WEST VIRGINIA CODE CHAPTER 49 ARTICLE 2

WV Legislature

§49-2-101. Authorization and responsibility; Bureau for Social Services.

(a) The Bureau for Social Services is continued within the department. The bureau is under the immediate supervision of a commissioner.

(b) The Bureau for Social Services is authorized to provide care, support, and protective services for children who are handicapped by dependency, neglect, single parent status, mental or physical disability, or who for other reasons are in need of public service. The bureau is also authorized to accept children for care from their parent or parents, guardian, custodian, or relatives, and to accept the custody of children committed to its care by courts. The bureau or any county office of the department is also authorized to accept temporary custody of children for care from any law-enforcement officer in an emergency situation.

(c) The bureau is responsible for the care of the infant child of an unmarried mother who has been committed to the custody of the department while the infant is placed in the same licensed child welfare agency as his or her mother. The bureau provides care for those children in family homes meeting required standards, at board or otherwise, through a licensed child welfare agency, or in a state institution providing care for dependent or neglected children. If practical, when placing any child in the care of a family or a child welfare agency, the bureau shall select a family holding the same religious belief as the parents or relatives of the child, or a child welfare agency conducted under religious auspices of the same belief as the parents or relatives.

WV Legislature

§49-2-102. Staffing Allocation for Child Protective Services Workers.

(a) Notwithstanding any other provision of this code to the contrary, the commissioner shall allocate and station Child Protective Services workers by county based on population, referrals, and average caseload. The county population shall be based on the United States Census. The commissioner may adjust the allocation and station of Child Protective Services workers among counties as necessary based on immediate needs of each county, as demonstrated by the present referrals and caseloads.

(b) The bureau shall report the allocation to the Legislative Oversight Commission on Health and Human Resources Accountability annually by July 1. The report shall include, but is not limited to:

(1) Information regarding each allocation change that occurred in the 12 months immediately preceding July 1 and persisted for more than three weeks; and

(2) A brief explanation justifying each allocation change.

WV Legislature

§49-2-103. Proceedings by the state department.

The state department shall have the authority to institute, in the name of the state, proceedings incident to the performance of its duties under the provisions of this chapter.

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§49-2-104. Education of the public.

[Repealed.]

WV Legislature

§49-2-105. Administrative and judicial review.

Any person, corporation, governmental official or child welfare agency, aggrieved by a decision of the secretary made pursuant to this chapter may contest the decision upon making a request for a hearing by the secretary within thirty days of receipt of notice of the decision. Administrative and judicial review shall be made in accordance with article five, chapter twenty-nine-a of this code. Any decision issued by the secretary may be made effective from the date of issuance. Immediate relief therefrom may be obtained upon a showing of good cause made by verified petition to the Circuit Court of Kanawha County or the circuit court of any county where the affected facility or child welfare agency may be located. The dependency of administrative or judicial review shall not prevent the secretary from obtaining injunctive relief pursuant to section one hundred twenty, article two of this chapter.

WV Legislature

§49-2-106. Department responsibility for foster care homes.

It is the responsibility of the Department of Human Services to provide care for neglected children who are committed to its care for custody or guardianship. The department may provide this care for children in family homes meeting required standards of certification established and enforced by the Department of Human Services.

WV Legislature

§49-2-107. Foster-home care; minimum standards; certificate of operation; inspection.

(a) The department shall establish minimum standards for foster-home care to which all certified foster homes must conform by legislative rule. Any home that conforms to the standards of care set by the department shall receive a certificate of operation.

(b) The certificate of operation shall be in force for three years from the date of issuance and may be renewed unless revoked because of willful violation of this chapter.

(c) The certificate shall show the name of the person or persons authorized to conduct the home, its exact location and the number of children that may be received and cared for at one time and other information as set forth in legislative rule. No certified foster home shall provide care for more children than are specified in the certificate.

(d) No unsupervised foster home shall be certified until an investigation of the home and its standards of care has been made by the department or by a licensed child welfare agency serving as a representative of the department.

WV Legislature

§49-2-108. Visits and inspections; records.

The department or its authorized agent shall visit and inspect every certified foster home as often as is necessary to assure proper care is given to the children. Every certified foster home shall maintain a record of the children received. This record shall include information in a type, form, and manner as prescribed by the department in legislative rule.

WV Legislature

§49-2-109. Placing children from other states in private homes of state.

An institution or organization incorporated under the laws of another state shall not place a child in a private home in the state without the approval of the department, and the agency so placing the child shall arrange for supervision of the child through its own staff or through a licensed child welfare agency in this state, and shall maintain responsibility for the child until he or she is adopted or discharged from care with the approval of the department.

WV Legislature

§49-2-110. Development of standards of child care.

The department shall develop standards for the care of children. It shall cooperate with, advise, and assist all child welfare agencies, including state institutions, which care for children who have been neglected, have been adjudicated delinquent, or have special needs such as physical, mental, or intellectual disabilities, and shall supervise those agencies. The department, in cooperation with child welfare agencies, shall formulate and make available standards of child care and services for children, to which all child welfare agencies must conform.

WV Legislature

§49-2-110a Bureau of Social Service authority to hire and employ workers who are not social workers in geographical areas of critical shortage.

(a) The Legislature finds that there is a crisis in West Virginia in certain geographical regions of the state, that is caused by an absence of people employed by the Department of Human Services as child protective services workers, youth case workers, and support staff for these positions.

(b) Notwithstanding any other provisions of this code to the contrary, the Bureau of Social Services, pursuant to the provisions of this section, may establish a pilot program to employ persons who do not hold a social worker's license and persons who are not on the social work register to work for the bureau as child protective services workers, youth case workers and support staff, in geographical areas of critical shortage of this state.

(c) For purposes of this pilot program and this section, "geographical areas of critical shortage" means the counties comprising the 14th judicial circuit and the 23rd judicial circuit as of the effective date of the amendments to the section enacted during the 2023 regular session of the Legislature.

(d) Workers hired by the bureau under this section to work in geographical areas of critical shortage may be employed by the bureau and work in said geographical areas as child protective services workers, youth service workers, case managers, clerical staff and in other related positions for the bureau. Wherever possible, workers hired pursuant to this section shall be supervised by a licensed social worker.

(e) The provisions of this section shall operate independently of, and in addition to, any other provisions of law or policy that allow persons to be employed in these jobs, and the provisions of this section do not eliminate any other provisions of law that permit persons to be employed in the jobs described in this section.

(f) In order for a person to be eligible for employment under this section, he or she shall:

(1) Be at least 18 years of age.

(2)(A) Have an associate's degree or higher in social work, human services, sociology, psychology, or social services from an accredited college, university, community and technical college, community college or junior college; or

(B) Be an honorably retired law enforcement officer or be an honorably retired parole officer or honorably retired federal or state probation officer.

(C) Meet any other requirements established by the bureau.

(3) Provide to the bureau three letters of recommendation from persons not related to the applicant.

WV Legislature

(4) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the bureau, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program, may be considered;

(5) Satisfy the requirements of the West Virginia Clearance for Access Registry and Employment Screening Act, §16-49-1 *et seq*. of this code; and

(6) Satisfy the requirements provided in §30-1-24 of this code.

(g) The bureau shall provide training to any and all persons hired and employed hereunder, as the bureau deems appropriate.

(h) The provisions of this section authorizing the hiring of persons shall sunset, expire, and be of no force and effect on or after the 31st day of December 2026, but shall not serve to require the termination of persons hired pursuant to this section.

WV Legislature

§49-2-111. Supervision of child welfare agencies by the department; records and reports.

(a) In order to improve standards of child care, the department shall cooperate with the governing boards of child welfare agencies, assist the personnel of those agencies through advice on progressive methods and procedures of child care and improvement of the service rendered, and assist in the development of community plans of child care. The department, or its duly authorized agent, may visit any child welfare agency to advise the agency on matters affecting the health of children.

(b) Each child welfare agency shall keep records of each child under its control and care as the department may prescribe, and shall report to the department, whenever requested, facts as may be required with reference to the children, upon forms furnished by the department. All records regarding children and all facts learned about children and their parents or relatives shall be regarded as confidential and shall be properly safeguarded by the agency and the department.

WV Legislature

§49-2-111a. Performance based contracting for child placing agencies.

(a) For purposes of this section:

(1) "Child" means:

(A) A person of less than 18 years of age; or

(B) A person 18 to 21 years of age who is eligible to receive the extended foster care services.

(2) "Child-placing agency" means an agency licensed by the department to place a child in a foster care home.

(3) "Department" means the Department Human Services.

(4) "Evidence-based" means a program or practice that is cost-effective and includes at least two randomized or statistically controlled evaluations that have demonstrated improved outcomes for its intended population.

(5) "Performance-based contracting" means structuring all aspects of the service contract around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes and linking payment for services to contractor performance.

(6) "Promising practice" means a practice that presents, based upon preliminary information, potential for becoming a research-based or consensus-based practice.

(7) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(b) No later than July 1, 2021, the department shall enter into performance-based contracts with child placing agencies.

(c) The department shall actively consult with other state agencies and other entities with expertise in performance-based contracting with child placing agencies to develop the requirements of the performance-based contract.

(d) The performance-based contract shall be developed and implemented in a manner that complies with applicable provisions of this code. Contracts for child placing agencies are exempt from §5A-3-1 of this code.

(e) The resulting contracts shall include, but are not limited to, the following:

(1) Adequate capacity to meet the anticipated service needs in the contracted service area of the child placing agency;

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(2) The use of evidence-based, research-based, and promising practices, where appropriate, including fidelity and quality assurance provisions;

(3) Child placing agency data reporting, including data on performance and service outcomes, including, but not limited to:

(A) Safety outcomes;

(B) Permanency outcomes;

(C) Well-being outcomes;

(D) Incentives earned;

(E) Placement of older children;

(F) Placement of children with special needs; and

(G) Recruitment and retention of foster parents; and

(4) A hold harmless period to determine a baseline for evaluation.

