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TWENTY-SEVENTH DAY

Monday, March 8, 2021

TWENTY-SEVENTH DAY

[DELEGATE HANSHAW, MR. SPEAKER, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Roger Hanshaw, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Friday, March 5, 2021, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that Com. Sub. for H. B. 2363, on Third reading and Com. Sub. for S. B. 216, on First reading, House Calendar, had been transferred to the Special Calendar.

Committee Reports

Delegate Capito, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2722, Prohibiting the use of class B fire-fighting foam for testing purposes if the foam contains a certain class of fluorinated organic chemicals,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2722 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-3-5g, relating to prohibiting the use of class B fire-fighting foam for testing purposes if the foam contains a certain class of fluorinated organic chemicals; providing definitions; and providing exceptions,"

With the recommendation that the committee substitute do pass.

Delegate Capito, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2671, Relating to financial exploitation of elderly persons, protected persons or incapacitated adults,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2671 - "A Bill to amend and reenact §55-7J-1, §55-7J-4, §55-7J-5, and §55-7J-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-2-29b of said code, all relating to financial exploitation of elderly persons, protected persons or incapacitated adults; updating terms; clarifying actions; including criminal penalties for violation or contempt of protective orders for victims of financial exploitation; and requiring notice of penalties in all injunctive or protective orders,"

With the recommendation that the committee substitute do pass.

Delegate Ellington, Chair of the Committee on Education submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 2852, Relating to distribution of the allowance for increased enrollment,

And reports the same back with the recommendation that it do pass, and with the recommendation that second reference to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (H. B. 2852) to the Committee on Finance was abrogated.

Delegate D. Jeffries, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 5th day of March, 2021, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for H. B. 2012, Relating to public charter schools.

Delegate Capito, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 126, Authorizing Department of Administration to promulgate legislative rules,

And reports the same back with the recommendation that it do pass.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 368 - "A Bill to amend and reenact §22-15A-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §22-15A-30; and to amend and reenact §22-16-12 of said code, all relating to authorizing the Department of Environmental Protection to develop the Reclamation of Abandoned and Dilapidated Properties Program to reclaim abandoned and dilapidated structures in order to improve West Virginia communities and to open new parcels for development; creating a special revenue fund; providing a

statement of legislative findings and purpose; and permitting the payment of excess money from the Solid Waste Facility Closure Cost Assistance Fund into the Reclamation of Abandoned and Dilapidated Properties Program Fund”; which was referred to the Committee on Government Organization then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 381 - “A Bill to amend and reenact §20-2-42i of the Code of West Virginia, 1931, as amended, relating to the Class LL nonresident fishing license; and providing it be issued for three consecutive days”; which was referred to the Committee on Agriculture and Natural Resources then Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 434 - “A Bill to amend and reenact §30-29-3 of the Code of West Virginia, 1931, as amended, relating to law-enforcement training for investigating sexual assault cases involving adult victims; requiring the Law-Enforcement Professional Standards Subcommittee of the Governor’s Committee on Crime, Delinquency, and Correction to develop standards and procedures for law-enforcement officers responsible for investigating sexual assault cases involving adult victims; and setting forth required components of training”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 463 - “A Bill to amend and reenact §33-41-8 and §33-41-8a of the Code of West Virginia, 1931, as amended, all relating to the consolidation of the positions of the Inspector General of the former Workers’ Compensation Commission’s Fraud and Abuse Unit and the position of Director of the Insurance Fraud Unit”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 501 - “A Bill to amend and reenact §20-2-42 of the Code of West Virginia, 1931, as amended, relating to indexing of license and stamp fees; and continuing the authority to index license and stamp fees”; which was referred to the Committee on Agriculture and Natural Resources then Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 537 - “A Bill to amend and reenact §61-2-14a of the Code of West Virginia, 1931, as amended, relating to the offense of kidnapping generally; and clarifying elements of the offense”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Veterans' Affairs and Homeland Security then Rules:

S. C. R. 13, "Urging Adjutant General to establish Honor Guard in each unit to perform military funeral honors."

Whereas, Per capita, more citizens from West Virginia have served in our nation's armed forces than from any other state and we are proud of our citizens who, despite danger, have done what they must for peace and freedom; and

Whereas, Providing military funeral honors is one of the last ways to honor those who served; and

Whereas, Military funeral honors are normally provided by the veterans organization of the state, however, because of the limited number of members and the age of the veterans available, there are many communities unable to provide these services; and

Whereas, With the West Virginia National Guard having some 6,000 members, there should be a designated Honor Guard trained and made available to provide military funeral honors when requested by the family or funeral director, assuring that no West Virginia veteran would be denied their proper honors; and

Whereas, It is always important that we honor the many brave West Virginians who have faced the enemy, been wounded, and have given their lives not only for our freedom but for freedom around the world; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature urges the Adjutant General to establish an Honor Guard in each National Guard unit to provide military funeral honors to honorably discharged veterans in West Virginia; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Honorable Jim Justice, Governor of the State of West Virginia, and to BG William E. Crane.

Resolutions Introduced

Delegate Pethtel offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 27 - "Requesting the Division of Highways name bridge number 52-017/00-001.07 (52A153), (39.59450, -80.66128) locally known as LeMasters Bridge, carrying CR 17 over Barker Run in Wetzel county. the 'U.S. Army Tec 5 Harvey LeMasters Memorial Bridge'."

Whereas, U.S. Army Tec 5 Harvey LeMasters was born at Pine Grove, Wetzel County, West Virginia on October 8, 1922; and

Whereas, U.S. Army Tec 5 Harvey LeMasters enlisted in the U.S. Army, serving during World War II. He had the rank of Technician Fifth Class, attached to the 735th Tank Battalion; and

Whereas, During his service in World War II, Army Technician Fifth Class LeMasters was killed in action on August 20, 1944, at age 21. He was buried in Brill American Cemetery and Memorial Basse-Normandie, France. He was awarded several posthumous medals, including the Purple Heart and WW II Victory Medal; and

Whereas, Among the remembrances to U.S. Army Tec 5 Harvey LeMasters was one that President Franklin D. Roosevelt sent to the fallen warriors, declaring: He stands in the unbroken line of patriots who have dared to die that freedom might live, and grow, and increase its blessings. Freedom lives, and through it, he lives - in a way that humbles the undertakings of most men"; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army Tec 5 Harvey LeMasters and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number: 52-017/00-001.07 (52A153), (39.59450, -80.66128) locally known as LeMasters Bridge, carrying CR 17 over Barker Run in Wetzel county, the "U.S. Army Tec 5 Harvey LeMasters Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U.S. Army Tec 5 Harvey LeMasters Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the commissioner of the Division of Highways.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Anderson, J. Kelly, G. Ward, Westfall, Zatezalo, Hott, Statler, Pethtel and Boggs:

H. B. 2959 - "A Bill to amend and reenact §24-2-1l of the Code of West Virginia, 1931, as amended, relating to coal fired power plants, regarding environmental pollution controls for coal-fired power plant findings; allowing utilities to file with the commission an application for the expedited recovery of costs for the installation and operation and maintenance of environmental pollution control equipment"; to the Committee on Energy and Manufacturing.

By Delegates Foster, Gearheart, D. Jeffries, Pritt and McGeehan:

H. B. 2960 - "A Bill to amend and reenact §36-8-9 of the Code of West Virginia, 1931, as amended, relating generally to public notice of unclaimed property held by the State Treasurer; eliminating the requirement that the Treasurer publish unclaimed property registry in newspapers; requiring the Treasurer to publish a searchable database of persons appearing to be the owners of unclaimed property, to be updated every six months; requiring the Treasurer to publish an annual advertisement regarding unclaimed property in a newspaper of general circulation in certain counties; and setting forth required content for said advertisement"; to the Committee on Government Organization.

By Delegates Barach, Lovejoy, Brown, Rowe, Dean, Griffith, Garcia, Young, Pushkin, Paynter and Fleischauer:

H. B. 2961 - "A Bill to amend and reenact §55-7E-2 and §55-7E-3 of the Code of West Virginia, 1931, as amended, all relating to rights of persons in an employment related dispute; requiring a jury trial when requested by either party; prohibiting an employer, as a condition of employment that an

employee consent to binding arbitration as a condition of being hired or for continued employment and providing exceptions thereto; and providing an effective date”; to the Committee on the Judiciary.

By Delegates Steele and J. Pack:

H. B. 2962 - “A Bill to amend and reenact §30-4-1, §30-4-3, §30-4-8, §30-4-8a, §30-4-9, §30-4-10, §30-4-11, §30-4-12, §30-4-13, §30-4-14, §30-4-15, §30-4-16, §30-4-17, §30-4-19, §30-4-20, §30-4-22, §30-4-23, and §30-4-24 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-4-25, all relating to defining the practice of dentistry; adding necessary definitions; revising certain definitions, and removing unnecessary definitions; revising and making consistent the requirements for a dental license, dental hygiene license, dental intern permit, dental resident permit, and teaching permit; revising the scope of practice of dentistry and dental hygiene; accounting for the existence of dental professional limited liability companies; revising the grounds for disciplinary action and the availability of certain disciplinary sanctions; revising the criminal offenses related to dentistry; clarifying who is exempt from this article; adding the statutorily required provisions regarding telehealth services; and correcting typographical and grammatical errors where necessary and use plain language where appropriate”; to the Committee on Health and Human Resources then Government Organization.

By Delegates Rowe, Linville and Boggs:

H. B. 2963 - “A Bill to amend and reenact §17-2A-8 of the Code of West Virginia, 1931, as amended, relating to require the Commissioner of Highways to create a website with an index of all named bridges and roads linked to the text of the resolutions by the Legislature dedicating the structure to the named person”; to the Committee on Technology and Infrastructure then Government Organization.

By Delegate Gearheart:

H. B. 2964 - “A Bill to amend and reenact §6B-2B-2 of the Code of West Virginia, 1931, as amended, relating to use of public funds to display a public official’s name or likeness and prohibiting such display on public road signs”; to the Committee on Technology and Infrastructure then the Judiciary.

By Delegates Graves and J. Pack:

H. B. 2965 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-7h; to amend said code by adding thereto a new section, designated §9-5-28; to amend said code by adding thereto a new section, designated §33-15-4x; to amend said code by adding thereto a new section, designated §33-16-3ii; to amend said code by adding thereto a new section, designated §33-24-7x; to amend said code by adding thereto a new section, designated §33-25-8u; and to amend said code by adding thereto a new section, designated §33-25A-8x, all relating to requiring coverage for certain conditions; requiring coverage treatment of pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections; requiring coverage for treatment of pediatric acute onset neuropsychiatric syndrome; requiring a prior authorization to be obtained; and requiring that a physician to demonstrate that all other treatments have been exhausted”; to the Committee on Health and Human Resources then Finance.

By Delegates Hamrick and Dean:

H. B. 2966 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-20-23a, relating to making it unlawful to trap and kill feral cats; setting forth definitions; providing criminal penalties; and providing exceptions”; to the Committee on Political Subdivisions then the Judiciary.

By Delegate Pushkin:

H. B. 2967 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-28, relating to permitting certain felons to work in licensed behavioral health facilities; setting conditions and limitations; and requiring rule-making"; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Hamrick, Howell, Hansen, Williams, Griffith, Storch, Phillips, B. Ward, Barrett, Reed and Martin:

H. B. 2968 - "A Bill to amend and reenact § 30-10-3 and §30-10-9 of the Code of West Virginia, 1931, as amended, relating to veterinarian medicine; defining terms; providing for telehealth veterinarian medicine in West Virginia"; to the Committee on Agriculture and Natural Resources then Health and Human Resources.

