

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 437

By Senators Woodrum, Deeds, Woelfel, and Stuart

[Introduced January 12, 2024; referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §49-12-1, §49-12-2, §49-12-3, §49-12-4, and §49-12-5, all relating to
 3 protecting the rights and welfare of children conceived as the result of sexual assault;
 4 protecting the survivors of sexual assault from repeated interactions with the perpetrators;
 5 providing definitions; providing for termination of parental rights for perpetrators whose
 6 abuse resulted in the conception of a child; requiring continued child support from the
 7 perpetrator unless waived by the survivor; providing authority to establish procedures; and
 8 providing services to the survivors and children affected by sexual assault.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. WEST VIRGINIA SEXUAL ASSAULT SURVIVORS' CHILD PROTECTION ACT.

§49-12-1. Purpose and intent.

1 The purpose of this Act is to protect the rights and welfare of children conceived as a result
 2 of sexual assault and their mothers. This Act recognizes the trauma and hardship faced by
 3 survivors of sexual assault and seeks to prevent further harm caused by continued interaction with
 4 the perpetrator.

§49-12-2. Definitions.

1 For the purposes of this Act:
 2 (a) "Sexual assault" refers to any nonconsensual sexual act prohibited by West Virginia
 3 law.
 4 (b) "Parental rights" include, but are not limited to, custody, visitation, and decision-making
 5 rights regarding the child.

§49-12-3. Termination of parental rights.

1 (a) If a court finds by clear and convincing evidence that a child was conceived as a result
 2 of sexual assault, the court shall terminate any parental rights of the perpetrator.

3 (b) The termination of parental rights under this section shall not affect the obligation of the
4 perpetrator to pay child support unless waived by the survivor.

§49-12-4. **Procedure.**

1 (a) A petition to terminate parental rights under this section may be filed by the survivor or
2 on behalf of the child.

3 (b) The court shall expedite proceedings under this section and protect the privacy and
4 safety of the survivor and child throughout the process.

§49-12-5. **Implementation.**

1 The Department of Health and Human Resources, in cooperation with local law
2 enforcement agencies and victim advocacy organizations, shall develop guidelines for the
3 implementation of this Act. These guidelines shall include procedures for filing petitions,
4 conducting hearings, and providing support services for survivors and children affected by sexual
5 assault.

NOTE: The purpose of this bill is to protect the rights and welfare of children conceived as the result of sexual assault, protect the survivors of sexual assault from repeated interactions with the perpetrators, provide definitions, provide for termination of parental rights for perpetrators whose abuse resulted in the conception of a child, require continued child support from the perpetrator unless waived by the survivor, provide authority to establish procedures, and provide services to the survivors and children affected by sexual assault.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.