(f) Performance-based payment methodologies must be used in child placing agency contracting. Performance measures should relate to successful engagement by a child or parent in services included in their case plan, and resulting improvement in identified problem behaviors and interactions. For the first year of implementation of performance-based contracting, the department may transfer financial risk for the provision of services to the child placing agency only to the limited extent necessary to implement a performance-based payment methodology, such as phased payment for services. However, the department may develop a shared savings methodology through which the child placing agency will receive a defined share of any savings that result from improved performance. If the department receives a Title IV-E waiver, the shared savings methodology must be consistent with the terms of the waiver. If a shared savings methodology is adopted, the child placing agency shall reinvest the savings in enhanced services to better meet the needs of the families and children they serve.

(g) The department shall actively monitor the child placing agency's compliance with the terms of contracts executed under this section.

(h) The use of performance-based contracts under this section shall be done in a manner that does not adversely affect the state's ability to continue to obtain federal funding for child welfare-related functions currently performed by the state and with consideration of options to further maximize federal funding opportunities and increase flexibility in the use of such funds, including use for preventive and in-home child welfare services.

(i) The department shall pay child placing agencies contracted to provide adoption services

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to foster families a minimum of $1,000 per child for each adoption finalized.

(j) The rate of payment to foster parents and child placing agencies shall be reviewed by the department, at a minimum of every two years, to determine whether the level of foster care payments facilitates or hinders the efficient placement of foster children with West Virginia families. The department shall remit payments to foster parents on the same week each month to facilitate foster parents' ability to budget and appropriately expend payments for the benefit of the children in their custody.

(k) The department shall report the performance of the child placing agency to the Legislative Oversight Commission on Health and Human Resources Accountability by December 31, annually.

WV Legislature

§49-2-111b. Study of kinship foster care families.

(a) The department shall conduct a study and make recommendations for improving services provided for kinship foster care families. This study shall include at a minimum:

(1) A review of best practices in other states;

(2) A proposal for an alternate system of regulation for kinship foster care that includes the same reimbursement as other foster care families as well as a reasonable time period for obtaining certification;

(3) An evaluation of what training and supports are needed to ensure that kinship care homes are successful.

(b) The results of this shall be shared with all members of the Legislature by October 1, 2019.

WV Legislature

§49-2-111c. Priorities for use of funds.

(a) Subject to appropriations by the Legislature, the department shall:

(1) Enhance and increase efforts to provide services to prevent the removal of children from their homes;

(2) Identify relatives and fictive kin of children in need of placement outside of the home;

(3) Train kinship parents to become certified foster parents;

(4) Expand a tiered foster care system that provides higher payments for foster parents providing care to, and child placing agencies providing services to, foster children who have severe emotional, behavioral, or intellectual problems or disabilities, with particular emphasis upon removing children in congregate care and placing them with suitable foster parents; and

(b) (1) The department shall develop and implement a web-based communication system which shall either be incorporated into the existing child welfare information technology system or be developed and implemented through the purchase of additional products that can be used in conjunction with the existing child welfare technology system. The web-based communication system shall communicate with and pull information from the existing child welfare information technology system. The components of the system may be implemented incrementally, except that §49-2-111c(b)(2)(B) of this code, shall be implemented on or before July 1, 2025, with the project completed on or before July 1, 2026.

(2) The system shall:

(A) Ensure that permission access to utilize the system about a foster child is granted to only those parties with legal responsibilities to care for and support the foster child;

(B) Facilitate communications between those individuals involved in the child welfare system, including, but not limited to, foster parent or kinship parent requests and responses to requests to staff of the Bureau for Social Services and their contractual designees;

(C) Provide information regarding visitation, appointments, travel, and other services available to the foster child;

(D) Provide information regarding court hearings, meetings with guardian ad litem, multidisciplinary team (MDT) meetings, and provide other communications that may improve care for the foster child amongst designated parties with legal responsibilities to care for the foster child;

(E) Provide health records for the foster child to the foster parent or kinship parent by connecting with existing health care systems;

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(F) Have the capacity to archive communications for the purpose of running reports on responsiveness by parties in the child welfare system; and

(G) Be created to prevent the input of the redundant information.

(3) On or before July 1, 2026, and quarterly thereafter, the department shall analyze and evaluate the average time it takes a child protective service worker to update the web-based communication system with the information required in this section. The department shall also evaluate the child protective service worker's response time to requests made in the web-based communications system from foster parents and kinship parents. This analysis shall be shared with the Foster Care Ombudsman and presented to the Legislative Oversight Commission on Health and Human Resources Accountability on or before July 1, 2026, and annually thereafter.

(4) On or before December 31, 2024, the Department of Human Services shall submit a report to the Legislative Oversight Commission on Health and Human Resources setting forth an overview of the status of implementation of the web-based communication system set forth in this section. The report shall contain, at a minimum, timelines for completion of the web-based communication system and projected expenditures.

WV Legislature

§49-2-112. Family homes; approval of incorporation by Secretary of State; approval of articles of incorporation.

Before issuing a charter for the incorporation of any organization having as its purpose the receipt of children for care or for placement in family homes, the Secretary of State shall provide a copy of the petition, together with any other information in his or her possession pertaining to the proposed corporation, to the secretary.

WV Legislature

§49-2-113. Residential child-care centers; licensure, certification, approval, and registration; requirements.

(a) Any person, corporation, or child welfare agency, other than a state agency, which operates a residential child-care center shall obtain a license from the department.

(b) Any residential child-care facility, day-care center, or any child-placing agency operated by the state shall obtain approval of its operations from the secretary.

(c) Any family day-care facility which operates in this state, including family day-care facilities approved by the department for receipt of funding, shall obtain a statement of certification from the department.

(d) Every family day-care home which operates in this state, including family day-care homes approved by the department for receipt of funding, shall obtain a certificate of registration from the department. The facilities and placing agencies shall maintain the same standards of care applicable to licensed facilities, centers, or placing agencies of the same category.

(e) This section does not apply to:

(1) A kindergarten, preschool, or school education program which is operated by a public school or which is accredited by the West Virginia Department of Education or any other kindergarten, preschool, or school programs which operate with sessions not exceeding four hours per day for any child;

(2) An individual or facility which offers occasional care of children for brief periods while parents are shopping, engaging in recreational activities, attending religious services, or engaging in other business or personal affairs;

(3) Summer recreation camps operated for children attending sessions for periods not exceeding 30 days;

(4) Hospitals or other medical facilities which are primarily used for temporary residential care of children for treatment, convalescence, or testing;

(5) Persons providing family day care solely for children related to them;

(6) Any juvenile detention facility or juvenile correctional facility operated by or under contract with the Division of Corrections and Rehabilitation for the secure housing or holding of juveniles committed to its custody;

(7) Any out-of-school time program that has been awarded a grant by the West Virginia Department of Education to provide out-of-school time programs to kindergarten through 12th grade students when the program is monitored by the West Virginia Department of Education;

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(8) Any out-of-school time program serving children six years of age or older and meets all of the following requirements, or is an out-of-school time program that is affiliated and in good standing with a national congressionally chartered organization or is an out-of-school time, summer recreation camp, or day camp program operated by a county parks and recreation commission, boards, and municipalities and meets all of the following requirements:

(A) The program is located in a facility that meets all fire and health codes;

(B) The program performs state and federal background checks on all volunteers and staff;

(C) The program's primary source of funding is not from fees for service except for programs operated by county parks and recreation commissions, boards, and municipalities; and

(D) The program has a formalized monitoring system in place; or

(9) Any kindergarten, preschool, or school education program which is operated by a private, parochial, or church school that is recognized by the West Virginia Department of Education under Policy 2330.

(f) The secretary is authorized to issue an emergency rule relating to conducting a survey of existing facilities in this state in which children reside on a temporary basis in order to ascertain whether they should be subject to licensing under this article or applicable licensing provisions relating to behavioral health treatment providers.

(g) Any informal family child-care home or relative family child-care home may voluntarily register and obtain a certificate of registration from the department.

(h) All facilities or programs that provide out-of-school time care shall register with the department upon commencement of operations and on an annual basis thereafter. The department shall obtain information such as the name of the facility or program, the description of the services provided, and any other information relevant to the determination by the department as to whether the facility or program meets the criteria for exemption under this section.

(i) Any child-care service that is licensed or receives a certificate of registration shall have a written plan for evacuation in the event of fire, natural disaster, or other threatening situation that may pose a health or safety hazard to the children in the child-care service.

(1) The plan shall include, but not be limited to:

(A) A designated relocation site and evacuation;

(B) Procedures for notifying parents of the relocation and ensuring family reunification;

(C) Procedures to address the needs of individual children including children with special needs;

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(D) Instructions relating to the training of staff or the reassignment of staff duties, as appropriate;

(E) Coordination with local emergency management officials; and

(F) A program to ensure that appropriate staff are familiar with the components of the plan.

(2) A child-care service shall update the evacuation plan by December 31 of each year. If a child-care service fails to update the plan, no action shall be taken against the child-care services license or registration until notice is provided and the child-care service is given 30 days after the receipt of notice to provide an updated plan.

(3) A child-care service shall retain an updated copy of the plan for evacuation and shall provide notice of the plan and notification that a copy of the plan will be provided upon request to any parent, custodian, or guardian of each child at the time of the child's enrollment in the child-care service and when the plan is updated.

(4) All child-care centers and family child-care facilities shall provide the plan and each updated copy of the plan to the Director of the Office of Emergency Services in the county where the center or facility is located.