By Delegates Conley, Barnhart, Steele and Holstein:

H. B. 2969 - "A Bill to amend and reenact §17-16A-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §17-16D-6 and § 17-16D-10 of said code; to amend and reenact §17-17-10, §17-17-11, §17-17-12, §17-17-21, §17-17-22 and §17-17-37; to amend said code by adding thereto a new section, designated §17-17-38; to amend and reenact §17A-2A-9; and to amend and reenact §24-2-1 of said code, all relating to privately owned toll bridges; providing for the sale of a municipally owned toll bridge to a private toll transportation facility under certain circumstances; defining the term 'private toll transportation facility'; authorizing the retention and collection of tolls on a privately owned toll bridge; clarifying procedures for the electronic collection of tolls by a private toll transportation facility; clarifying the tax treatment of toll bridges sold by a municipality to a private toll transportation facility; providing for the imposition of liability and nonrenewal of vehicle registration for failure to pay tolls on a privately owned toll bridge; clarifying the application of provisions of code to state owned and privately owned toll bridges; authorizing the West Virginia Parkways Authority and Division of Motor Vehicles to enter into agreements with a private toll transportation facility for purposes of toll collection enforcement; and clarifying the jurisdiction of the Public Service Commission over toll bridges"; to the Committee on Government Organization.

By Delegates Brown, Bridges, Dean and Lovejoy:

H. B. 2970 - "A Bill to amend and reenact §7-14D-2 of the Code of West Virginia, 1931, as amended, relating to deputy sheriff retirement benefits"; to the Committee on Pensions and Retirement then Finance.

By Delegate Higginbotham:

H. B. 2971 - "A Bill to amend and reenact §5B-1B-1, §5B-1B-2, and §5B-1B-3 of the Code of West Virginia, 1931, as amended, relating to expanding the West Virginia Lake Development Study Commission beyond the southern region of the state; providing legislative findings; and expanding the number of members on the commission"; to the Committee on Government Organization.

By Delegates Smith, Westfall, Steele, Zatezalo, Martin, Cooper, Householder, Ellington, Espinosa, Howell and Pushkin:

H. B. 2972 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60-6-2a, relating to allowing a person to manufacture a stated amount of alcoholic liquor for personal consumption"; to the Committee on the Judiciary.

By Delegates Toney, Paynter, Cooper, Dean, Higginbotham, Ellington, Ferrell, Reynolds, J. Kelly, Hanshaw (Mr. Speaker) and Rowan:

H. B. 2973 - "A Bill to amend and reenact §5-16-13 of the Code of West Virginia, 1931, as amended, relating to the use of accrued annual and sick leave for retirement service credit in the Teachers Retirement System"; to the Committee on Pensions and Retirement then Finance.

By Delegates Smith, Bruce, Mallow, Conley, J. Jeffries, Hamrick, Longanacre and Higginbotham:

H. B. 2974 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-6M-1, §11-6M-2, §11-6M-3, §11-6M-4, §11-6M-5, §11-6M-6, §11-6M-7, §11-6M-8, and §11-6M-9, all relating to establishing an exemption from school excess levy tax for taxpayers with a household income at or below U.S. Department of Health & Human Services Poverty Guidelines"; to the Committee on Finance.

By Delegates Hansen and Young:

H. B. 2975 - "A Bill to amend and reenact §22-6A-12 of the Code of West Virginia, 1931, as amended, relating to well location restrictions for natural gas wells; and providing that the limit of disturbance of a well site may not be closer to an occupied building than 2,500 feet"; to the Committee on Energy and Manufacturing then the Judiciary.

By Delegates Martin, Howell, Miller, Doyle, Fleischauer, Ellington, Capito, Graves, Kessinger, Steele and Hanna:

H. B. 2976 - "A Bill To amend and reenact §17-5-1 of the Code of West Virginia, 1931, as amended, relating to making all inmates, regardless of gender, eligible to work on a state convict road force"; to the Committee on the Judiciary.

By Delegates Martin, Howell, Paynter, Horst, Bridges, J. Jeffries, Sypolt, Pritt, Hott, Wamsley and Mandt:

H. B. 2977 - "A Bill to amend and reenact §61-6-19 of the Code of West Virginia, 1931, as amended, relating to permitting persons who have been issued state licenses to carry concealed deadly weapons on the grounds of the State Capitol Complex, except for the third and fourth floors of the east wing of Building One"; to the Committee on the Judiciary.

By Delegates Martin, Horst, Holstein, Bridges, J. Jeffries, Sypolt, Paynter, Pritt, Hott, Wamsley and Mandt:

H. B. 2978 - "A Bill to amend and reenact §18B-4-5a of the Code of West Virginia, 1931, as amended, relating to permitting the carrying of concealed weapons on the campus of a state institution of higher education"; to the Committee on Education then the Judiciary.

By Delegates G. Ward, Haynes, Burkhammer, Paynter, Reynolds, Hardy, Horst, J. Kelly, Maynard, McGeehan and Mandt:

H. B. 2979 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13KK-1, §11-13KK-2, §11-13KK-3, §11-13KK-4, §11-13KK-5, §11-13KK-6, §11-13KK-7, §11-13KK-8, and §11-13KK-9, all relating generally to creating a tax credit for a manufacturer or power generating facility in West Virginia that purchases and uses coal, oil or gas from an entity that has paid the severance tax on the coal, oil or gas"; to the Committee on Energy and Manufacturing then Finance.

By Delegates Doyle, Hansen, Thompson, Fleischauer and Walker:

H. B. 2980 - "A Bill to amend and reenact §22-12-2, §22-12-3, and §22-12-8 of the Code of West Virginia, 1931, as amended, all relating to providing for groundwater protection in karst terrain; defining karst terrain; providing specific requirements for agency action affecting karst terrain; and establishing rulemaking authority"; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Reynolds, Steele, Cooper, Rohrbach, J. Jeffries, Ferrell, Storch, Conley, Zatezalo, D. Kelly and Barnhart:

H. B. 2981 - "A Bill to amend and reenact §9A-1-9 and §9A-1-10 of the Code of West Virginia, 1931, as amended, relating to providing suicide prevention assistance to veterans in this state"; to the Committee on Veterans' Affairs and Homeland Security then Health and Human Resources.

By Delegates Kessinger, Sypolt, Holstein, Bridges, Barnhart, Longanacre, J. Pack, Kimble, Burkhammer, Mazzocchi and Pinson:

H. B. 2982 - "A Bill to amend and reenact §16-2I-1, §16-2I-2, and §16-2I-3 of the Code of West Virginia, 1931, as amended, all relating to the Second Chance at Life Act; requiring that information about the process of chemical abortion be provided to a woman prior to prescribing pharmaceuticals for, or administering, a chemical abortion except in certain emergency circumstances; updating definitions; specifying that the woman be informed of the possibility of reversal of a chemical abortion if undertaken within a critical time period; dictating minimum standards for printed materials; and requiring documentation of the procedures required hereby"; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Kessinger, Haynes and Fast:

H. B. 2983 - "A Bill to amend and reenact §30-28-4 of the Code of West Virginia, 1931, as amended, relating to permitting a licensed occupational therapy assistant to work as a staff member of the Intellectual Developmental Disabilities Waiver (IDDW) Program when working under the supervision of licensed occupational therapist"; to the Committee on Health and Human Resources.

By Delegates Statler, Hansen, Phillips, Rohrbach, Riley, Westfall, Williams, Lovejoy, J. Pack, Hamrick and Zatezalo:

H. B. 2984 - "A Bill to amend and reenact §7-11B-3, §7-11B-7, §7-11B-8, §7-11B-9, §7-11B-10, §7-11B-16, §7-11B-17, §7-11B-18 and §7-11B-22 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-22-15 and §7-22-16 of said code; and to amend and reenact §11-6-13, §11-6-19, §11-6-21 and §11-6-22 of said code, all relating to property tax increment financing districts and real property of public service businesses situated within such districts; modifying definitions of base assessed value, current assessed value, and payment in lieu of taxes; defining public service business; authorizing payment in lieu of tax agreements for property located within property tax increment financing districts; authorizing a county commission or municipality to extend the length of existence of certain districts; extending the length of existence of certain districts from 30 to 40 years; removing the requirement that a copy of the proposed project plan for tax increment financing be provided to other levying bodies with the power to levy taxes prior to any public hearing to consider the project; clarifying base assessed value and termination date when two or more tax increment financing districts have been combined; modifying language related to the discharge of any tax increment financing obligations outstanding on the termination date of a property tax district; eliminating certain limitations on the terms of property tax increment financing obligations issued to refund existing obligations; requiring Auditor to apportion and certify the value of real property owned by a public service business within a development or redevelopment district; and requiring sheriff to properly allocate taxes and levies apportioned by the Auditor"; to the Committee on Finance.

By Delegate Skaff:

H. B. 2985 - "A Bill to amend and reenact §11A-4-4 of the Code of West Virginia, 1931, as amended, relating to instituting suit to set aside a sheriff sale deed to tender to the circuit clerk of the court funds for redemption; requiring payment of a deposit prior to the tax sale to show ability to redeem; revising procedure for redemption; providing opportunity for purchaser being required to answer or otherwise respond to the suit and providing the return of deposit if unsuccessful in redemption litigation"; to the Committee on the Judiciary.

By Delegate Skaff:

H. B. 2986 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11A-3-19a, relating to establishing an alternative method for qualified persons to properties sold by tax sales; providing that the State Auditor promulgate necessary forms; providing the State Auditor to authorize purchasers experienced in tax sales and tax sales legal requirements to provide notice to delinquent taxpayers; establishing criteria for purchasers eligibility;

providing for the State Auditor to maintain a roster of eligible purchasers; providing guidelines for these purchasers to provide notice to delinquent tax payers; providing information to be provided to the State Auditor relating to the property subject to the tax sale; providing contents to a document to be executed regarding the actions taken by the purchaser as affirmed by the purchaser; providing notice to owners to be the same as done in civil actions; providing how notice is perfected; providing for a fee to be paid to the State Auditor; and providing that failure of a purchaser to meet statutory requirements results in loss of the benefits of the purchase”; to the Committee on the Judiciary.

By Delegate Skaff:

H. B. 2987 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11A-3-22a, relating to allowing the purchaser to perform service on one or more persons entitled to notice of redemption from a sheriff sale; providing how notice may be made; allowing the purchaser to provide notice in certain circumstances; and establishing conditions and requirements for purchasers to accomplish notice pursuant to this section”; to the Committee on the Judiciary.

Special Calendar

Third Reading

Com. Sub. for S. B. 280, Relating to e-commerce modernization; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 93**), and there were—yeas 98, nays none, absent and not voting 2, with absent and not voting being as follows:

Absent and Not Voting: Boggs and Hamrick.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 280) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 372, Providing greater discretion to WV Board of Medicine to approve graduate clinical training; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 94**), and there were—yeas 98, nays none, absent and not voting 2, with absent and not voting being as follows:

Absent and Not Voting: Boggs and Hamrick.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 372) passed.

On motion of Delegate J. Pack, the title of the bill was amended to read as follows:

S. B. 372 – “A Bill to amend and reenact §30-3-10 and §30-3-11 of the Code of West Virginia, 1931, as amended, all relating to the practice of medicine; establishing criteria for graduate clinical training; updating terminology; updating rulemaking authority; and clarifying authority conferred by a temporary permit.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for H. B. 2221, Relating to the establishment of an insurance innovation process; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 95**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Steele.

