department. A legal guardianship subsidy may not require the
5 surrender or termination of parental rights. For either subsidy, the children must be in special
6 circumstances because one or more of the following conditions inhibit their adoption or legal
7 guardianship placement:

8 (1) They have a physical or mental disability;

9 (2) They are emotionally disturbed;

10 (3) They are older children;

11 (4) They are a part of a sibling group; or

12 (5) They are a member of a racial or ethnic minority.

13 (b)(1) The department shall provide assistance in the form of subsidies or services to
14 parents who are found and approved for adoption or legal guardianship of a child certified as
15 eligible for subsidy by the department, but before the final decree of adoption or order of legal

16 guardianship is entered, there shall be a written agreement between the family entering into the
17 subsidized adoption or legal guardianship and the department.

18 (2) Adoption or legal guardianship subsidies in individual cases may commence with the
19 adoption or legal guardianship placement and will vary with the needs of the child as well as the
20 availability of other resources to meet the child's needs. The subsidy may be for services, money
21 payments, for a limited period, or for a long term, or for any combination of the foregoing.

22 (3) The specific financial terms of the subsidy shall be included in the agreement between
23 the department and the adoptive parents or legal guardians. The agreement may recognize and
24 provide for direct payment by the department of attorney's fees to an attorney representing the
25 adoptive parent or legal guardian. Any such payment for attorney's fees shall be made directly to
26 the attorney representing the adoptive parent or legal guardian.

27 (4) The amount of the subsidy may in no case exceed that which would be allowable for
28 the child under foster family care or, in the case of a service, the reasonable fee for the service
29 rendered.

30 (5) The department shall provide either Medicaid or other health insurance coverage for
31 any special needs child for whom there is an adoption or legal guardianship assistance
32 agreement, and who the department determines cannot be placed without medical assistance.

33 (c) The department shall certify the child as eligible for a subsidy to obtain adoption or a
34 legal guardianship if it is in the best interest of the child.

35 (d) All records regarding subsidized adoptions or legal guardianships are to be held in
36 confidence; however, records regarding the payment of public funds for subsidized adoptions or
37 legal guardianships shall be available for public inspection provided they do not directly or
38 indirectly identify any child or person receiving funds for the child.

39 (e) A payment may not be made to adoptive parents or legal guardians of child:

40 (1) Who has attained 18 years of age, unless the department determines that the child
41 has a special need which warrants the continuation of assistance or the child is continuing his or
42 her education or actively engaging in employment;

43 (2) Who has obtained 21 years of age;

44 (3) Who has not attained 18 years of age, if the department determines that the adoptive
45 parent or legal guardian is no longer supporting the child by performing actions to maintain a
46 familial bond with the child.

47 (f) Adoptive parents and legal guardians who receive subsidy payments pursuant to this
48 section shall keep the department informed of circumstances which would, pursuant to §49-4-
49 112(e) of this code, make them ineligible for the payment.

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.

In 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, 2020.

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Governor