(j) A residential child-care center which has entered into a contract with the department to provide services to a certain number of foster children, shall accept any foster child who meets the residential child-care center's program criteria, if the residential child-care center has not met its maximum capacity as provided for in the contract. Any residential child-care center which has entered into a contract with the department may not discharge any child in its program, except as provided in the contract, including that if the youth does not meet the residential treatment level and target population, the provider shall request a MDT and work toward an alternative placement.

WV Legislature

Part 1. General Authority and Duties of the Department of Human Services

§49-2-113a. Child care support.

(a) (1) A licensed child care program shall be paid subsidy payments based on monthly enrollment.

(2) The Department of Human Services shall review quarterly, and make ineligible for the subsidy a parent whose child does not attend a child care program on average of at least 8 days per month.

(3) For the purposes of this subsection, “day” means a child has attended a child care program for 4 hours, or an out of school time program for 2.5 hours.

(b) The department shall use a cost of care modeling tool to determine the amount the subsidy, and report to the Joint Committee on Health by December 1, 2026.

WV Legislature

§49-2-114. Application for license or approval.

(a) Any person or corporation or any governmental agency intending to act as a child welfare agency shall apply for a license, approval or registration certificate to operate child care facilities regulated by this chapter. Applications for licensure, approval or registration shall be made separately for each child care facility to be licensed, approved, certified or registered.

(b) The secretary shall prescribe by legislative rule forms and reasonable application procedures including, but not limited to, fingerprinting of applicants and other persons responsible for the care of children for submission to the State Police and, if necessary, to the Federal Bureau of Investigation for criminal history record checks.

(c) Before issuing a license, or approval, the secretary shall investigate the facility, program and persons responsible for the care of children. The investigation shall include, but not be limited to, review of resource need, reputation, character and purposes of applicants, a check of personnel criminal records, if any, and personnel medical records, the financial records of applicants, review of the facilities emergency evacuation plan and consideration of the proposed plan for child care from intake to discharge.

(d) Before a home registration is granted, the secretary shall make inquiry as to the facility, program and persons responsible for the care of children. The inquiry shall include self-certification by the prospective home of compliance with standards including, but not limited to:

(1) Physical and mental health of persons present in the home while children are in care;

(2) Criminal and child abuse or neglect history of persons present in the home while children are in care;

(3) Discipline;

(4) Fire and environmental safety;

(5) Equipment and program for the children in care; and

(6) Health, sanitation and nutrition.

(e) Further inquiry and investigation may be made as the secretary may direct and sees as necessary.

(f) The secretary shall make a decision on each application within sixty days of its receipt and shall provide to unsuccessful applicants written reasons for the decision.

WV Legislature

§49-2-115. Conditions of licensure, approval and registration.

(a) A license or approval is effective for a period up to two years from the date of issuance, unless revoked or modified to provisional status based on evidence of a failure to comply with this chapter or any legislative rules promulgated by the secretary. The license or approval shall be reinstated upon application to the secretary and a determination of compliance.

(b) An initial six-month license or approval shall be issued to an applicant establishing a new service found to be in compliance on initial review with regard to policy, procedure, organization, risk management, human resources, service environment and record keeping regulations.

(c) A provisional license or approval may be issued when a licensee is not in compliance with the legislative rules promulgated by the secretary but does not pose a significant risk to the rights, well-being, health and safety of a consumer. It shall expire not more than six months from date of issuance, and not be consecutively reissued unless the provisional recommendation is that of the State Fire Marshal.

(d) A renewal license or approval may be issued of any duration up to two years at the discretion of the secretary. In the event a renewal license is not issued, the facility must make discharge plans for residents and cease operation within thirty days of the expiration of the license.

(e) A certificate of registration is effective for a period up to two years from the date of issuance, unless revoked based on evidence of a failure to comply with this article or any rules promulgated pursuant to this article. The certificate of registration shall be reinstated upon application to the secretary, including a statement of assurance of continued compliance with the legislative rules promulgated pursuant to this article.

(f) The license, approval or registration issued under this article is not transferable and applies only to the facility and its location stated in the application. The license, registration or approval shall be publicly displayed. The foster and adoptive family homes, informal family child care homes and relative family child care homes shall be required to display registration certificates of registration or approval upon request rather than by posting.

(g) Provisional certificates of registration may be issued to family child care homes.

(h) The secretary, as a condition of issuing a license, registration or approval, may:

(1) Limit the age, sex or type of problems of children allowed admission to a particular facility;

(2) Prohibit intake of any children; or

(3) Reduce the number of children which the agency, facility or home operated by the

WV Legislature

agency is licensed, approved, certified or registered to receive.

WV Legislature

§49-2-115a. Head Start program licenses.

(a) A Head Start program in good standing with the United States Department of Health and Human Services pursuant to 42 USC § 9381 *et seq*. may request to be deemed a licensee to operate a child care program for the sole purpose of utilizing the West Virginia Clearance for Access: Registry and Employment Screenings program. At the discretion of the secretary, a deemed license may not permit the licensee to access the other services provided by the Bureau for Family Assistance as it relates to the specific deemed child care license.

(b) The section may not be construed to prevent the department from investigating complaints regarding the health, safety, or welfare of children.

(c) The department shall propose a legislative rule for promulgation by July 1, 2022, to effectuate this section.

WV Legislature

§49-2-116. Investigative authority; evaluation; complaint.

(a) The secretary shall enforce this article.

(b) An on-site evaluation of every facility regulated pursuant to this chapter, except registered family child care homes, informal family child care and relative family child care homes shall be conducted no less than once per year by announced or unannounced visits.

(c) A random sample of not less than five percent of the total number of registered family child care homes, informal family child care homes and relative family child care homes shall be monitored annually through on-site evaluations.

(d) The secretary shall have access to the premises, personnel, children in care and records of each facility subject to inspection, including at a minimum, case records, corporate and financial records and board minutes. Applicants for licenses, approvals, and certificates of registration shall consent to reasonable on-site administrative inspections, made with or without prior notice, as a condition of licensing, approval, or registration.

(e) When a complaint is received by the secretary alleging violations of licensure, approval, or registration requirements, the secretary shall investigate the allegations. The secretary may notify the facility's director before or after a complaint is investigated and shall cause a written report of the results of the investigation to be made.

(f) The secretary may enter any unlicensed, unregistered or unapproved child care facility or personal residence for which there is probable cause to believe that the facility or residence is operating in violation of this article. Those entries shall be made with a law-enforcement officer present. The secretary may enter upon the premises of any unregistered residence only after two attempts by the secretary to bring this facility into compliance.

WV Legislature

§49-2-117. Revocation; provisional licensure and approval.

(a) The secretary may revoke or make provisional the licensure registration of any home facility or child welfare agency regulated pursuant to this chapter if a facility materially violates this article, or any terms or conditions of the license, registration or approval issued, or fails to maintain established requirements of child care. This section does not apply to family child care homes.

(b) The secretary may revoke the certificate of registration of any family child care home if a facility materially violates this article, or any terms or conditions of the registration certificate issued, or fails to maintain established requirements of child care.

WV Legislature

§49-2-118. Closing of facilities by the secretary; placement of children.

When the secretary finds that the operation of a residential care facility constitutes an immediate danger of serious harm to children served by the facility, the secretary shall issue an order of closure terminating operation of the facility. When necessary, the secretary shall place or direct the placement of the children in a residential facility which has been closed into appropriate facilities. A facility closed by the secretary may not operate pending administrative or judicial review without court order.

WV Legislature

§49-2-119. Supervision; consultation; State Fire Marshall to cooperate.

(a) The secretary shall provide supervision to ascertain compliance with the rules promulgated pursuant to this chapter through regular monitoring, visits to facilities, documentation, evaluation and reporting. The secretary is responsible for training and education, within fiscal limitations, specifically for the improvement of care in family child care homes and facilities. The secretary shall consult with applicants, the personnel of child welfare agencies, and children under care to assure the highest quality child care possible.

(b) The State Fire Marshal shall cooperate with the secretary in the administration of this article by providing reports and assistance as may be requested by the secretary.

WV Legislature

§49-2-120. Penalties; injunctions; venue.

(a) Any individual or corporation which operates a child welfare agency, residential facility or child care center without a license when a license is required is guilty of a misdemeanor and, upon conviction, shall be confined in jail not exceeding one year, or fined not more than $500, or both fined and confined.

(b) Any family child care facility which operates without a license when a license is required is guilty of a misdemeanor and, upon conviction, shall be fined not more than $500.

(c) Where a violation of this article or a legislative rule promulgated by the secretary may result in serious harm to children under care, the secretary may seek injunctive relief against any person, corporation, child welfare agency, child placing agency, child care center, family child care facility, family child care home or governmental official through proceedings instituted by the Attorney General, or the appropriate county prosecuting attorney, in the Circuit Court of Kanawha County or in the circuit court of any county where the children are residing or may be found.

WV Legislature

§49-2-121. Rule-making.

(a) The secretary shall propose for legislative approval rules in accordance with §29A-3-1 *et seq.* of this code regarding the licensure, approval, certification, and registration of child care facilities and the implementation of this article.

(b) The secretary shall review the rules promulgated pursuant to this article at least once every five years, making revisions when necessary or convenient.

(c) The rules shall incorporate, by reference, the requirements of the Integrated Pest Management Program established by legislative rule by the Department of Agriculture under §19-16A-4 of this code.

(d) The rules shall provide a system for the electronic filing of all days of attendance billed by child care providers to the department. The department shall have the system in place no later than July 1, 2026, after which any child care provider seeking reimbursement from the department for child care services provided shall submit any and all supporting documents for the department's review electronically. The department shall promulgate emergency rules for this purpose.