Absent and Not Voting: Boggs and Hamrick.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2221) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for H. B. 2335, Increasing the minimum criminal penalty for a driver who, in an impaired state, causes the death of a minor; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 96**), and there were—yeas 88, nays 10, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bates, Doyle, Fleischauer, Horst, McGeehan, Nestor, Pushkin, Rowe, Walker and Young.

Absent and Not Voting: Boggs and Hamrick.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2335) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for H. B. 2363, Relating to “Best Interests of the Child Protection Act of 2021”; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Foster asked and obtained unanimous consent to amend the bill on third reading and the rule was suspended to permit the offering and consideration of an amendment on third reading.

On motion of Delegate Foster, the bill was amended on page 1, immediately following the enacting clause, by deleting the bill in its entirety and inserting in lieu thereof the following:

“ARTICLE 1. GENERAL PROVISIONS, DEFINITIONS.

§48-1-210. Caretaker and caretaking functions defined.

(a) ‘Caretaker’ means a person who on a regular or routine basis performs one or more caretaking functions for a child regardless of the quantity of time, or number of particular functions

such person performs relative to any other person. The term 'caretaking functions' means activities that involve interaction with a child and the care of a child. Caretaking functions also include the supervision and direction of interaction and care provided by other persons.

(b) Caretaking functions include the following:

(1) Performing functions that meet the daily physical needs of the child. These functions include, but are not limited to, the following:

(A) Feeding;

(B) Dressing;

(C) Bedtime and wake-up routines;

(D) Caring for the child when sick or hurt;

(E) Bathing and grooming;

(F) Recreation and play;

(G) Physical safety; and

(H) Transportation.

(2) Direction of the child's various developmental needs, including the acquisition of motor and language skills, toilet training, self-confidence and maturation;

(3) Discipline, instruction in manners, assignment and supervision of chores and other tasks that attend to the child's needs for behavioral control and self-restraint;

(4) Arrangements for the child's education, including remedial or special services appropriate to the child's needs and interests, communication with teachers and counselors and supervision of homework;

(5) The development and maintenance of appropriate interpersonal relationships with peers, siblings and adults;

(6) Arrangements for health care, which includes making medical appointments, communicating with health care providers and providing medical follow-up and home health care;

(7) Moral guidance; and

(8) Arrangement of alternative care by a family member, baby-sitter or other child care provider or facility, including investigation of alternatives, communication with providers and supervision.

§48-1-217a. Full adversarial judicial hearing defined.

'Full adversarial judicial hearing' means a full evidentiary hearing which shall be on the record, before the judge, and at which both parties may be represented by counsel and shall have the right to present witnesses, cross-examine witnesses, and to present, examine and challenge evidence. No introduction of evidence or information of any kind may be presented to a judge ex parte, nor without the ability and opportunity of both parties to examine, use and challenge all evidence. The

findings of the court following a full adversarial judicial hearing shall expressly cite all the evidence of record upon which the court relies for its determination.

§48-1-218. Custodial parent defined.

‘Custodial parent’ or ‘custodial parent of a child’ means a parent who has been granted custody of a child by a court of competent jurisdiction. ‘Noncustodial parent’ means a parent of a child with respect to whom custody has been adjudicated with the result that such parent has not been granted custody of the child: *Provided*, That it shall be the public policy of West Virginia to order shared legal and physical custody in divorce cases unless after a full adversarial judicial hearing particular adjudicatory facts are found by a preponderance of the evidence of incompetence, neglect or abuse as set forth in §48-9-204(a) of this code.

§48-1-219. Custodial responsibility defined.

‘Custodial responsibility’ refers to physical custodianship and supervision of a child. It usually includes, but does not necessarily require, the exercise of residential or overnight responsibility: *Provided*, That it shall be the public policy of West Virginia to grant shared legal and physical custody in divorce cases unless after a full adversarial judicial hearing particular adjudicatory facts are found by a preponderance of the evidence of incompetence, neglect or abuse as set forth in §48-9-204(a) of this code.

§48-1-220. Decision-making responsibility defined.

‘Decision-making responsibility’ refers to authority for making significant life decisions on behalf of a child, including, but not limited to, the child’s education, spiritual guidance and health care: *Provided*, That ~~with regard to spiritual guidance, both parents in any shared parenting plan, regardless of the relative ratio of parenting time allocated between the parents, neither parent shall discourage or prohibit the minor child’s participation in the other parent’s faith life, nor discourage or prohibit the minor child’s faith formation and/or reception of sacraments participating in the other parent’s faith. *Provided, however, That*~~ with regard to health care, both parents in any shared parenting plan, regardless of the relative ratio of parenting time allocated between the parents, shall have the authority to make emergency or other non-elective health care decisions concerning their child necessary for the child’s health or welfare during such parent’s parenting time.

§48-1-239. Shared parenting defined; Rebuttable presumption that shared custody and equally shared parenting time is in child’s best interests.

~~(a) ‘Shared parenting’ means either basic shared parenting or extended shared parenting.~~

~~(b)~~(a) ‘Basic shared parenting’ means an arrangement under which one parent keeps a child or children overnight for less than thirty-five percent of the year and under which both parents contribute to the expenses of the child or children in addition to the payment of child support.

~~(c)~~(b) ‘Extended shared parenting’ means an arrangement under which each parent keeps a child or children overnight for more than thirty-five percent of the year and under which both parents contribute to the expenses of the child or children in addition to the payment of child support

(c) ‘Shared parenting’ means shared custody and shared physical custody as defined in §48-1-239a and §48-1-241 of this code to assure a child has frequent and continued contact with both parents. Shared parenting shall consist of a child having periods of residing overnight with, and being under the supervision of, each parent.

(d) In accordance with the best interests of the child, equal consideration shall be given to each parent. There shall be a presumption, rebuttable by a preponderance of evidence, that shared custody and co-equally shared parenting time is in the best interest of the child. If a deviation from co-equal parenting time is warranted, the court shall construct a parenting time schedule which maximizes the time each parent or de facto custodian has with the child and is consistent with ensuring the child's welfare: *Provided*, That the court shall weigh all factors and evidence in favor of a ratio of overnight parenting time no more disparate than 65 percent to 35 percent between each parent, with a primary goal of awarding overnight parenting time co-equally as being in the best interests of the child, unless the conditions of §48-9-209 of this code are found after a full adversarial judicial hearing to exist by the court.

(e) The court shall consider all relevant factors including:

(1) The wishes of the child's parent or parents, and any de facto custodian, as to his or her custody;

(2) The wishes of the child as to his or her custodian, with due consideration given to the influence a parent or custodian may have over the child's wishes, especially if parenting time has previously been ordered in ratios more disparate than 65 percent to 35 percent;

(3) The interaction and interrelationship of the child with his or her parent or parents, his or her siblings, and any other person who may significantly affect the child's best interests;

(4) The motivation of the adults participating in the custody proceeding, including, but limited to, any past or current resistance or antagonism to shared parenting by either parent;

(5) The child's adjustment and continuing proximity to his or her home, school, and community;

(6) The mental and physical health of all individuals involved;

(7) A final order by a court, following full adversarial judicial hearing which contains particular adjudicatory facts finding by a preponderance of the evidence that domestic violence and/or child abuse, as defined in §48-27-202 and §49-1-201 of this code, has been committed by one of the parties against a child of the parties or against another party. The court shall determine the extent to which the domestic violence and abuse has affected the child and the child's relationship to each party, with due consideration given to efforts made by a party toward the completion of any domestic violence treatment, counseling, or program;

(8) The extent to which the child has been cared for, nurtured, and supported by any non-parental custodian;

(9) The intent of the parent or parents in placing the child with a non-parental custodian;

(10) The circumstances under which the child was placed or allowed to remain in the custody of a non-parental custodian, including whether the parent now seeking custody was previously prevented from doing so as a result of parental alienation by the other parent, or the result of domestic violence as defined in §48-27-202 of this code and whether the child was placed with a non-parental custodian to allow the parent now seeking custody to seek employment, work, or attend school; and

(11) The likelihood a party will allow the child frequent, meaningful, and continuing contact with the other parent or non-parental custodian, except that the court shall not consider this likelihood if there is a specific finding in a final order after a full judicial adversarial hearing that the other parent or non-parental custodian engaged in domestic violence and/or child abuse, as defined in §48-27-202 and §49-1-201 of this code, against the party or a child and that a continuing relationship with the other parent will endanger the health or safety of either that party or the child.

(f) The abandonment of the family residence by a custodial party shall not be considered where said party was physically harmed or was seriously threatened with physical harm by his or her spouse, when such harm or threat of harm was causally related to the abandonment.

(g) If the court grants custody to a non-parental custodian, the non-parental custodian shall have legal custody under the laws of West Virginia.

§48-1-239a. Shared legal custody defined.

'Shared legal custody' means a continued mutual responsibility and involvement by both parents in major decisions regarding the child's welfare including matters of education, medical care, and emotional, moral and religious development.

§48-1-241. Split physical custody and shared physical custody defined.

'Split physical custody' means a situation where there is more than one child and where each parent has physical custody of at least one child.

'Shared physical custody' means a child has periods of residing with, and being under the supervision of, each parent: *Provided*, That physical custody shall be shared by the parents in such a way as to assure a child frequent and continued contact with both parents. Such frequent and continued contact with both parents shall be presumptively shared equally unless after a full adversarial judicial hearing particular adjudicatory facts are found by a preponderance of the evidence which rebut the presumptions set forth in §48-1-239, §48-9-102(a)(2) and §48-9-102(a)(9) of this code: *Provided, however, That* the court shall weigh all factors and evidence in favor of a ratio of overnight parenting time no more disparate than 65 percent to 35 percent between each parent, with a primary goal of awarding overnight parenting time co-equally as being in the best interests of the child, unless the conditions of §48-1-217a of this code are found after a full adversarial judicial hearing to exist by the court.

§48-1-241a. Sole physical custody defined.

'Sole physical custody' means a child resides with and is under the supervision of one parent, subject to reasonable visitation by the other parent, unless the court determines that such visitation would not be in the best interest of the child.

§48-1-241b. Split physical custody defined.

'Split physical custody' means a situation where there is more than one child and where each parent has physical custody of at least one child: *Provided, That* split physical custody of siblings, including half-siblings, of less than an amount equal to a ratio of time equivalent to the maximum amount of parenting time any sibling or half-sibling has with a common biological parent, but not to exceed 50 percent of annual parenting time, shall not be ordered by a court unless after a full adversarial judicial hearing particular adjudicatory facts are found by a preponderance of the evidence which rebut the presumptions set forth in §48-1-239, §48-9-102(a)(2) and §48-9-102(a)(9) of this code.

PART 3. MISCELLANEOUS PROVISIONS RELATING TO DOMESTIC RELATIONS.

§48-1-303. Confidentiality of domestic relations court files.

(a) All orders in domestic relations actions entered in the civil order books by circuit clerks are public records.

(b) Upon the filing of a domestic relations action, all pleadings, exhibits or other documents, other than orders, that are contained in the court file are confidential and not open for public inspection either during the pendency of the case or after the case is closed.

