

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 575**

SENATORS MAYNARD AND RUCKER, *original sponsors*

[Originating in the Committee on Health and Human  
Resources; reported on February 5, 2020]

1 A BILL to amend and reenact §49-4-201 and §49-4-202 of the Code of West Virginia, 1931, as  
2 amended; and to amend said code by adding thereto a new section, designated §49-4-  
3 206, all relating to allowing the governing entity of a local fire department to designate the  
4 premises of its fire department as a safe-surrender site to accept physical custody of a  
5 child who is 30 days old or younger from a parent or individual who has lawful custody of  
6 the child; and establishing criteria for the fire department as a safe-surrender site.

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

**ARTICLE 4. COURT ACTIONS.**

PART II. EMERGENCY POSSESSION OF CERTAIN

RELINQUISHED CHILDREN.

**§49-4-201. Accepting possession of certain relinquished children.**

1 (a) A hospital or health care facility operating in this state, or a fire department that has  
2 been designated a safe-surrender site under §49-4-206 of this code, shall, without a court order,  
3 take possession of a child if the child is voluntarily delivered to the hospital, ~~or~~ health care facility,  
4 or fire department by the child's parent within 30 days of the child's birth, and the parent did not  
5 express an intent to return for the child.

6 (b) A hospital, ~~or~~ health care facility, or fire department that takes possession of a child  
7 under this article shall perform any act necessary to protect the physical health or safety of the  
8 child. In accepting possession of the child, the hospital, ~~or~~ health care facility, or fire department  
9 may not require the person to identify himself or herself and shall otherwise respect the person's  
10 desire to remain anonymous.

**§49-4-202. Notification of possession of relinquished child; department responsibilities.**

1 (a) (1) Not later than the close of the first business day after the date on which a hospital  
2 or health care facility takes possession of a child pursuant to §49-4-201 of this code, the hospital  
3 or health care facility shall notify the Child Protective Services Division of the Department of Health

4 and Human Resources that it has taken possession of the child and shall provide the division any  
5 information provided by the parent delivering the child. The hospital or health care facility shall  
6 refer any inquiries about the child to the Child Protective Services Division.

7 (2) Upon taking possession of a child pursuant to §49-4-201 of this code, a fire department  
8 shall:

9 (A) Deliver the child to the nearest hospital or health care facility as soon as possible, but  
10 transport may begin no later than 30 minutes upon taking possession of a child; and

11 (B) Notify the Child Protective Services Division of the Department of Health and Human  
12 Resources within two hours of taking possession of a child:

13 (i) That it has delivered the child and identify the hospital or health care facility to which it  
14 delivered the child; and

15 (ii) Provide the division any information provided by the parent delivering the child.

16 (3) The fire department shall refer any inquiries about the child to the Child Protective  
17 Services Division.

18 (b) The Department of Health and Human Resources shall assume the care, control, and  
19 custody of the child as of the time of delivery of the child to the hospital, ~~or~~ health care facility, or  
20 fire department, and may contract with a private child care agency for the care and placement of  
21 the child after the child leaves the hospital, ~~or~~ health care facility, or fire department.

**§49-4-206. Designation of local fire department as a safe-surrender site; posting  
requirement.**

1 The governing entity of a local fire department that is staffed 24 hours a day, seven days  
2 a week, may designate the premises of its fire department as a safe-surrender site to accept  
3 physical custody of a child who is 30 days old or younger from a parent of the child and who  
4 surrenders the child pursuant to §49-4-201 of this code. A local fire department that is designated  
5 a safe-surrender site shall post a sign that notifies the public that it is a location where a child 30  
6 days old or younger may be safely surrendered pursuant to this article.