WV Legislature

§49-2-122. Waivers and variances to rules.

Waivers or variances of rules may be granted by the secretary if the health, safety or well-being of a child would not be endangered thereby. The secretary shall promulgate by legislative rule criteria and procedures for the granting of waivers or variances so that uniform practices may be maintained throughout the state.

WV Legislature

§49-2-123. Annual reports; directory; licensing reports and recommendations.

(a) The secretary shall submit on or before January 1, of each year a report to the Governor and the Legislative Oversight Commission on Health and Human Resources Accountability, concerning the regulation of child welfare agencies, child placing agencies, child care centers, family child care facilities, family child care homes, informal family child care homes, relative family child care homes and child care facilities during the year. The report shall include at a minimum, data on the number of children and staff at each facility (except family child care, informal family child care homes and relative family child care), applications received, types of licenses, approvals and registrations granted, denied, made provisional or revoked and any injunctions obtained or facility closures ordered.

(b) The secretary also shall compile annually a directory of licensed, certified and approved child care providers including a brief description of their program and facilities, the program's capacity and a general profile of children served. A listing of family child care homes shall also be compiled annually.

(c) Licensing reports and recommendations for licensure which are a part of the yearly review of each licensed facility shall be sent to the facility director. Copies shall be available to the public upon written request to the secretary.

WV Legislature

§49-2-124. Certificate of need not required; conditions; review.

A certificate of need, as provided in §16-2D-1 *et seq.* of this code, is not required by an entity proposing behavioral health care facilities or behavioral health care services for children who are placed out of their home, or who are at imminent risk of being placed out of their home.

WV Legislature

§49-2-125. Commission to Study Residential Placement of Children; findings; requirements; reports; recommendations.

(a) The Legislature finds that the state's current system of serving children and families in need of or at risk of needing social, emotional and behavioral health services is fragmented. The existing categorical structure of government programs and their funding streams discourages collaboration, resulting in duplication of efforts and a waste of limited resources. Children are usually involved in multiple child-serving systems, including child welfare, juvenile justice and special education. More than ten percent of children presently in care are presently in out-of-state placements. Earlier efforts at reform have focused on quick fixes for individual components of the system at the expense of the whole. It is the purpose of this section to establish a mechanism to achieve systemic reform by which all of the state's child-serving agencies involved in the residential placement of at-risk youth jointly and continually study and improve upon this system and make recommendations to their respective agencies and to the Legislature regarding funding and statutory, regulatory and policy changes. It is further the Legislature's intent to build upon these recommendations to establish an integrated system of care for at-risk youth and families that makes prudent and cost-effective use of limited state resources by drawing upon the experience of successful models and best practices in this and other jurisdictions, which focuses on delivering services in the least restrictive setting appropriate to the needs of the child, and which produces better outcomes for children, families and the state.

(b) There is created within the Department of Human Services the Commission to Study the Residential Placement of Children. The commission consists of the Secretary of the Department of Human Services, the Commissioner of the Bureau for Children and Families, the Commissioner for the Bureau for Behavioral Health and Health Facilities, the Commissioner for the Bureau for Medical Services, the State Superintendent of Schools, a representative of local educational agencies, the Director of the Office of Institutional Educational Programs, the Director of the Office of Special Education Programs and Assurance, the Director of the Division of Juvenile Services and the Executive Director of the Prosecuting Attorney's Institute. At the discretion of the West Virginia Supreme Court of Appeals, circuit and family court judges and other court personnel, including the Administrator of the Supreme Court of Appeals and the Director of the Juvenile Probation Services Division, may serve on the commission. These statutory members may further designate additional persons in their respective offices who may attend the meetings of the commission if they are the administrative head of the office or division whose functions necessitate their inclusion in this process. In its deliberations, the commission shall also consult and solicit input from families and service providers.

(c) The Secretary of the Department of Human Services shall serve as chair of the commission, which shall meet on a quarterly basis at the call of the chair.

(d) At a minimum, the commission shall study:

(1) The current practices of placing children out-of-home and into in-residential placements,

with special emphasis on out-of-state placements;

(2) The adequacy, capacity, availability and utilization of existing in-state facilities to serve the needs of children requiring residential placements;

(3) Strategies and methods to reduce the number of children who must be placed in out-of-state facilities and to return children from existing out-of-state placements, initially targeting older youth who have been adjudicated delinquent;

(4) Staffing, facilitation and oversight of multidisciplinary treatment planning teams;

(5) The availability of and investment in community-based, less restrictive and less costly alternatives to residential placements;

(6) Ways in which up-to-date information about in-state placement availability may be made readily accessible to state agency and court personnel, including an interactive secure web site;

(7) Strategies and methods to promote and sustain cooperation and collaboration between the courts, state and local agencies, families and service providers, including the use of inter-agency memoranda of understanding, pooled funding arrangements and sharing of information and staff resources;

(8) The advisability of including no-refusal clauses in contracts with in-state providers for placement of children whose treatment needs match the level of licensure held by the provider;

(9) Identification of in-state service gaps and the feasibility of developing services to fill those gaps, including funding;

(10) Identification of fiscal, statutory and regulatory barriers to developing needed services in-state in a timely and responsive way;

(11) Ways to promote and protect the rights and participation of parents, foster parents and children involved in out-of-home care;

(12) Ways to certify out-of-state providers to ensure that children who must be placed out-of-state receive high quality services consistent with this state’s standards of licensure and rules of operation; and

(13) Any other ancillary issue relative to foster care placement.

(e) The commission shall report annually to the Legislative Oversight Commission on Health and Human Resources Accountability its conclusions and recommendations, including an implementation plan whereby:

WV Legislature

(1) Out-of-state placements shall be reduced by at least ten percent per year and by at least fifty percent within three years;

(2) Child-serving agencies shall develop joint operating and funding proposals to serve the needs of children and families that cross their jurisdictional boundaries in a more seamless way;

(3) Steps shall be taken to obtain all necessary federal plan waivers or amendments in order for agencies to work collaboratively while maximizing the availability of federal funds;

(4) Agencies shall enter into memoranda of understanding to assume joint responsibilities;

(5) System of care components and cooperative relationships shall be incrementally established at the local, state and regional levels, with links to existing resources, such as family resource networks and regional summits, wherever possible; and

(6) Recommendations for changes in fiscal, statutory and regulatory provisions are included for legislative action.

WV Legislature

§49-2-125a. Right to education for residential placement of foster children.

(a) When a foster child is in the process of residential placement, the foster child shall continue to receive his or her education through virtual learning while the foster child is awaiting placement with a foster family.

(b) Virtual learning shall be done through the county where the foster student was last enrolled, and if this is not possible, then the virtual learning shall occur in the county where the foster child currently resides while awaiting residential placement: *Provided*, That if neither county has the capability for virtual learning, then a public charter virtual school or the closest available county with virtual learning capability shall be the county used by the foster student.

(c) Virtual learning shall take place in accordance with the provisions of §18-5F-1 *et seq*. or §18-5G-1, *et seq*. of this code.

(d) The individual, group, or organization responsible for the foster child while the child is awaiting residential placement shall receive information technology ("IT") training from West Virginia Department of Education for purposes of ensuring the foster child shall receive virtual learning. This training shall include education in every step needed for the student to be able to log in and participate in the virtual courses the foster child is enrolled in. This training shall be at the expense of the West Virginia Department of Education.

(e) The virtual instruction for the child awaiting residential placement shall occur no more than three days after the child is in the temporary care of the individual, group, or organization.

(f) Once the foster child is placed with a foster family, the virtual learning information and educational enrollment information received from the child shall be provided to both the foster family and to the new county where the student is enrolled.

WV Legislature

§49-2-126. The Foster Child Bill of Rights.

(a) Foster children and children in a kinship placement are active and participating members of the child welfare system and have the following rights:

(1) The right to live in a safe and healthy environment, and the least restrictive environment possible;

(2) The right to be free from physical, sexual, or psychological abuse or exploitation including being free from unwarranted physical restraint and isolation;

(3) The right to receive adequate and healthy food, appropriate and seasonally necessary clothing, and an appropriate travel bag;

(4) The right to receive medical, dental, and vision care, mental health services, and substance use treatment services, as needed;

(5) The right to be placed in a kinship placement, when such placement meets the objectives set forth in this article;

(6) The right, when placed with a foster to kinship family, to be matched as closely as possible with a family meeting the child's needs, including, when possible, the ability to remain with siblings;

(7) The right, as appropriate to the child's age and development, to be informed on any medication or chemical substance to be administered to the child;

(8) The right to communicate privately, with caseworkers, guardians ad litem, attorneys, Court Appointed Special Advocates (CASA), the prosecuting attorney, and probation officers;

(9) The right to have and maintain contact with siblings as may be reasonably accommodated, unless prohibited by court order, the case plan, or other extenuating circumstances;

(10) The right to contact the department or the foster care ombudsman, regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats, retaliation, or punishment for making complaints;

(11) The right to maintain contact with all previous caregivers and other important adults in his or her life, if desired, unless prohibited by court order or determined by the parent, according to the reasonable and prudent parent standard, not to be in the best interests of the child;

(12) The right to participate in religious services and religious activities of his or her choice to the extent possible;

WV Legislature

(13) The right to attend school, and, consistent with the finances and schedule of the foster or kinship family, to participate in extracurricular, cultural, and personal enrichment activities, as appropriate to the child's age and developmental level;

(14) The right to work and develop job skills in a way that is consistent with the child's age and developmental level;

(15) The right to attend Independent Living Program classes and activities if the child meets the age requirements;

(16) The right to attend court hearings and speak directly to the judge, in the court's discretion;

(17) The right not to be subjected to discrimination or harassment;

(18) The right to have access to information regarding available educational options;

(19) The right to receive a copy of, and receive an explanation of, the rights set forth in this section from the child's guardian ad litem, caseworker, and attorney;

(20) The right to receive care consistent with the reasonable and prudent foster parent standard; and

(21) The right to meet with the child's department case worker no less frequently than every 30 days;

(22) The right, when the child is 13 years of age or older, to receive timely notice of any hearing pursuant to this chapter that may have legal implications for the child. The child's guardian ad litem or legal counsel shall explain the nature of the hearing and inquire whether the child wishes to attend;

(23) The right, when the child is 13 years of age or older, to attend any hearing pursuant to this chapter that may have legal implications for the child. The child's guardian ad litem or legal counsel shall inform the child that attendance may involve distressing information but shall not discourage the child from attending. If the court determines that in-person attendance is impracticable, or not in the child's best interest, whether due to the facts of the case, the circumstances of the child's placement, or other relevant factors the court may require the child to attend the hearing virtually, such determination may be made by the court or based upon a written report from the guardian ad litem that addresses what method of attendance is in the child's best interest. If practicable and in the child's best interest, deference shall be given to the child's desire to attend in-person;

(24) The right to have the outcome of any hearing pursuant to this chapter that has legal implications for the child explained by the child's guardian ad litem or legal counsel.