(c) When sensitive information has been disclosed during a hearing or in pleadings, evidence or documents filed in the record, the court may, sua sponte or upon motion of a party, order such information sealed in the court file: *Provided*, That no ex parte information or filings whatsoever, nor any investigation papers, documents or testimony obtained pursuant to §48-9-301 of this code, are authorized to be sealed under this provision court unless after a full adversarial judicial hearing particular adjudicatory facts are found by a preponderance of the evidence which rebut the presumptions set forth in §48-1-239, §48-9-102(a)(2) and §48-9-102(a)(9) of this code. The court must disclose both the existence of, and the general nature and content of, any and all documents proposed for seal prior to sealing if they have not previously been made available for discovery and reasonable inspection and copying to all parties. Any and all documents reviewed by a court must be made available for discovery and reasonable inspection and copying. Documents may be redacted of names to protect minor children or victims of domestic violence. Sealed documents or court files can only be opened by order of a circuit or family court judge.

(d) The parties, their designees, their attorneys, a duly appointed guardian ad litem or any other person who has standing to seek modification or enforcement of a support order has the right to examine and copy any document in a confidential court file that has not been sealed by court order. Upon motion and for good cause shown, the court may permit a person who is not a party to the action to examine and copy any documents that are necessary to further the interests of justice: *Provided*, That the court shall identify the non-party person(s) granted access and the documents reviewed by such person(s) to all parties and their counsel, and such persons shall be subject to deposition and subpoena as a witness at the request of any party.

(e) The clerk of the circuit court shall keep a written log of all persons who examine confidential documents as provided for in this section. Every person who examines confidential documents shall first sign the clerk's written log, except for a circuit judge or family court judge before whom the case is pending, or court personnel acting within the scope of their duties. The clerk shall record the time and date of every examination of confidential documents. The log must be retained by the clerk and must be available upon request for inspection by the circuit judge or the family court judge or by any party to any action whose confidential documents are inspected.

PART 1. SCOPE; OBJECTIVES; PARTIES AND PARENT EDUCATION CLASSES.

§48-9-101. Scope of article; legislative findings and declarations.

(a) This article sets forth principles governing the allocation of custodial and decision-making responsibility for a minor child when the parents do not live together.

(b) The Legislature finds and declares that:

(i) The Supreme Court of the United States has recognized the rights of all parents to raise their own children as fundamental constitutional rights, stating expressly '[t]he liberty ... of parents in the care, custody and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by this Court.... This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.... It is plain that the interest of a parent in the companionship, care, custody, and management of his or her children 'come(s) ... with a momentum for respect.... The rights to conceive and to raise one's children have been deemed', '... [and] It is cardinal ... that the custody, care and nurture of the child reside first in the parents, whose

primary function and freedom include preparation for obligations the state can neither supply nor hinder.'

(ii) The constitutional right as a parent is also unquestionably established in West Virginia Supreme Court of Appeals decisions, '[N]o rule is more firmly established than that the right of a natural parent to the custody of his or her infant child is paramount to that of any other person; it is a fundamental personal liberty protected and guaranteed by the Due Process Clauses of the West Virginia and United States Constitutions....A parent has the natural right to the custody of his or her infant child and... the right of the parent to the custody of his or her infant child will be recognized and enforced by the courts.'

(iii) The significant importance of maintaining sibling connections and has been expressly recognized as being in the siblings' (including half-siblings) best interests by the West Virginia Supreme Court of Appeals, 'the laws of this State recognize, in a variety of areas, the importance of sibling bonds and encouraging sibling contact.'... [and] ... 'The best interests of a child are served by preserving important relationships in that child's life.'

(iv) It is the public policy of ~~this state~~ the State of West Virginia, as supported by the findings of leading published and peer-reviewed social science studies, that a rebuttable presumption exists and shall be applied that co-equal shared physical custody of children, including children under the age of one year, with both parents, and meaningful contact with a child's siblings, including half-siblings, at a ratio of time equivalent to the maximum amount of parenting time any sibling or half-sibling has with a common biological parent that is greater than that of another sibling or half-sibling is in the best interest of the child or children.

(v) The amendments and additions to the Code of West Virginia during the 2021 Regular Session related to the presumption of co-equal shared physical custody of children and the recognition and protection of fundamental constitutional rights of parents to raise their children shall be known as 'The Best Interests of the Child Protection Act of 2021.'

(c) To assure that the best interest of children is the court's primary concern in allocating custodial and decision-making responsibilities between parents who do not live together, ~~will be protected and achieved, the Legislature finds~~ In furtherance of this policy, the Legislature declares that a child's best interest will be served by assuring that minor children have frequent and continuing contact with ~~both parents on a co-equal basis, who have shown the ability to act in the~~ The Legislature further finds that the best interests of their children ~~to will be served by educate~~ educating parents on their rights and responsibilities and the effect their separation may have on children, ~~to encourage encouraging~~ mediation of disputes, and ~~to encourage encouraging~~ parents to ~~agree~~ consensually to ~~co-equally~~ share in the rights and responsibilities of rearing their children after the parents have separated or divorced; and that the courts of this state have a duty to promote such education and encouragement with parties before them, except as otherwise exempted by extenuating circumstances as stated in §48-9-1 *et seq.* of this code.

§48-9-102. Objectives; best interests of the child.

(a) The primary objective of this article is to serve the child's best interests, by facilitating:

(1) Stability of the child;

(2) Rebuttable presumption that co-equal shared legal custody and co-equal shared physical custody with both of the child's parents is in the best interest of the child;

~~(2)~~ (3) Parental planning and agreement about the child's custodial arrangements and upbringing;

~~(3)~~ (4) Continuity of existing parent-child attachments;

~~(4)~~ (5) Meaningful contact between a child and each parent;

~~(5)~~ (6) Caretaking relationships by adults who love the child, know how to provide for the child's needs, and who place a high priority on doing so;

~~(6)~~ (7) Security from exposure to physical or emotional harm; and

~~(7)~~ (8) Expedient, predictable decision-making and avoidance of prolonged uncertainty respecting arrangements for the child's care and control.

(9) Meaningful contact with a child's siblings, including half-siblings, at a ratio of time equivalent to the maximum amount of parenting time any sibling or half-sibling has with a common biological parent that is greater than that of another sibling or half-sibling: *Provided*, That expansion of any shared parenting time to accommodate sibling/half-sibling time will not exceed an equal split of the parenting time between both parents unless agreed by the parties or the court expressly finds that the presumption of an equal split of parenting time has been rebutted by hearings meeting the requirements set forth in §48-9-204(a) of this code.

(b) A secondary ~~The~~ objective of this article is to achieve fairness between the parents shall be achieved by the ordering of co-equal shared parenting as defined in §48-1-239 of this code.

(c) As used in §48-9-102(a) of this code, 'meaningful contact between a child and each parent' shall mean a rebuttable presumption that co-equal shared parenting as defined in §48-1-239 of this code is in a child's best interest.

PART 2. PARENTING PLANS.

§48-9-201. Parenting agreements.

(a) If the parents agree to one or more provisions of a parenting plan, the court shall so order, unless it makes specific findings that:

(1) The agreement is not knowing or voluntary; or

(2) The plan would be harmful to the child.

(b) The court, at its discretion and on any basis it deems sufficient, may conduct ~~an~~ a full adversarial judicial evidentiary hearing to determine whether there is a factual basis for a finding under subdivision (1) or (2), subsection (a) of this section. When there is credible information that child abuse as defined by §49-1-3 of this code or domestic violence as defined by §48-27-202 of this code has occurred, a full adversarial judicial hearing is mandatory and if the court determines that abuse has occurred, appropriate protective measures shall be ordered.

(c) If an agreement, in whole or in part, is not accepted by the court under the standards set forth in subsection (a) of this section, the court shall allow the parents the opportunity to negotiate another agreement.

§48-9-203. Proposed temporary parenting plan; temporary order; amendment; vacation of order.

(a) A parent seeking a temporary order relating to parenting shall file and serve a proposed temporary parenting plan by motion. The other parent, if contesting the proposed temporary parenting plan, shall file and serve a responsive proposed parenting plan. Either parent may move to have a

proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order. The proposed temporary parenting plan may be supported by relevant evidence and shall be verified and shall state at a minimum the following:

(1) The name, address and length of residence with the person or persons with whom the child has lived for the preceding 12 months;

(2) The performance by each parent during the last 12 months of the parenting functions relating to the daily needs of the child;

(3) The parents' work and child-care schedules for the preceding 12 months;

(4) The parents' current work and child-care schedules; and

(5) Any of the ~~circumstances~~ considerations set forth in section §48-9-206(a)(9) and/or circumstances set forth in §48-9-209 of this code that indicate an intent or effort by either parent to alienate the child or children from the other parent and/or are likely to pose a serious risk to the child and that warrant limitation on the award to a parent of temporary residence or time with the child pending entry of a permanent parenting plan.

(6) In assessing the considerations for the temporary parenting plan listed in §48-9-203(a)(1) through (5), the court will give due consideration to whether any existing unequal allocation of parenting time or limitations of the opportunity to perform parenting functions has resulted due to the rebuttable presumption of co-equal shared parenting, subject only to applicable limitations as set forth in this code, having not been applied to both parents.

(b) At the hearing, the court shall enter a temporary parenting order incorporating a temporary parenting plan which includes:

(1) A schedule for the child's time with each parent when appropriate: Provided, That it shall be recognized as the public policy of the State of West Virginia that a rebuttable presumption exists and shall be applied that co-equal shared physical custody with both parents is in the best interest of the child absent particular adjudicatory facts found.

(2) Designation of a temporary residence for the child which, consistent with §48-9-102(a)(2), §48-9-102(a)(9), and §48-9-102(b) of this code shall be presumed to be equally shared with both parents;

(3) Allocation of decision-making authority, if any. Absent allocation of decision-making authority consistent with section 207 of this article, neither party shall make any decision for the child other than those relating to day-to-day or emergency care of the child, which shall be made by the party who is present with the child;

(4) Provisions for temporary support for the child; and

(5) Restraining orders, if applicable.

(c) A parent may make a motion for an order to show cause and the court may enter a temporary order, including a temporary parenting plan, upon a showing of necessity.

(d) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment conforms to the limitations of section §48-9-209 of this code and is in the best interest of the child.

§48-9-204. Criteria for temporary parenting plan.

(a) After considering the proposed temporary parenting plan filed pursuant to section 203 of this article, and other relevant evidence presented, the court shall make a temporary parenting plan that is in the best interest of the child. Shared physical and shared legal custody shall be the presumptive parenting arrangement in cases where the parents do not agree to shared custody absent a finding by preponderance of the evidence of the existence of the limiting factors set forth in §48-9-209(a) of this code, or of incompetence, neglect or abuse following a hearing. The court shall expressly cite all the evidence of record upon which the court relies for its determination that shared custody is unreasonable and not in the best interest of the child to the extent that the co-equal legal and/or physical custodial relationship between the child and a parent should be severed or reduced. For the purposes of all hearings held under this section, and/or of any other sections requiring a full adversarial judicial hearing consistent with this section, a court may consider whether a parent or guardian's or anyone else residing in the household of the parent or guardian: (i) is actively using, or has within the last six months, used illegal drugs or illegally obtained prescription drugs; (ii) frequently leaves the child in the care of third parties while pursuing his or her own pleasure; (iii) has been convicted within the past five years of either: child neglect, distributing illegal substances or possession of illegal substances; or (iv) of abandonment defined in §48-22-306 of this code to be grounds for a finding of incompetence, neglect or abuse sufficient to depart from the presumption of shared parenting. In making this determination, the court shall give particular consideration to:

~~(1) Which parent has taken greater responsibility during the last twelve months for performing caretaking functions relating to the daily needs of the child; and~~

~~(2) Which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.~~

~~(b) The court shall also consider the factors used to determine residential provisions in the permanent parenting plan. In determining the temporary parenting plan the court shall give particular consideration to:~~

(1) If the parents present a temporary custody agreement and mutually agreed plan for parenting time, and the court confirms that the agreement adequately provides for the welfare of the child, the agreement shall become the temporary custody order of the court.

(2) In making an order for temporary custody absent a mutually agreed plan by the parents, there shall be a presumption, rebuttable as set forth in §48-9-204(a) of this code, that the parents shall have temporary shared custody and shall share equally in parenting time.

(3) If a deviation from equal parenting time is warranted, the court shall construct a parenting time schedule which maximizes the time each parent has with the child, including overnight parenting time with each parent, and is consistent with ensuring the child's welfare as set forth in this article.

(4) Each temporary custody order shall include specific findings of fact and conclusions of law, except when the court confirms the consensual agreement of the parties.

(5) Subject to §48-9-401(a) and §48-9-203 of this code, modification of a temporary custody order may be sought when there is a material and substantial change in the circumstances of the parents or child.

(c) Upon credible evidence of one or more of the circumstances set forth in subsection §48-9-209(a) of this code, following a hearing and express findings as set forth in §48-9-204(a) of this code, the court shall issue a temporary order limiting or denying access to the child as required by that section, in order to protect the child or the other party, pending adjudication of the underlying facts.

(d) Expedited procedures shall be instituted to facilitate the prompt issuance of a parenting plan: Provided, That such expedited procedures must meet the requirements for the hearing and express findings as set forth in §48-9-204(a) of this code before either parent's presumptive co-equal shared physical custody may be modified or denied.

§48-9-204a. Model parenting schedules.

The Supreme Court of Appeals shall adopt advisory model parenting schedules for use in determining schedules which most effectively promote the best interests of the child or children and shall reflect the differing needs of the child based upon age: Provided, That such model parenting schedules shall be based upon the current state of published research in child development psychology in peer reviewed publications establishing that shared parenting, including overnight time with each parent is in the best interest of the child or children, even in children under the age of one year old. Such model parenting schedules shall recognize the rebuttable presumption that co-equal shared legal and shared physical custody with both parents, and that keeping siblings, including half-siblings, together on at least an equal basis with the periods of physical custody and shared parenting that the child or children share with the parent of any siblings or half-siblings is in the best interest of the child. In the event that the presumption of co-equal shared parenting is rebutted as set forth in §48-1-217a of this code or §48-9-204(a) of this code, schedules shall be adjusted for each child as he or she grows older and his or her needs and ability to adjust to circumstances change including expanded parenting time for the parent who initially spends less time with the child, unless the limiting factors set forth in §48-9-209 of this code, the findings of §48-1-217a of this code, or of incompetence, neglect or abuse in accordance with §48-9-204(a) of this code are expressly found to be or remain present after a hearing.

§48-9-206. Allocation of custodial responsibility.

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code or unless harmful to the child, the court shall allocate custodial responsibility ~~so that, except to the extent required under §48-9-209 of this code, the custodial time the child spends with each parent may be expected to achieve any of the following objectives~~ based upon the rebuttable presumption of shared parenting set forth in §48-1-239 of this code. If the court denies the request for shared physical custody, the determination shall be accompanied by specific findings of fact and conclusions of law that the awarding of shared physical custody is not in the best interests of the child. The court must document all the evidence of record upon which the court relies for its determination by a preponderance of the evidence that shared physical custody would endanger the child's physical, mental or emotional health. The court shall order custodial time the child spends with each parent to achieve any of the following objectives:

(1) To permit the child to have a meaningful relationship with each parent who has performed a reasonable share of parenting functions;

(2) To accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child who is 14 years of age or older, and with regard to a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent, to give that preference the weight warranted by the circumstances;

(3) To keep siblings together when the court finds that doing so is necessary to their welfare: *Provided*, That there shall be a rebuttable presumption that keeping siblings, including half-siblings, together on at least an equal basis with the periods of physical custody and shared parenting that the child or children share with the parent of any siblings or half-siblings is in the best interest of the child, unless the limiting factors set forth in §48-9-209 of this code, the findings of §48-1-217a of this code, or of incompetence, or of abandonment defined in §48-22-306 of this code, or neglect or abuse in accordance with §48-9-204(a) of this code are expressly found after a full adversarial judicial hearing and express findings to be or remain present;

(4) To protect the child's welfare when, under an otherwise appropriate allocation, the child would be harmed because of a gross disparity in the quality of the emotional attachments between each parent and the child, or in each parent's demonstrated ability or availability to meet a child's needs: *Provided*, That any unequal allocation of parenting time previously awarded which did not take into consideration the current state of research in child development psychology recognizing that shared parenting and shared legal and physical custody, including overnight time with each parent is in the best interest of the child or children, even in children under the age of one year old, shall not serve as the basis for any finding by the court of a gross disparity in the quality of the emotional attachments between each parent and the child or in each parent's demonstrated ability or availability to meet a child's needs;

(5) To take into account any prior agreement of the parents that, under the circumstances as a whole, including the reasonable expectations of the parents in the interest of the child, would be appropriate to consider;

(6) To avoid an allocation of custodial responsibility that would be extremely impractical or that would interfere substantially with the child's need for stability in light of economic, physical, or other circumstances, including the distance between the parents' residences, the cost and difficulty of transporting the child, the parents' and child's daily schedules, and the ability of the parents to cooperate in the arrangement;

(7) To apply the principles set forth in §48-9-403(d) of this code if one parent relocates or proposes to relocate at a distance that will impair the ability of a parent to exercise the amount of custodial responsibility that would otherwise be ordered under this section: *Provided*, That in cases of proposed relocation the court's analysis shall reflect the current state of social science research in child development psychology recognizing that shared parenting, including overnight time with each parent is in the best interest of the child or children, even in children under the age of one year old; and that keeping siblings, including half-siblings, together on at least an equal basis with the periods of physical custody and shared parenting that the child or children share with the parent of any siblings or half-siblings is in the best interest of the child, unless the limiting factors set forth in §48-9-209 of this code, the findings of §48-1-217a of this code, or of incompetence, neglect or abuse in accordance with §48-9-204(a) of this code are expressly found after a full adversarial judicial hearing and express findings to be or remain present;

(8) To consider the stage of a child's development: *Provided*, That such consideration shall recognize the current state of social science research in child development psychology establishing that shared parenting and shared legal and physical custody, including overnight time with each parent is in the best interest of the child or children, even in children under the age of one year old; and

(9) To consider which parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities.

(b) The court may consider the allocation of custodial responsibility arising from temporary agreements made by the parties after separation if the court finds, by a preponderance of the evidence, that such agreements were consensual. The court shall afford those temporary consensual agreements the weight the court believes the agreements are entitled to receive, based upon the evidence. The court may not consider the temporary allocation of custodial responsibility imposed by a court order on the parties.

~~(c) If the court is unable to allocate custodial responsibility under §48-9-206(a) of this code because the allocation under §48-9-206(a) of this code would be harmful to the child, or because there is no history of past performance of caretaking functions, as in the case of a newborn, or because the history does not establish a pattern of caretaking sufficiently dispositive of the issues of the case, the court shall allocate custodial responsibility based on the child's best interest, taking into account the factors in considerations that are set forth in this section and in §48-9-209 and §48-9-403(d) of this code and preserving to the extent possible this section's priority on the share of past caretaking functions each parent~~

(c) In determining how to schedule the custodial time allocated to each parent, the court shall take account of the economic, physical, and other practical circumstances such as those listed in §48-9-206(a)(6) of this code. The court shall also consider the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child as required under §48-9-206(a)(9) of this code. If the court determines after a full adversarial judicial hearing and express findings by a preponderance of the evidence that a parent is not encouraging a close and continuing relationship between the other parent and the child, such a finding shall create a rebuttable presumption that the offending parent is alienating the other parent from the child and persistently interfering with the other parent's access to the child in violation of §48-9-209(a)(4) of this code.

§48-9-207. Allocation of significant decision-making responsibility.

(a) Unless otherwise resolved by agreement of the parents under section 201 of this article, the court shall allocate responsibility for making significant life decisions on behalf of the child, including the child's education and health care, to one parent or to two parents jointly, in accordance with the child's best interest, in light of:

(1) The court's presumption that the maximum involvement and cooperation of both parents regarding the physical, mental, moral, and emotional well-being of their child is in the best interest of the child. This shall be accomplished, to the maximum extent feasible, through the ordering of co-equal shared physical and legal custody and parenting time;

(4) (2) The allocation of custodial responsibility under section 206 of this article: *Provided*, That any previously ordered unequal allocation of parenting time which did not take into consideration the current state of social science research in child development psychology recognizing that shared parenting, including overnight time with each parent is in the best interest of the child or children, even in children under the age of one year old, shall not serve as the basis for any finding by the court that the parent historically receiving less parenting time is not entitled to co-equal custodial responsibility;

(2) (3) The level of each parent's participation in past decision-making on behalf of the child: *Provided*, That any previously ordered unequal allocation of parenting time which did not take into consideration the current state of social science research in child development psychology recognizing that shared parenting, including overnight time with each parent is in the best interest of the child or children, even in children under the age of one year old, shall not serve as the basis for

any finding by the court that the parent historically receiving less parenting time is not entitled to co-equal decision-making responsibility;

~~(3)~~ (4) The wishes of the parents;

~~(4)~~ (5) The level of ability and cooperation the parents have demonstrated in decision-making on behalf of the child;

~~(5)~~ (6) Prior agreements of the parties; and

~~(6)~~ (7) The existence of any limiting factors, as set forth in section 209 of this article or unless only if the findings of §48-1-217a of this code, or of incompetence, neglect or abuse in accordance with §48-9-204(a) of this code are expressly found after a full adversarial judicial hearing and express findings to be or remain present.

(b) If each of the child's legal parents has been exercising a reasonable share of parenting functions for the child, the court shall presume that an allocation of decision-making responsibility to both parents jointly is in the child's best interests. The presumption is overcome if there is a history of domestic abuse, or by a showing that joint allocation of decision-making responsibility is not in the child's best interest: *Provided*, That the court must expressly document after a full adversarial judicial hearing and express findings all the evidence of record upon which the court relies for its determination by a preponderance of the evidence that co-equal and joint allocation of decision-making responsibility is not in the child's best interest.

(c) Unless otherwise provided or agreed by the parents, each parent who is exercising custodial responsibility shall be given sole responsibility for day-to-day decisions for the child, while the child is in that parent's care and control, including emergency decisions affecting the health and safety of the child.

§48-9-208. Criteria for parenting plan; dispute resolution.

(a) If provisions for resolving parental disputes are not ordered by the court pursuant to parenting agreement under section 201 of this article, the court shall order a method of resolving disputes that serves the child's best interest in light of:

(1) The parents' wishes and the stability of the child: *Provided*, That the findings of leading published and peer-reviewed social science studies, which establish that a rebuttable presumption exists and shall be applied that co-equal shared physical custody of children, including children under the age of one year, with both parents, and meaningful contact with a child's siblings, including half-siblings, at a ratio of time equivalent to the maximum amount of parenting time any sibling or half-sibling has with a common biological parent that is greater than that of another sibling or half-sibling is in the best interest of the child or children;

(2) Circumstances, including, but not limited to, financial circumstances, that may affect the parents ability to participate in a prescribed dispute resolution process; and

(3) The existence of any limiting factor, as set forth in section 209 of this article.