(b) The rights provided in this section do not create an independent cause of action.

WV Legislature

Violations of these rights may be reported to and investigated by the foster care ombudsman. On or before December 15, 2021, and on or before December 15 of every year thereafter, the foster care ombudsman shall submit a written summary of the number and nature of reports received, and investigations conducted in response to said reports, to the Joint Standing Committee on Government and Finance, the West Virginia Supreme Court of Appeals, and the Governor: *Provided*, That the summary required by this section may not include any personally identifying information of a person named in a report, or a person submitting a report to, the ombudsman.

WV Legislature

§49-2-127. The Foster and Kinship Parent Bill of Rights.

(a) Foster parents and kinship parents play an integral, indispensable, and vital role in the state's effort to care for children displaced from their homes, and such parents and persons have the following rights:

(1) The right to be treated professionally and ethically as the primary provider of foster or kinship care in accordance with the terms of the agreement between the foster or kinship parent and the child placing agency and the department;

(2) The right to maintain the parent's or parents' own family values and beliefs, so long as the values and beliefs of the child are not infringed upon;

(3) The right to receive training, as provided in the agreement with the child placing agency and the department at appropriate intervals;

(4) The right to have an emergency contact 24 hours per day, seven days per week, as set forth in the agreement between the foster or kinship parent and the child placing agency and the department;

(5) The right, prior to the placement of a child, to be notified by the department and the child placing agency of any known issues relative to the child that may jeopardize the health and safety of the foster or kinship family or the child, or alter the manner in which foster or kinship care should be administered;

(6) The right to receive from the department and the child placing agency, prior to placement of a child, all known information relating to the child's behavior, family background, health, history, or special needs and to receive updates relevant to the care of the child as information becomes available;

(7) The right to be provided with a written copy of the individual treatment and service plan concerning the child in the foster or kinship parent's home and to discuss such plan with the case manager, and to receive reasonable notice of any changes to that plan, including timely notice of the need to remove a child from the foster or kinship home and the reasons for the removal;

(8) The right to timely and reasonable notice of the department's case planning and decision-making process regarding the child, as provided in §49-4-101 *et seq.* of this code, and the right to participate in such process, in the discretion of the court;

(9) The right to communicate with professionals who work with the child, including, but not limited to, therapists, physicians, and teachers, as permitted by the case plan or the court;

(10) The right to be notified, in advance, by the department or the court, of any hearing or review where the case plan or permanency of the child is an issue, including initial and periodic reviews held by the court and permanency plan hearings: *Provided,* That the right

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of a foster or kinship parent to attend any hearing is in the discretion of the court;

(11) The right to be provided information regarding the final outcome of an investigation of complaints concerning the operation of a foster or kinship home and to receive an explanation of a corrective action plan or policy violation relating to foster or kinship parents;

(12) The right to be provided with information on how to contact the foster care ombudsman, and to contact the foster care ombudsman's office, regarding alleged violations of rights, to speak to representatives of these offices confidentially, and to be free from threats, retaliation, or punishment for making complaints;

(13) The right to write a letter or submit a report to the court regarding a violation of the rights provided in this section or §49-2-126 of this code, or any concerns over the conduct or performance of the guardian ad litem, a representative of the department, or a representative of the child placing agency, which the court may act upon as it deems in its discretion to be appropriate: *Provided,* That the court may require the clerk to send copies of a letter or report, submitted to the court pursuant to this subdivision, to the parties in the case prior to the court's review or consideration of such communications;

(14) The right to be considered, where appropriate and consistent with the best interests of the child, as a permanent parent or parents for a child who is available for adoption or legal guardianship;

(15) The right to move to intervene in the pending case, without fear of retaliation, once parental rights have been terminated; and

(16) The right to receive, from the department and the child placing agency, a written copy of the rights set forth in this section and a copy of the contract between the department and the child placing agency.

(b) The rights provided in this section do not create an independent cause of action. Violations of these rights may be reported to and investigated by the foster care ombudsman. On or before December 15, 2021 and on or before December 15 of every year thereafter, the foster care ombudsman shall submit a written summary of the number and nature of reports received, and investigations conducted in response to said reports, to the Joint Standing Committee on Government and Finance, the West Virginia Supreme Court of Appeals, and the Governor: *Provided,* That the summary required by this section may not include any personally identifying information of a person named in a report or a person submitting a report to the ombudsman.

WV Legislature

§49-2-127a. Foster and kinship parent duties; foster parent and kinship parent agreements.

(a) The West Virginia Legislature finds that foster and kinship parents providing care for children who are in the legal custody of the department have duties and contractual rights. The duties and contractual rights shall be set forth in an agreement between the department and the child placing agency and the foster or kinship parent. The duties of the foster or kinship parent shall include, but are not limited to:

(1) The duty not to violate the rights of the child, provided in §49-2-126 of this code;

(2) The duty to provide all children in the parent's or parents' care with appropriate food, clothing, shelter, supervision, medical attention, and educational opportunities using the reasonable and prudent foster parent standard as defined in §49-2-128 of this code;

(3) The duty to complete the training required by the department and the child placing agency and the foster or kinship parent;

(4) The duty to support reunification with the biological family unless it has been determined not to be appropriate by the court;

(5) The duty not to divulge any information concerning the child's case or the child's family to anyone except for the child's caseworker, the child's guardian ad litem, the child's attorney, the child's Court Appointed Special Advocate (CASA) worker, the prosecuting attorney, the probation officer, the multidisciplinary team, the foster care ombudsman, or the child's school or health care provider;

(6) The duty to provide information to the caseworker and the guardian ad litem regarding the child's progress, and to attend multi-disciplinary team meetings, case planning sessions, court hearings, and to advise the court of any issues or concerns, in the court's discretion; and

(7) The duty to teach all children placed in their home age appropriate life skills.

(b) The duties of the department and the child placing agency shall include, but are not limited to:

(1) The duty not to infringe upon the rights of the child, provided in §49-2-126;

(2) The duty not to infringe upon the rights of the kinship or foster parent, provided in in §49-2-127; and

(3) The duty to abide by the provisions of the agreement required by this section.

(c) The terms of the agreement shall include the rights of the foster or kinship parent provided in §49-2-127 of this code. The terms of the agreement shall also include, but not be

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limited to:

(1) Provisions addressing what child care will be provided while the foster or kinship parent attends required training;

(2) Provisions informing the foster or kinship parent of applicable laws and guidelines regarding the responsibilities of the foster or kinship parent and provisions requiring that the foster or kinship parent receive regular updates on changes to such laws and guidelines in a timely manner;

(3) Provisions regarding required and available training for the foster or kinship parent;

(4) Provisions addressing payment to the foster or kinship parent;

(5) Provisions naming and addressing the emergency 24-hour contact provided by the child placing agency and the department;

(6) Provisions addressing travel, including out-of-state and overnight travel;

(7) Provisions addressing child care for the child;

(8) Provisions addressing when a placement may be terminated by the foster or kinship parent, the child placing agency, or the department;

(9) Provisions addressing medical care for the child, including how to obtain medical consent for procedures; and

(10) Provisions addressing how complaints against the foster or kinship parent will be handled and adjudicated, including provisions for appeal and review of the adjudication.

(d) The agreement may contain such other terms and provisions, not inconsistent with this article, as may be negotiated by the parties and as may be in the best interests of the child.

(e) The requirements of this section apply to agreements, entered into on or after the effective date of this section. Agreements entered into pursuant to this section shall expire on July 1 of each year and shall be renewed by the parties as necessary.

(f) The duties and requirements provided in this section do not create an independent cause of action, including a cause of action for breach of contract. Violations of these rights may be reported to and investigated by the foster care ombudsman. On or before December 15, 2021 and on or before December 15 of every year thereafter, the foster care ombudsman shall submit a written summary of the number and nature of reports received, and investigations conducted in response to said reports, to the Joint Standing Committee on Government and Finance, the West Virginia Supreme Court of Appeals, and the Governor: *Provided,* That the summary required by this section may not include any personally identifying information of a person named in a report or a person submitting a report to the

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ombudsman.

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§49-2-127b. Temporary increase in kinship payment subsidy.

(a) Temporary increase in payment amount. — Notwithstanding any other provision to the contrary, a kinship parent shall be eligible for a temporary increase in the payment paid by the Department equal to that paid to a foster parent if at the time of initial placement, the following conditions are satisfied:

(1) The kinship parent has submitted to state and national criminal history record checks which shall be submitted within five days of the initial date of placement;

(2) The Department is satisfied with the results of the state and national criminal history record checks; and

(3) The kinship parent has complied with the initial home screening to identify and to correct life safety issues.