(b) The court may order a nonjudicial process of dispute resolution by designating with particularity the person or agency to conduct the process or the method for selecting such a person or agency. The disposition of a dispute through a nonjudicial method of dispute resolution that has been ordered by the court without prior parental agreement is subject to de novo judicial review. If the parents have agreed in a parenting plan or by agreement thereafter to a binding resolution of their

dispute by nonjudicial means, a decision by such means is binding upon the parents and must be enforced by the court, unless it is shown to be contrary to the best interests of the child, beyond the scope of the parents' agreement, or the result of fraud, misconduct, corruption or other serious irregularity. The best interests of the child shall be considered in light of the amendments to this code in the Best Interests of the Child Protection Act of 2021.

(c) This section is subject to the limitations imposed by ~~section two hundred two~~ §48-9-209 of this article code.

§48-9-209. Parenting plan; limiting factors.

(a) If either of the parents so requests, or upon receipt of credible information thereof, the court shall determine whether a parent who would otherwise be allocated responsibility under a parenting plan:

(1) Has abused, neglected or abandoned a child, as defined by state law;

(2) Has sexually assaulted or sexually abused a child as those terms are defined in §61-8B-1 *et seq.* and §61-8D-1 *et seq.* ~~articles eight b and eight d, chapter sixty one~~ of this code;

(3) Has been expressly found, pursuant to a full adversarial judicial hearing, to have committed domestic violence, as defined in ~~section §48-27-202~~ of this code;

(4) Has interfered persistently with the other parent's access to the child been found after a full adversarial judicial hearing and express findings to have, overtly or covertly, persistently violated, interfered with, impaired or impeded the rights of a parent or a child with respect to the exercise of shared or sole custodial authority, residence, visitation, or other contact with the child, except in the case of actions taken for the purpose of protecting the safety of the child or the interfering parent or another family member, pending the prompt and expeditious adjudication of the facts underlying that belief pursuant to a full adversarial judicial hearing; or

(5) Has made one or more fraudulent reports of domestic violence or child abuse: *Provided*, That a person's withdrawal of or failure to pursue a report of domestic violence or child support shall not alone be sufficient to consider that report fraudulent; or

(6) Has abandoned the child as defined in §48-22-306 of this code.

(b) If a parent is found pursuant to a full adversarial judicial hearing to have engaged in any activity specified by subsection (a) of this section, the court shall impose limits that are reasonably calculated to protect the child or child's parent from harm. The limitations that the court shall consider include, but are not limited to:

(1) An adjustment of the custodial responsibility of the parents, including but not limited to:

(A) Increased parenting time with the child to make up for any parenting time the other parent lost as a result of the proscribed activity;

(B) An additional allocation of parenting time in order to repair any adverse effect upon the relationship between the child and the other parent resulting from the proscribed activity; or

(C) The allocation of exclusive custodial responsibility to one of them;

(2) Supervision of the custodial time between a parent and the child;

- (3) Exchange of the child between parents through an intermediary, or in a protected setting;
- (4) Restraints on the parent from communication with or proximity to the other parent or the child;
- (5) A requirement that the parent abstain from possession or consumption of alcohol or nonprescribed drugs while exercising custodial responsibility and in the 24 hour period immediately preceding such exercise;
- (6) Denial of overnight custodial responsibility;
- (7) Restrictions on the presence of specific persons while the parent is with the child;
- (8) A requirement that the parent post a bond to secure return of the child following a period in which the parent is exercising custodial responsibility or to secure other performance required by the court;
- (9) A requirement that the parent complete a program of intervention for perpetrators of domestic violence, for drug or alcohol abuse, or a program designed to correct another factor; or
- (10) Any other constraints or conditions that the court deems necessary to provide for the safety of the child, a child's parent or any person whose safety immediately affects the child's welfare.

(c) If a parent is found pursuant to a full adversarial judicial hearing to have engaged in any activity specified in subsection (a) of this section, the court may not allocate custodial responsibility or decision-making responsibility to that parent without making special written findings that the child and other parent can be adequately protected from harm by such limits as it may impose under subsection (b) of this section. The parent found to have engaged in the behavior specified in subsection (a) of this section has the burden of proving that an allocation of custodial responsibility or decision-making responsibility to that parent will not endanger the child or the other parent.

(d) If the court determines, based on the investigation described in ~~part~~ section three of this article or other evidence presented to it, that an accusation of child abuse or neglect, or domestic violence made during a child custody proceeding is false and the parent making the accusation knew it to be false at the time the accusation was made, the court may order reimbursement to be paid by the person making the accusations of costs resulting from defending against the accusations. Such reimbursement may not exceed the actual reasonable costs incurred by the accused party as a result of defending against the accusation and reasonable attorney's fees incurred.

(e) (1) A parent who believes he or she is the subject of activities by the other parent described in subdivision (5) of subsection (a), may move the court pursuant to subdivision (4), subsection (b), ~~§49-5-101 section one hundred and one, article five, chapter forty nine~~ of this code for the Department of Health and Human Resources to disclose whether the other parent was the source of the allegation and, if so, whether the department found the report to be:

- (A) Substantiated;
- (B) Unsubstantiated;
- (C) Inconclusive; or
- (D) Still under investigation.

(2) If the court grants a motion pursuant to this subsection, disclosure by the Department of Health and Human Resources shall be in camera. The court may disclose to the parties information received from the department only if it has reason to believe a parent knowingly made a false report.

PART 3. FACT FINDING.

§48-9-301. Court-ordered investigation.

(a) In its discretion, the court may order a written investigation and report to assist it in determining any issue relevant to proceedings under this article: *Provided*, That in any instance where the court orders such a written investigation and report, it must serve notice to all parties of the court's order and such notice must describe with reasonable particularity the nature and objective of the investigation, and an explanation of the court's need and purpose in ordering such investigation. The investigation and report may be made by the guardian ad litem, the staff of the court or other professional social service organization experienced in counseling children and families: *Provided*, That the court shall identify to all parties who the assigned investigator is, why the court selected the particular investigator, and shall make any such investigator subject to deposition by and a compulsory witness for any party desiring to call the investigator for hearing testimony. The court shall specify the scope of the investigation or evaluation and the authority of the investigator. All investigations pursuant to this section may only be ordered by the court for docketed matters pending before the court, and may only be considered by the court after any investigation report has been provided to the parties and after through a full adversarial judicial hearing, and all investigators, witnesses and documents involved in such investigations shall be subject to full discovery by all parties and no ex parte information or filings nor any ex parte investigation papers, documents or testimony whatsoever may be considered by any court at any time.

(b) In preparing the report concerning a child, the investigator may consult any person who may have information about the child and the potential parenting or custodian arrangements: *Provided*, That all such persons shall be identified to all parties by the court and they and any records or documents reviewed or relied upon by them shall be subject to full discovery by all parties. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis, but only if consented to by both of the child's parents, unless a court has ordered the removal the child from parental or other legal custody for the child's protection. The investigator may consult with and obtain information from medical, psychiatric or other expert persons who have served the child in the past, without upon obtaining the consent of the parent or the child's custodian, unless a court has ordered the removal the child from parental or other legal custody for the child's protection; but the child's consent must be obtained if the child has reached the age of 12, unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (c) of this section are fulfilled, the investigator's report may be received in evidence at the hearing.

(c) The investigator shall deliver the investigator's report to counsel and to any party not represented by counsel at least ten days prior to the hearing unless a shorter time is ordered by the court for good cause shown: *Provided*, That any such report may only be considered by the court after any investigation report has been provided to the parties and any hearing must be a full adversarial judicial hearing and any party may move to continue the hearing if they feel discovery or preparation if necessary that cannot be adequately accomplished within 10 days. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (b) of this section, and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may depose and/or call as a hearing witness the investigator and any person whom the investigator has consulted for cross-examination and all parties and any records or documents reviewed or relied upon by them shall be subject to full

discovery by all parties. A party may not waive the right of cross-examination, nor the right to continuance and/or discovery prior to the hearing.

(d) Services and tests ordered under this section shall be ordered only if at no cost to the individuals involved, or at a cost that is reasonable in light of the available financial resources.

PART 4. MODIFICATION OF PARENTING PLAN.

§48-9-401. Modification upon showing of changed circumstances or harm.

(a) Except as provided in sections 402 or 403 of this article, a court shall modify a parenting plan order if it finds, on the basis of facts that were not known or have arisen since the entry of the prior order and were not anticipated therein, that a substantial change has occurred in the circumstances of the child or of one or both parents and a modification is necessary to serve the best interests of the child.

(b) In exceptional circumstances, a court may modify a parenting plan if it finds that the plan is not working as contemplated and in some specific way is manifestly harmful to the child, even if a substantial change of circumstances has not occurred.

(c) Unless the parents have agreed otherwise, the following circumstances do not justify a significant modification of a parenting plan except where harm to the child is shown:

(1) Circumstances resulting in an involuntary loss of income, by loss of employment or otherwise, affecting the parent's economic status;

(2) A parent's remarriage or cohabitation; and

(3) Choice of reasonable caretaking arrangements for the child by a legal parent, including the child's placement in day care.

(d) For purposes of subsection (a) of this section, the occurrence or worsening of a limiting factor, as defined in subsection (a), section 209 of this article, after a parenting plan has been ordered by the court, constitutes a substantial change of circumstances and measures shall be ordered pursuant to section 209 of this article to protect the child or the child's parent.

(e)(1) For purposes of subsection (a) of this section, any parent subject to unequal allocation of parenting time previously awarded, which did not take into consideration the rebuttable presumption of shared parenting and that keeping siblings, including half-siblings, together being in the best interest of the child or children, or did not specifically set forth the court's reasoning for departure from shared parenting and maintenance of sibling/half-sibling time (unless the limiting factors set forth in §48-9-209 of this code or incompetence, abuse or neglect set forth in §48-9-204(a) of this code are, or remain present), then pursuant to the amendments to this code made by the Best Interests of Children Protection Act of 2021 shall constitute a qualifying substantial change in circumstances, and may petition the court for a modification of his or her parenting plan for shared parenting: *Provided*, That any parent or guardian or anyone residing in the home of the parent or guardian who: (i) is actively using, or has within the past six months, used illegal drugs or illegally obtained prescription drugs (ii) is currently incarcerated; (iii) has abandoned the child in accordance with §48-22-306 of this code or (iv) has been convicted of a crime of murder, rape, malicious assault, abduction, kidnapping, aggravated battery, domestic violence, child neglect, child abuse, child sexual abuse, child exploitation, child trafficking, or the sale of a child under any state or federal criminal law, including as grounds for a finding of incompetence, neglect or abuse under §48-9-204(a) of this code, shall not be allowed to petition for modification of a parenting plan pursuant to this subsection. Upon such

motion the court shall promptly conduct an evidentiary hearing, review and determine the proper scope of modification, if any, to such unequal parenting plan or insufficient sibling/half-sibling time. In reviewing any petition for modification based on this section, the court shall apply the rebuttable presumption of shared parenting set forth in §48-1-239 of this code, and that keeping siblings, including half-siblings, together, as being in the best interest of the child or children, even in children under the age of one year old. In reaching its decision, the court shall expressly cite all the evidence of record upon which the court relies for its determination that the unequal parenting or sibling/half-sibling time shall or shall not be modified in accordance with the Best Interests of Children Protection Act of 2021.

§48-9-402. Modification without showing of changed circumstances.

(a) The court shall modify a parenting plan in accordance with a parenting agreement, unless it finds that the agreement is not knowing and voluntary or that it would be harmful to the child.

(b) The court may modify any provisions of the parenting plan without the showing of change circumstances required by section 401 subsection (a) of this article if the modification is in the child's best interests, and the modification:

(1) Reflects the de facto arrangements under which the child has been receiving care from the petitioner, without objection, in substantial deviation from the parenting plan, for the preceding six months before the petition for modification is filed, provided the arrangement is not the result of a parent's acquiescence resulting from the other parent's domestic abuse;

(2) Constitutes a minor modification in the plan; or

(3) Is necessary to accommodate the reasonable and firm preferences of a child who has attained the age of 14.

(c) Evidence of repeated filings of fraudulent reports of domestic violence or child abuse is admissible in a domestic relations action between the involved parties when the allocation of custodial responsibilities is in issue, and the fraudulent accusations may be a factor considered by the court in making the allocation of custodial responsibilities.

§48-9-403. Relocation of a parent.

(a) The relocation of a parent constitutes a substantial change in the circumstances under section 401 subsection (a) of this article, of the child only when it significantly impairs either parent's ability to exercise responsibilities that the parent has been exercising.

(b) Unless otherwise ordered by the court, a parent who has responsibility under a parenting plan who changes, or intends to change, residences for more than 90 days must give a minimum of 60 days' advance notice, or the most notice practicable under the circumstances, to any other parent with responsibility under the same parenting plan. Notice shall include:

(1) The relocation date;

(2) The address of the intended new residence;

(3) The specific reasons for the proposed relocation;

(4) A proposal for how custodial responsibility shall be modified, in light of the intended move; and

(5) Information for the other parent as to how he or she may respond to the proposed relocation or modification of custodial responsibility.

Failure to comply with the notice requirements of this section without good cause may be a factor in the determination of whether the relocation is in good faith under subsection (d) of this section and is a basis for an award of reasonable expenses and reasonable attorney's fees to another parent that are attributable to such failure.

The Supreme Court of Appeals shall make available through the offices of the circuit clerks and the secretary-clerks of the family courts a form notice that complies with the provisions of this subsection. The Supreme Court of Appeals shall promulgate procedural rules that provide for an expedited hearing process to resolve issues arising from a relocation or proposed relocation.

(c) When changed circumstances are shown under subsection (a) of this section, the court shall, if practical, revise the parenting plan so as to both accommodate the relocation and maintain the same proportion of custodial responsibility being exercised by each of the parents. In making such revision, the court may consider the additional costs that a relocation imposes upon the respective parties for transportation and communication, and may equitably allocate such costs between the parties.

(d) When the relocation constituting changed circumstances under subsection (a) of this section renders it impractical to maintain the same proportion of custodial responsibility as that being exercised by each parent, the court shall modify the parenting plan in accordance with the child's best interests and in accordance with the following principles:

(1) A parent who has been exercising a significant majority of the custodial responsibility for the child should be allowed to relocate with the child so long as:

(A) ~~that~~ The relocating parent shows that the relocation is in good faith for a legitimate purpose and to a location that is reasonable in light of the purpose: *Provided*, That any unequal prior parenting plan which did not take into consideration the rebuttable presumption of co-equal shared parenting and that keeping siblings, including half-siblings, together being in the best interest of the child or children, shall not serve as the basis for any finding by the court that the parent historically receiving less parenting time is not generally entitled to co-equal parenting and/or sibling/half-sibling time and/or legal and physical custodial responsibility after relocation: *Provided further*, That if relocation makes co-equal shared parenting and/or sibling/half sibling time impractical, the court shall to the maximum extent possible require that the non-relocating parent be granted the maximum amount of parenting time possible, including, but not limited to, the child or children residing with the non-relocating parent and siblings/half-siblings during school summer vacation months and on other extended holidays and scheduled vacations.

(B) The percentage of custodial responsibility that constitutes a significant majority of custodial responsibility is seventy percent or more: *Provided*, That any such previously ordered allocation of custodial responsibility has be ordered after a full, adversarial judicial hearing on the record in which the court applied the rebuttable presumption of co-equal shared parenting and for keeping siblings/half-siblings together. If such allocation was not ordered after proper consideration of such rebuttable presumption of co-equal shared parenting and for keeping siblings/half-siblings together, then the court must reevaluate such allocation consistent with §48-1-239 of this code.

(C) A relocation is for a legitimate purpose if it is to be close to significant family or other support networks, for significant health reasons, to protect the safety of the child or another member of the child's household from significant risk of harm, to pursue a significant employment or educational

opportunity or to be with one's spouse who is established, or who is pursuing a significant employment or educational opportunity, in another location. The relocating parent has the burden of proving the legitimacy of any other purpose. A move with a legitimate purpose is reasonable unless its purpose is shown to be substantially achievable without moving or by moving to a location that is substantially less disruptive of the other parent's relationship to the child: Provided, That the court shall to the maximum extent possible require that the nonrelocating parent be granted the maximum amount of parenting time possible, including, but not limited to, the child or children residing with the non-relocating parent and siblings/half-siblings during school summer vacation months and on other extended holidays and scheduled vacations.

(2) If a relocation of the parent is in good faith for legitimate purpose and to a location that is reasonable in light of the purpose and if neither has been exercising a significant majority of custodial responsibility for the child, the court shall reallocate custodial responsibility based on the best interest of the child, taking into account all relevant factors including the effects of the relocation on the child, subject to the provisos set forth in §48-9-403(d)(1) of this code.

(3) If a parent does not establish that the purpose for that parent's relocation is in good faith for a legitimate purpose into a location that is reasonable in light of the purpose, the court may modify the parenting plan in accordance with the child's best interests and the effects of the relocation on the child. Among the modifications the court may consider is a reallocation of primary custodial responsibility, effective if and when the relocation occurs, but such a reallocation shall not be ordered if the relocating parent demonstrates that the child's best interests would be served by the relocation, subject to the provisos set forth in §48-9-403(d)(1) of this code.

(4) The court shall attempt to minimize impairment to a parent-child relationship caused by a parent's relocation through alternative arrangements for the exercise of custodial responsibility appropriate to the parents' resources and circumstances and the developmental level of the child, subject to the provisos set forth in §48-9-403(d)(1) of this code.

(5) If the parents are exercising a basic shared parenting schedule and all of their children are under 10 years of age, the court shall consider this a factor against the approval of the relocation of the custodial parent unless the relocation has been agreed to by both parties; or unless in the opinion of the judge the relocation is in the best interest of the child or children: Provided, That the best interest of the child or children must consider the rebuttable presumption of shared parenting and sibling/half-sibling time, and the court shall to the maximum extent possible require that the non-relocating parent be granted the maximum amount of parenting time possible, including, but not limited to, the child or children residing with the non-relocating parent and siblings/half-siblings during school summer vacation months and on other extended holidays and scheduled vacations.

(e) In determining the proportion of caretaking parenting functions each parent previously performed for the child under the parenting plan before relocation, the court may not consider a division of functions arising from any arrangements made after a relocation but before a modification hearing on the issues related to relocation.

(f) In determining the effect of the relocation or proposed relocation on a child, any interviewing or questioning of the child shall be conducted in accordance with the provisions of rule 17 of the rules of practice and procedure for family law as promulgated by the Supreme Court of Appeals, subject to the provisos set forth in §48-9-403(d)(1) of this code.

(g) Relocations found by the court to be reasonable prior to the passage of the Best Interests of the Child Protection Act of 2021 may depart from the presumption of co-equal shared parenting and sibling/half-sibling time if the court determines that the circumstances due to the relocation make

such co-equal shared parenting significantly impracticable: *Provided*, That in such circumstances, upon a motion of the nonrelocating parent to modify an unequal parenting plan, the court shall to the maximum amount of parenting time possible, including, but not limited to, the child or children residing with the nonrelocating parent and siblings/half-siblings during school summer vacation months and on other extended holidays and scheduled vacations.

PART 6. MISCELLANEOUS PROVISIONS.

§48-9-601. ~~Access to a child's records~~ Parental Rights.

(a)(1) Each parent has the right to full and equal access to a child's educational records absent a court order to the contrary. Neither parent may veto the access requested by the other parent. Educational records are academic, attendance and disciplinary records of public and private schools in all grades kindergarten through 12 and any form of alternative school. Educational records are any and all school records concerning the child that would otherwise be properly released to the primary custodial parent, including, but not limited to, report cards and progress reports, attendance records, disciplinary reports, results of the child's performance on standardized tests and statewide tests and information on the performance of the school that the child attends on standardized statewide tests; curriculum materials of the class or classes in which the child is enrolled; names of the appropriate school personnel to contact if problems arise with the child; information concerning the academic performance standards, proficiencies, or skills the child is expected to accomplish; school rules, attendance policies, dress codes and procedures for visiting the school; and information about any psychological testing the school does involving the child.

(2) In addition to the right to receive school records, the nonresidential parent has the right to participate as a member of a parent advisory committee or any other organization comprised of parents of children at the school that the child attends.

(3) The nonresidential parent or noncustodial parent has the right to question anything in the child's record that the parent feels is inaccurate or misleading or is an invasion of privacy and to receive a response from the school.

(4) Each parent has a right to arrange appointments for parent-teacher conferences absent a court order to the contrary. Neither parent can be compelled against their will to exercise this right by attending conferences jointly with the other parent.

(b)(1) Each parent has the right to full and equal access to a child's medical records absent a court order to the contrary. Neither parent may veto the access requested by the other parent. If necessary, either parent is required to authorize medical providers to release to the other parent copies of any and all information concerning medical care provided to the child which would otherwise be properly released to either parent. For the purposes of this section §48-9-601 of this code any and all copies (including prior drafts or versions subsequently removed or deleted from any hospital or birthing facility files, and all information contained therein) of birth registry forms completed for the hospital or birthing facility by the mother, or any other person, for the purposes of registering the birth of a child with the West Virginia Vital Registration Office, are deemed part of the child's medical records and are fully accessible, without limitation or reservation, to each legal and/or biological parent: *Provided*, That either parent may request that the hospital redact their own personally identifiable information that would otherwise be subject to the protections of the federal Health Insurance Portability and Accountability Act ('HIPAA'), but under no circumstances may either parent or the hospital or birthing facility rely on HIPAA to preclude the other parent from accessing and/or obtaining copies of any and all birth registry forms (including prior drafts or versions subsequently

removed or deleted from any hospital or birthing facility files, and all information contained therein) completed for the parent's child and submitted to the hospital or birthing facility.

(2) If the child is in the actual physical custody of one parent, that parent is required to promptly inform the other parent of any illness of the child which requires medical attention.

(3) Each parent is required to consult with the other parent prior to any elective surgery being performed on the child, and in the event emergency medical procedures are undertaken for the child which require the parental consent of either parent, if time permits, the other parent shall be consulted, or if time does not permit such consultation, the other parent shall be promptly informed of the emergency medical procedures: *Provided*, That nothing contained herein alters or amends the law of this state as it otherwise pertains to physicians or health care facilities obtaining parental consent prior to providing medical care or performing medical procedures.

(c)(1) Each parent has full and equal access to a child's juvenile court records, process and pleadings, absent a court order to the contrary. Neither parent may veto any access requested by the other parent. Juvenile court records are limited to those records which are normally available to a parent of a child who is a subject of the juvenile justice system.

(2) Each parent has the right to be notified by the other party if the minor child is the victim of an alleged crime, including the name of the investigating law-enforcement officer or agency. There is no duty to notify if the party to be notified is the alleged perpetrator.

(d) Each parent has the right to reasonable access and telephone or other electronic contact with the minor children, which shall be defined in the parenting plan.

§48-9-602. Designation of custody for the purpose of other state and federal statutes.

Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside the majority of the time as the custodian of the child: *Provided*, That ~~However~~, this designation shall not affect either parent's rights and responsibilities under a parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time is deemed to be the custodian of the child for the purposes of such federal and state statutes.