(b) The Department of Human Services shall provide a list of available child placing agencies to the kinship parent that can assist them with obtaining certification as a foster parent and compliance with all other aspects of certification.

(c) Duration of temporary increase. — The temporary increase in payment amounts becomes payable to the kinship parent within 30 days of the initial kinship placement and will continue for a period of no more than six months at the temporary rate to allow the kinship parent to become certified as a foster parent. Payments required by this section shall be made each month on the first business day of the month. If the kinship parent is unable or unwilling to become certified as a foster parent at the end of the six-month period, the temporary increase will cease and is no longer payable to the kinship parent. All other resources available to a kinship parent shall be available to a kinship parent regardless of the status of his or her certification as a foster parent.

(d) Authority to conduct background check.—The Department of Human Services is hereby authorized to conduct state and national criminal history record checks as set forth in this section, including:

(1) Submitting fingerprints for the purposes set forth in this subsection; and

(2) Authorizing the board, the West Virginia State Police, and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for the kinship placement.

(e) The results of the state and national criminal history record check may not be released to or by a private entity except:

(1) To the individual who is the subject of the criminal history record check;

(2) With the written authorization of the individual who is the subject of the criminal history

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record check; or

(3) Pursuant to a court order.

(f) The criminal history record check and related records are not public records for the purposes of §29B-1-1 *et seq.* of this code.

(g) The applicant shall ensure that the criminal history record check is completed as soon as possible after the date of the original placement for prompt processing of the temporary increase authorized by this section.

(h) The kinship parent shall pay the actual costs of the fingerprinting and criminal history record checks.

WV Legislature

§49-2-128. Reasonable and prudent foster parent standard.

(a) As used in this section, the following terms have the following meanings:

"Age-appropriate" means activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity. Age-appropriateness is based on the development of cognitive, emotional, physical, and behavioral capacity that is typical for an age or age group.

"Caregiver" means a foster parent, kinship parent, or a designated official in a residential treatment facility.

"Reasonable and prudent foster parent standard" means the standard characterized parental decisions that maintain the child's health, safety, and best interests, while at the same time encouraging the child's emotional and developmental growth, that a caregiver shall use when determining whether to allow a child to participate in extracurricular, enrichment, and social activities.

(b) Each child who comes into care under this chapter is entitled to participate in age-appropriate extracurricular, enrichment, and social activities.

(c) Caregivers shall use a reasonable and prudent foster parent standard in determining whether to give permission for a child in out-of-home care to participate in extracurricular, enrichment, and social activities. When using the reasonable and prudent foster parent standard, the caregiver shall consider:

(1) The child's age, maturity, and developmental level, to maintain the overall health and safety of the child;

(2) The potential risk factors and the appropriateness of the extracurricular, enrichment, and social activity;

(3) The best interest of the child based on information known to the caregiver;

(4) The importance of encouraging the child's emotional and developmental growth;

(5) The importance of providing the child with the most family-like living experience possible; and

(6) The behavioral history of the child and the child's ability to safely participate in the proposed activity, as with any other child.

(d) Child placing agencies and residential treatment facilities shall have policies consistent with this section and shall promote and protect the ability of children to participate in age-appropriate extracurricular, enrichment, and social activities.

WV Legislature

(e) A foster or kinship parent may use persons to care for or babysit for the child or permit overnight stays outside of the home using the reasonable and prudent foster parent standard.

(f) There is a rebuttable presumption that a caregiver has acted as a reasonable and prudent foster parent.

(g) A caregiver is not liable for harm caused to a child in his or her care who participates in an activity approved by the caregiver, provided that the caregiver has acted as a reasonable and prudent foster parent, unless the foster parent commits an act or omission that is an intentional tort or conduct that is willful, wanton, grossly negligent, reckless, or criminal.

WV Legislature

§49-2-129. Transitional living services, scattered-site living arrangements, and supervised group settings; eligibility criteria.

(a) The department shall establish minimum standards, by legislative rule, for transitional living services, such as scattered-site living arrangements and supervised group settings, to which all child placing agencies or child welfare agencies who provide this service must conform.

(b) Agencies shall establish eligibility criteria for serving transitioning children and adults and shall require, at a minimum, the following:

(1) That a transitioning child or adult receiving a transitional living placement is between 16 and 26 years of age;

(2) Written permission from the child's parents or guardian for a child less than 18 years of age to enter a scattered-site living arrangement;

(3) A written service agreement with a transitioning adult entering a transitional living arrangement;

(4) A determination by an agency that a transitioning child or adult has shown that he or she is stable, mature, and responsible enough for entry into the determined level of transitional living arrangement;

(5) A life skills assessment by an agency of the transitioning child or adult, prior to placing him or her in a transitional living arrangement, and an annual reassessment; and

(6) A written transition plan, developed with the transitioning child or adult, that provides an educational, training, or employment program or a plan for the child or adult to pursue employment while in transitional living.

(c) The agency and transitioning child or adult shall determine if a roommate is appropriate for the child or adult prior to placement in a transitional living setting. The roommate must be able to support himself or herself and contribute at least a pro rata share of the living expenses for the setting.

(d) An agency shall document face-to-face contact and hours spent with a transitioning child or adult in a transitional living setting in the service plan that meet the child's or adult's needs and program level.

(e) After a child or adult is in a transitional living placement, an agency shall assess the child's or adult's progress in acquiring basic living skills at a minimum of once every six months.

(f) An agency shall develop and implement policies and procedures to ensure that any child or adult in a transitional living setting receives training and guidance on appropriate health

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screening and services, including medical and dental screening and services.

(g) An agency shall develop policies and procedures for assisting a transitioning child or adult in searching for an appropriate dwelling that will be used as a scattered-site living setting, that meets the following criteria:

(1) The dwelling is safe and affordable;

(2) The dwelling has a working telephone or other means of communication in an emergency;

(3) The dwelling has appropriate equipment for indoor cooking; and

(4) The dwelling has an appropriate water source for cooking, cleaning, and bathing.

(h) The department shall promulgate legislative rules, including emergency rules if necessary, to implement the provisions of this section.

WV Legislature

§49-2-130. Limitation of liability; mandatory errors and omissions insurance.

(a) Every child welfare agency shall obtain a policy of insurance in an amount not less than $1 million per incident insuring the person or entity and every employee, against loss from the liability imposed by law for damages arising from any error or omission in the provision of child placement services.

(b) A child welfare agency providing programs or services is not liable for civil damages in excess of $1,000,000, per incident, unless the damages or injuries are intentionally or maliciously inflicted.

(c) Every person or entity required by this section to obtain a policy of insurance shall furnish proof of the existence of the policy to the department on or before January 1 of each calendar year.

(d) Any person or entity who fails to secure a policy of insurance before providing child placement services is not entitled to the limited liability created by subsection (b) of this section.

(e) An act of sexual assault or sexual abuse shall constitute an incident.

WV Legislature

§49-2-131. Caseworker services pilot program.

(a) (1) The Department of Human Services shall, within 90 days of the effective date of this section, establish a pilot program through which it shall enter into a contract with one or more qualified private entities to provide caseworker aide services to supplement existing departmental staff within the Bureau for Social Services with administrative support services using a human services technology platform to allow departmental staff more time for personal interactions with children and families served by the department.

(2) Caseworker aides retained under the contract shall meet substantially equivalent education, experience, training, and background check requirements as departmental caseworkers and caseworker aides.

(3) The department shall maintain supervisory and decision-making authority over all cases, and contracted caseworker aide personnel shall operate under departmental policies and oversight.

(b) The department shall deploy contracted caseworker aide services in one or more districts comprised of no more than three counties in the aggregate meeting criteria established by rule or policy, including, but not limited to:

(1) Average caseloads exceeding state or federal guidelines;

(2) Persistent vacancy rates among child welfare positions; or

(3) A disproportionate percentage of children from that county placed in out-of-state foster care or residential facilities.

(c) (1) The pilot program shall operate for 15 months following the execution of the contract allowing for a three-month onboarding process to establish departmental priorities and workflow processes and a one-year operational period.

(2) Prior to the conclusion of the pilot program, the department shall submit a written report to the Joint Committee on Health detailing the pilot’s implementation, performance outcomes, costs, and recommendations for continuation or expansion.

(3) The department may, at its discretion, continue or expand the pilot program statewide if the evaluation demonstrates improved case management capacity or outcomes.

PART VIII – Reports of Children Suspected of Abuse.

WV Legislature

Part II. Home-based Family Preservation Act

§49-2-201. Findings and purpose.

The Legislature finds that there exists a need in this state to assist dysfunctional families by providing nurture and care to those families' children as an alternative to removing children from the families.

The Legislature also finds that the family is the primary social institution responsible for meeting the needs of children and that the state has an obligation to assist families in this regard.

The Legislature further finds that children have significant emotional and social ties to the natural or surrogate family beyond basic care and nurture for which the family is responsible.

The purpose of this article is to establish a pilot program to evaluate the utility of providing intensive intervention with the families of children that are at risk of being removed from the home. For these limited purposes, the department is authorized to use available appropriate funds for that intervention service, but only to the extent that moneys would normally be available for the removal and placement of the particular child at risk.

WV Legislature

§49-2-202. When family preservation services required.

Home-based family preservation services are required in all cases where the removal of a child or children is seriously being considered, whether from a natural home or a surrogate home, wherein a child or children have lived for a substantial period of time. However, those services are not required when the child appears in imminent danger of serious bodily or serious emotional injury.

WV Legislature

§49-2-203. Caseload limits for home-based preservation services.