§48-9-603. Effect of enactment; operative dates.

(a) The enactment of this article, formerly enacted as article eleven of this chapter during the second extraordinary session of the 1999 Legislature, is prospective in operation unless otherwise expressly indicated.

(b) The provisions of section 202 of this article, insofar as they provide for parent education and mediation, became operative on January 1, 2000. Until that date, parent education and mediation with regard to custody issues were discretionary unless made mandatory under a particular program or pilot project by rule or direction of the Supreme Court of Appeals or a circuit court.

(c) The provisions of this article that authorize the court, in the absence of an agreement of the parents, to order an allocation of custodial responsibility and an allocation of significant decision-making responsibility, as amended during the regular session of 2021, the 'Best Interests of the Child Protection Act of 2021', became operative ~~on January 1, 2000~~ 90 days after passage of those amendments, at which time the ~~primary caretaker doctrine was replaced with a system that allocates custodial and decision-making responsibility to the parents in accordance with this article~~ was

replaced by the rebuttable presumption of co-equal shared parenting and sibling/half-sibling time. Any order entered prior to January 1, 2000 the effective date of the Best Interests of the Child Protection Act of 2021, based on the primary caretaker doctrine remains in full force and effect until modified by a court of competent jurisdiction, which modifications, upon petitions authorized by the Best Interests of the Child Protection Act of 2021, shall be liberally construed to further the interests of justice and the best interests of any children involved."

Having been engrossed a second time, the bill was then read a third time.

Delegates Pritt and Capito requested to be excused from voting on under the provisions of House Rule 49.

The Speaker replied that the Delegates were members of a class possibly to be affected and directed the Members to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 97**), and there were—yeas 68, nays 31, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barach, Bates, Diserio, Doyle, Espinosa, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Howell, D. Kelly, Lovejoy, Mazzocchi, Pethtel, Pritt, Pushkin, Queen, Reynolds, Riley, Rowe, Skaff, Statler, Thompson, Tully, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Boggs.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2363) passed.

On motion of Delegate Foster, the title of the bill was amended to read as follows:

Com. Sub. for H. B. 2363 - "A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto five new sections, designated §48-1-217a, §48-1-239a, §48-1-241a, §48-1-241b, and §48-9-204a; to amend and reenact §48-1-210, §48-1-218, §48-1-219, §48-1-220, §48-1-239, §48-1-241, §48-1-303, §48-9-101, §48-9-102, §48-9-201, §48-9-203, §48-9-204, §48-9-206, §48-9-207, §48-9-208, §48-9-209, §48-9-301, §48-9-401, §48-9-402, §48-9-403, §48-9-601, §48-9-602 and §48-9-603 of said code, all relating generally to the public policy recognition and preservation of the fundamental constitutional rights of all parents to raise their own children and that it is presumptively in the best interest of children to be raised by both of their parents equally; creating the 'Best Interests of the Child Protection Act of 2021'; defining 'Full adversarial judicial hearing', 'shared legal custody', 'shared physical custody'; and 'sole physical custody'; establishing the presumption that co-equal shared legal and physical custody of children, and the maintaining of sibling, including half-sibling, relationships through co-equal shared legal and physical custody of children in cases of divorce to be in the best interests of the children and families; requiring that temporary parenting plans, parenting plans, modifications to parenting plans and parental relocations consider that the presumption of co-equal shared legal and physical custody is in the best interests of a child; requiring courts to consider such presumption of co-equal shared legal and physical custody being in the best interests of a child when determining significant parental decision making responsibility, legal and physical custody and parenting time allocation; establishing certain procedural safeguards in the judicial review and allocation of parenting plans; establishing both parents' rights to school and medical records of their children; providing parents in a shared parenting plan each have the authority to make a child's health care decisions, delineating relevant factors to be considered by Courts in determining the structure of a shared parenting plan; providing certain exceptions to the confidentiality of domestic relations court files; providing certain findings; creating rebuttable

presumption that equal custody generally is in the best interest of a child; providing additional criteria to be consulted in temporary parenting plans; requiring the adoption of model parenting schedules; delineating factors for allocation of custodial responsibility and significant decision-making responsibility; providing for sibling contact in criteria for parenting plans; providing added limiting factors in parenting plans; providing additional criteria for court-ordered investigations; providing additional criteria for modifications in changed circumstances; providing additional criteria for consideration when a parent relocates; providing additional criteria for parental rights to access children's records; and providing effective dates."

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

H. B. 2701, Relating to authorizing the Division of Rehabilitation Services to approve acceptable training programs required for low vision individuals to obtain a Class G drivers license; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 98**), and there were—yeas 99, nays none, absent and not voting 1, with absent and not voting being as follows:

Absent and Not Voting: Boggs.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2701) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

H. B. 2709, Providing that the aggregate liability of a surety on a consumer protection bond under the West Virginia Fintech Regulatory Sandbox Program does not exceed the principal sum of the bond; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 99**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Steele.

Absent and Not Voting: Boggs.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2709) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

H. B. 2764, Allow the Division of Financial Institutions to enter into reciprocity agreements with other jurisdictions that operate similar programs to the West Virginia Fintech Sandbox Program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 100**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Paynter and Steele.

Absent and Not Voting: Boggs.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2764) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for H. B. 2765, Relating to allowing emergency management and operations' vehicles operated by airports to use red flashing warning lights; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 101**), and there were—yeas 99, nays none, absent and not voting 1, with absent and not voting being as follows:

Absent and Not Voting: Boggs.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2765) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

H. B. 2905, Relating to repealing the prohibition against the use of certain words; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 102**), and there were—yeas 76, nays 23, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barach, Barrett, Bates, Brown, Diserio, Doyle, Evans, Fluharty, Garcia, Graves, Hansen, Hardy, Haynes, Nestor, Pushkin, Rowe, Skaff, Smith, Steele, Thompson, Walker, Young and Zukoff.

Absent and Not Voting: Boggs.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2905) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Second Reading

The following bill on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading:

H. B. 2906, Relating to the School Building Authority's allocation of money.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for S. B. 216, Authorizing Department of Commerce to promulgate legislative rules,

S. B. 296, Relating generally to repealing certain rules,

S. B. 338, Creating Fire Service Equipment and Training Fund,

H. B. 2598, Altering the definition of an above ground storage tank,

Com. Sub. for H. B. 2674, Relating to the administration of anesthetics,

Com. Sub. for H. B. 2792, Relating to the expansion of direct access to natural gas service for new customers,

H. B. 2957, Relating to the repeal of outdated code sections,

And,

H. B. 2958, Relating to repealing outdated sections of state code.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leave of absence for the day was granted Delegate Boggs.

Miscellaneous Business

On motion of Delegate Fluharty, the letter from Kenneth Matthews regarding H. B. 2257 was ordered printed in the Appendix to the Journal.

Pursuant to House Rule 94b, forms were filed with the Clerk's Office to be added as a cosponsor of the following:

H. B. 2043: Delegate Rowe;

H. B. 2046: Delegate Rowe;

H. B. 2053: Delegate Rowe;

H. B. 2160: Delegate Rowe;

H. B. 2172: Delegate L. Pack;

H. B. 2241: Delegate Rowe;

H. B. 2346: Delegate Rowe;

H. B. 2354: Delegate Rowe;

H. B. 2356: Delegate Rowe;

H. B. 2698: Delegate Pushkin;

H. B. 2706: Delegate L. Pack;

H. B. 2726: Delegate L. Pack;

H. B. 2795: Delegate Evans;

H. B. 2967: Delegate Walker;

And,

H. R. 13: Delegate L. Pack.

At 12:43 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, March 9, 2021.

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470

SPECIAL CALENDAR

Tuesday, March 9, 2021

28th Day

11:00 A. M.

THIRD READING

H. B. 2906 - Relating to the School Building Authority's allocation of money (ELLINGTON) (REGULAR)

SECOND READING

Com. Sub. for S. B. 216 - Authorizing Department of Commerce to promulgate legislative rules (CAPITO) (EFFECTIVE FROM PASSAGE) [JUDICIARY COMMITTEE AMENDMENT PENDING]

S. B. 296 - Relating generally to repealing certain rules (STEELE) (REGULAR)

S. B. 338 - Creating Fire Service Equipment and Training Fund (STATLER) (EFFECTIVE FROM PASSAGE)

H. B. 2598 - Altering the definition of an above ground storage tank (ANDERSON) (REGULAR)

Com. Sub. for H. B. 2674 - Relating to the administration of anesthetics (J. PACK) (REGULAR)

Com. Sub. for H. B. 2792 - Relating to the expansion of direct access to natural gas service for new customers (ANDERSON) (REGULAR)

H. B. 2957 - Relating to the repeal of outdated code sections (STEELE) (REGULAR)

H. B. 2958 - Relating to repealing outdated sections of state code (STEELE) (REGULAR)

FIRST READING

- Com. Sub. for S. B. 126 - Authorizing Department of Administration to promulgate legislative rules (CAPITO) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2671 - Relating to financial exploitation of elderly persons, protected persons or incapacitated adults (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2722 - Prohibiting the use of class B fire-fighting foam for testing purposes if the foam contains a certain class of fluorinated organic chemicals (CAPITO) (REGULAR)
- H. B. 2852 - Relating to distribution of the allowance for increased enrollment (ELLINGTON) (REGULAR)

HOUSE CALENDAR

Tuesday, March 9, 2021

28th Day

11:00 A. M.

THIRD READING

- Com. Sub. for S. B. 270 - Providing for collection of tax by hotel marketplace facilitators (STEELE) (REGULAR)
- Com. Sub. for H. B. 2675 - Relating to costs and interest in eminent domain condemnation proceedings (CAPITO) (REGULAR)
- H. B. 2741 - Relating to expansion of the alcohol test and lock program to offenders with a drug related offense (CAPITO) (REGULAR)

SECOND READING

- Com. Sub. for S. B. 272 - Relating to WV Employment Law Worker Classification Act
- Com. Sub. for S. B. 277 - Creating COVID-19 Jobs Protection Act (CAPITO) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2004 - Permit a licensed health care professional from another state to practice in this state through telehealth when registered with the appropriate West Virginia board (J. PACK) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2015 - Requiring rules of local boards of health to be approved by the county commission except in cases of a public health emergency (J. PACK) (EFFECTIVE FROM PASSAGE)
- H. B. 2536 - Relating to expressions of legislative intent regarding equivalent instruction time (ELLINGTON) (REGULAR)
- Com. Sub. for H. B. 2628 - Relating to the removal of the prohibition on having ATMs in the area where racetrack video lottery machines are located (CAPITO) (REGULAR)

FIRST READING

- H. B. 2582 - Relating to creating a third set of conditions for the professional teaching certificate (ELLINGTON) (REGULAR)
- H. B. 2590 - Relating to the West Virginia Employment Law Worker Classification Act (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2620 - Relating to a departmental study of the child protective services and foster care workforce (J. PACK) (REGULAR)

**WEST VIRGINIA
HOUSE OF DELEGATES**

TUESDAY, MARCH 9, 2021

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON ENERGY AND MANUFACTURING
9:00 A.M. – HOUSE CHAMBER**

**COMMITTEE ON HEALTH AND HUMAN RESOURCES
9:00 A.M. – ROOM 215 E**

**COMMITTEE ON RULES
10:45 A.M. – ROOM 418 M**

**COMMITTEE ON GOVERNMENT ORGANIZATION
2:00 P.M. – ROOM 215 E**

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470