For purposes of this article, no contractor employee of the department may exceed three families during any period of time when that contractor employee is engaged in providing intensive, short term home-based family preservation intervention. In addition, no caseload may exceed six families during any period of time when home-based aftercare is provided pursuant to this article. When providing either type of home-based family preservation services to any family, the department or contractor shall provide trained personnel who shall be available during nonworking hours to assist families on an emergency basis.

WV Legislature

§49-2-204. Situational criteria requiring service.

The services required by this article shall be made available to any dysfunctional family in which there exists an imminent risk of placement of at least one child outside the home as the result of abuse, neglect, dependency or delinquency or any emotional and behavioral problems. Payment for contractual services shall be on a cost-per-family basis. Any renewal of a contract shall be based on performance.

WV Legislature

§49-2-205. Service delivery through service contracts; accountability.

The services required by this article which are not practically deliverable directly from the department may be subcontracted to professionally qualified private individuals, associations, agencies, corporations, partnerships or groups. The service provider shall be required to submit monthly activity reports as to any services rendered to the department of human services. The activity reports shall include project evaluation in relation to individual families being served as well as statistical data concerning families that are referred for services which are not served due to unavailability of resources. The costs of program evaluation are an allowable cost consideration in any service contract negotiated in accordance with this article. The department shall conduct a thorough investigation of the contractors utilized by the department pursuant to this article.

WV Legislature

§49-2-206. Special services to be provided.

The costs of providing special services to families receiving regular services in accordance with this article are allowable to the extent those goods and services are justified pursuant to carrying out the purposes of this article. Those special services may include, but are not limited to, homemaker assistance, food, clothing, educational materials, respite care and recreational or social activities.

WV Legislature

§49-2-207. Development of home-based family preservation services.

The department is authorized to use appropriate state, federal, and/or private funds within its budget for the provision of family preservation and reunification services. Appropriated state funding made available through capture of additional federal funds shall be utilized to provide family preservation and reunification services as described in this article. Costs of providing home-based services described in this article shall not exceed the costs of out-of-home care which would be incurred otherwise.

WV Legislature

§49-2-301. Findings and intent; advisory council.

(a) The Legislature finds that:

(1) High quality early childhood development substantially improves the intellectual and social potential of children and reduces societal costs;

(2) A child care program quality rating and improvement system provides incentives and resources to improve the quality child care programs; and

(3) A child care program quality rating and improvement system provides information about the quality of child care programs to parents so they may make more informed decisions about the placement of their children.

(b) It is the intent of the Legislature to require the Secretary of the Department of Human Services promulgate a legislative rule and establish a plan for the phased implementation of a child care program quality rating and improvement system not inconsistent with the provisions of this article.

(c) The Secretary of the Department of Human Services shall create a Quality Rating and Improvement System Advisory Council to provide advice on the development of the rule and plan for the phased implementation of a child care program quality rating and improvement system and the ongoing program review and policies for quality improvement. The secretary shall facilitate meetings of the advisory council. The advisory council shall include representatives from the provider community, advocacy groups, the Legislature, providers of professional development services for the early childhood community, regulatory agencies and others who may be impacted by the creation of a quality rating and improvement system.

(d) Nothing in this article requires an appropriation, or any specific level of appropriation, by the Legislature.

WV Legislature

§49-2-302. Creation of statewide quality rating system; rule-making; minimum requirements.

(a) The Secretary of the Department of Human Services shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement a quality rating and improvement system. The quality rating and improvement system shall be applicable to licensed child care centers and facilities and registered family child care homes. If other types of child care settings, such as school-age child care programs become licensed after the implementation of a statewide quality rating and improvement system, the secretary may develop quality criteria and incentives that will allow the other types of child care settings to participate in the quality rating and improvement system. The rules shall include, but are not limited to, the following:

(1) A four-star rating system for registered family child care homes and a four-star rating system for all licensed programs, including family child care facilities and child care centers, to easily communicate to consumers four progressively higher levels of quality child care. One star indicating meeting the minimum acceptable standard and four stars indicating meeting or exceeding the highest standard. The system shall reflect the cumulative attainment of the standards at each level and all lesser levels. However, any program accredited by the National Association for the Education of Young Children or the National Association for Family Child Care, as applicable, shall automatically be awarded four-star status;

(2) Program standards for registered family child care homes and program standards for all licensed programs, including family child care facilities and child care centers, that are each divided into four levels of attributes that progressively improve the quality of child care beginning with basic state registration and licensing requirements at level one, through achievement of a national accreditation by the appropriate organization at level four. Participation beyond the first level is voluntary. The program standards shall be categorized using the West Virginia State Training and Registry System Core Knowledge Areas or its equivalent;

(3) Accountability measures that provide for a fair, valid, accurate and reliable assessment of compliance with quality standards, including, but not limited to:

(A) Evaluations conducted by trained evaluators with appropriate early childhood education and training on the selected assessment tool and with a demonstrated inter-rater reliability of eighty-five percent or higher. The evaluations shall include an on-site inspection conducted at least annually to determine whether programs are rated correctly and continue to meet the appropriate standards. The evaluations and observations shall be conducted on at least a statistically valid percentage of center classrooms, with a minimum of one class per age group;

(B) The use of valid and reliable observation and assessment tools, such as environmental rating scales for early childhood, infant and toddler, school-age care and family child care as

appropriate for the particular setting and age group;

(C) An annual self-assessment using the proper observation and assessment tool for programs rated at two stars; and

(D) Model program improvement planning shall be designed to help programs improve their evaluation results and level of program quality.

(b) The rules required pursuant to this section shall include policies relating to the review, reduction, suspension or disqualification of child care programs from the quality rating and improvement system.

(c) The rules shall provide for implementation of the statewide quality rating system effective July 1, 2011, subject to section three hundred four of this article.

WV Legislature

§49-2-303. Statewide quality improvement system; financial plan; staffing requirements; public awareness campaign; management information system; financial assistance for child care programs; program staff; child care consumers.

Attached to the proposed rules required in section three hundred two of this article, the Secretary of the Department of Human Services shall submit a financial plan to support the implementation of a statewide quality rating and improvement system and help promote quality improvement. The financial plan shall be considered a part of the rule and shall include specific proposals for implementation of the provisions of this section as determined by the secretary. The plan shall address, but is not limited to, the following:

(1) State agency staffing requirements may include the following:

(A) Highly trained evaluators to monitor the assessment process and ensure inter-rater reliability of eighty-five percent or higher;

(B) Technical assistance staff responsible for career advising, accreditation support services, improvement planning, portfolio development and evaluations for improvement planning only. The goal for technical assistance staffing is to ensure that individualized technical assistance is available to participating programs;

(C) A person within the department to collaborate with other professional development providers to maximize funding for training, scholarships and professional development. The person filling this position also shall encourage community and technical colleges to provide courses through nontraditional means, such as online training, evening classes and off-campus training;

(D) Additional infant and toddler specialists to provide high level professional development for staff caring for infants and to provide on-site assistance with infant and toddler issues;

(E) At least one additional training specialist at each of the child care resource and referral agencies to support new training topics and to provide training for school-age child care programs. Training providers, such as the child care resource and referral agencies shall purchase new training programs on topics, such as business management, the Devereux Resiliency Training and Mind in the Making; and

(F) Additional staff necessary for program administration;

(2) Implementation of a broad public awareness campaign and communication strategies that may include the following:

(A) Brochures, internet sites, posters, banners, certificates, decals and pins to educate parents; and

(B) Strategies, such as earned media campaigns, paid advertising campaigns, e-mail and internet-based outreach, face-to-face communication with key civic groups and grassroots

WV Legislature

organizing techniques; and

(3) Implementation of an internet-based management information system that meets the following requirements:

(A) The system shall allow for multiple agencies to access and input data;

(B) The system shall provide the data necessary to determine if the quality enhancements result in improved care and better outcomes for children;

(C) The system shall allow access by Department of Human Services subsidy and licensing staff, child care resource and referral agencies, the agencies that provide training and scholarships, evaluators and the child care programs;

(D) The system shall include different security levels in order to comply with the numerous confidentiality requirements;

(E) The system shall assist in informing practice; determining training needs; and tracking changes in availability of care, cost of care, changes in wages and education levels; and

(F) The system shall provide accountability for child care programs and recipients and assure funds are being used effectively;

(4) Financial assistance for child care programs needed to improve learning environments, attain high ratings and sustain long-term quality without passing additional costs on to families that may include, but are not limited to:

(A) Assistance to programs in assessment and individual program improvement planning and providing the necessary information, coaching and resources to assist programs to increase their level of quality;

(B) Subsidizing participating programs for providing child care services to children of low-income families in accordance with the following:

(i) Base payment rates shall be established at the seventy-fifth percentile of market rate; and

(ii) A system of tiered reimbursement shall be established which increases the payment rates by a certain amount above the base payment rates in accordance with the rating tier of the child care program;

(C) Two types of grants shall be awarded to child care programs in accordance with the following:

(i) An incentive grant shall be awarded based on the type of child care program and the level at which the child care program is rated with the types of child care programs having more children and child care programs rated at higher tiers being awarded a larger grant than the

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types of child care programs having less children and child care programs rated at lower tiers; and

(ii) Grants for helping with the cost of national accreditation shall be awarded on an equitable basis.

(5) Support for increased salaries and benefits for program staff to increase educational levels essential to improving the quality of care that may include, but are not limited to:

(A) Wage supports and benefits provided as an incentive to increase child care programs ratings and as an incentive to increase staff qualifications in accordance with the following:

(i) The cost of salary supplements shall be phased in over a five-year period;

(ii) The Secretary of the Department of Human Services shall establish a salary scale for each of the top three rating tiers that varies the salary support based on the education of the care giver and the rating tier of the program; and

(iii) Any center with at least a tier two rating that employs at least one staff person participating in the scholarship program required pursuant to paragraph (B) of this subdivision or employs degree staff may apply to the Secretary of the Department of Human Services for funding to provide health care benefits based on the Teacher Education and Compensation Helps model in which insurance costs are shared among the employees, the employer and the state; and

(B) The provision of scholarships and establishment of professional development plans for center staff that would promote increasing the credentials of center staff over a five-year period; and

(6) Financial assistance to the child care consumers whose income is at two hundred percent of the federal poverty level or under to help them afford the increased market price of child care resulting from increased quality.

WV Legislature

§49-2-304. Quality rating and improvement system pilot projects; independent third-party evaluation; modification of proposed rule and financial plan; report to Legislature; limitations on implementation.

The secretary shall report annually to the Legislature on the progress on development and implementation of a child care quality rating and improvement system and its impact on improving the quality of child care in the state. The secretary may propose amendments to the rules and financial plan necessary to promote implementation of the quality rating and improvement system and improve the quality of child care and may recommend needed legislation. Nothing in this article requires the implementation of a quality rating and improvement system unless funds are appropriated therefore. The secretary may prioritize the components of the financial plan for implementation and quality improvement for funding purposes. If insufficient funds are appropriated for full implementation of the quality rating and improvement system, the rules shall provide for gradual implementation over a period of several years.

WV Legislature

§49-2-401. Continuation, transfer and renaming of trust fund; funding.

(a) The Children's Fund, created for the sole purpose of awarding grants, loans and loan guarantees for child abuse and neglect prevention activities by enactment of chapter twenty-seven, Acts of the Legislature, 1984, as last amended and reenacted by chapter one hundred fifty-nine, Acts of the Legislature, 1999, is hereby continued and renamed the West Virginia Children's Trust Fund. The fund shall be administered by the Commissioner of the Bureau for Children and Families. Gifts, bequests or donations for this purpose, in addition to appropriations to the fund, shall be deposited in the State Treasury in a special revenue account under the control of the Secretary of the Department of Human Services or his or her designee.

(b) Each state taxpayer may voluntarily contribute a portion of the taxpayer's state income tax refund to the Children's Trust Fund by designating the contribution on the state personal income tax return form. The bureau shall approve the wording of the designation on the income tax return form. The State Tax Commissioner shall determine by July 1, of each year the total amount designated pursuant to this subsection and shall report that amount to the State Treasurer, who shall credit that amount to the Children's Trust Fund.

(c) All interest accruing from investment of moneys in the Children's Trust Fund shall be credited to the fund. The Legislative Auditor shall conduct an audit of the fund at least every five fiscal years.

(d) Grants, loans and loan guarantees may be awarded from the Children's Trust Fund by the Commissioner of the Bureau for Children and Families for child abuse and neglect prevention activities.

WV Legislature

Part V. Children with Special Needs

§49-2-501. Children to whom article applies; intent.

It is the intention of this article that services for children with special health care needs shall be extended only to those children for whom adequate care, treatment and rehabilitation are not available from other than public sources.

WV Legislature

§49-2-502. Powers of the secretary.

In the care and treatment of children with special health care needs the Secretary of the Department of Human Services shall, so far as funds are available for the following purposes:

(1) Locate children with special health care needs requiring medical, surgical or other corrective treatment and provide competent diagnosis to determine the treatment required.

(2) Supply to children with special health care needs treatment, including hospitalization and aftercare leading to correction and rehabilitation.

(3) Guide and supervise children with special health care needs to assure adequate care and treatment.

WV Legislature

§49-2-503. Report of birth of special health care needs child.

Within thirty days after the birth of a child with a congenital deformity, the physician, midwife or other person attending the birth shall report to the Department of Human Services, on forms prescribed by them, the birth of the child.

The report shall be solely for the use of the Department of Human Services and shall not be open for public inspection.

WV Legislature

§49-2-504. Assistance by other agencies.

So far as practicable, the services and facilities of the State Department of Education, The Division of Vocational Rehabilitation Services and Division of Corrections or their successor organizations shall be available to the Department of Human Services for the purposes of this article.

WV Legislature

§49-2-505. Cost of treatment.

All payments from any corporation, association, program or fund providing insurance coverage or other payment for medicine, medical, surgical and hospital treatment, crutches, artificial limbs and those other and additional approved mechanical appliances and devices as may be reasonably required for a child with special health care needs, shall be applied toward the total cost of treatment.

WV Legislature

Part VI. West Virginia Family Support Program

§49-2-601. Findings; intent.

(a) The West Virginia Legislature finds that families are the greatest resource available to individuals with developmental disabilities, and they must be supported in their role as primary caregivers. It further finds that supporting families in their effort to care for their family members at home is more efficient, cost effective and humane than placing the developmentally disabled person in an institutional setting.

(b) The Legislature accepts the following as basic principles for providing services to support families of people with developmental disabilities:

(1) The quality of life of children with developmental disabilities, their families and communities is enhanced by caring for the children within their own homes. Children with disabilities benefit by growing up in their own families, families benefit by staying together and communities benefit from the inclusion of people with diverse abilities.

(2) Adults with developmental disabilities should be afforded the opportunity to make decisions for themselves, live in typical homes and communities and exercise their full rights as citizens. Developmentally disabled adults should have the option of living separately from their families but when this is not the case, families of disabled adults should be provided the support services they need.

(3) Services and support for families should be individualized and flexible, should focus on the entire family and should promote the inclusion of people with developmental disabilities in all aspects of school and community life.

(4) Families are the best experts about what they need. The service system can best assist families by supporting families as decision makers as opposed to making decisions for them.

(c) The Legislature finds that there are at least ten thousand West Virginians with developmental disabilities who live with and are supported by their families, and that the state's policy is to prevent the institutionalization of people with developmental disabilities.

(d) To maximize the number of families supported by this program, each family will contribute to the cost of goods and services based on their ability to pay, taking into account their needs and resources.

(e) Therefore, it is the intent of the Legislature to initiate, within the resources available, a program of services to support families who are caring for family members with developmental disabilities in their homes.

WV Legislature

§49-2-602. Family support services; responsibilities; funds; case management; outreach; differential fees.

(a) The regional family support agency, designated under article two of this chapter, shall direct and be responsible for the individual assessment of each developmentally disabled person which it has designated and shall prepare a service plan with the developmentally disabled person's family. The needs and preferences of the family will be the basis for determining what goods and services will be made available within the resources available.

(b) The family support program may provide funds to families to purchase goods and services included in the family service plan. Those goods and services related to the care of the developmentally disabled person may include, but are not limited to:

(1) Respite care;

(2) Personal and attendant care;

(3) Child care;

(4) Architectural and vehicular modifications;

(5) Health-related costs not otherwise covered;

(6) Equipment and supplies;

(7) Specialized nutrition and clothing;

(8) Homemaker services;

(9) Transportation;

(10) Utility costs;

(11) Integrated community activities; and

(12) Training and technical assistance.

(c) As part of the family support program, the regional family support agency, designated under section six hundred two of this article, shall provide case management for each family to provide information, service coordination and other assistance as needed by the family.

(d) The family support program shall assist families of developmentally disabled adults in planning and obtaining community living arrangements, employment services and other resources needed to achieve, to the greatest extent possible, independence, productivity and integration of the developmentally disabled adult into the community.

(e) The family support program shall conduct outreach to identify families in need of

WV Legislature

assistance and shall maintain a waiting list of individuals and families in the event that there are insufficient resources to provide services to all those who request them.

(f) The family support program may provide for differential fees for services under the program or for appropriate cost participation by the recipient families consistent with the goals of the program and the overall financial condition of the family.

(g) Funds, goods or services provided to eligible families by the family support program under this article shall not be considered as income to those families for any purpose under this code or under the rules and regulations of any agency of state government.

WV Legislature

§49-2-603. Eligibility; primary focus.

(a) To be eligible for the family support program, a family must have at least one family member who has a developmental disability, as defined in this article, living with the family.

(b) The primary focus of the family support program is supporting: (1) Developmentally disabled children, school age and younger, within their families; (2) adults with developmental disabilities who choose to live with their families; and (3) adults with developmental disabilities for whom other community living arrangements are not available and who are living with their families.

WV Legislature

§49-2-604. Program administration; implementation; procedures; annual evaluation; coordination; plans; grievances; reports.

(a) The administering agency for the family support program is the Department of Human Services.

(b) The Department of Human Services shall initially implement the family support program through contracts with an agency within four of the state's behavioral health regions, with the four regions to be determined by the Department of Human Services in consultation with the state family support council. These regional family support agencies of the family support program will be responsible for implementing this article and subsequent policies for the families of persons with developmental disabilities residing within their respective regions.

(c) The Department of Human Services, in conjunction with the state family support council, shall adopt policies and procedures regarding:

(1) Development of annual budgets;

(2) Program specifications;

(3) Criteria for awarding contracts for operation of regional family support programs and the role of regional family support councils;

(4) Annual evaluation of services provided by each regional family support agency, including consumer satisfaction;

(5) Coordination of the family support program and the use of its funds, throughout the state and within each region, with other publicly funded programs, including Medicaid;

(6) Performance of family needs assessments and development of family service plans;

(7) Methodology for allocating resources to families within the funds available; and

(8) Resolution of grievances filed by families pertaining to actions of the family support program.

WV Legislature

§49-2-605. Regional and state family support councils; membership; meetings; reimbursement of expenses.

(a) Each regional family support agency shall establish a regional family support council comprised of at least seven members, of whom at least a majority shall be persons with developmental disabilities or their parents or primary caregivers. Each regional family support council shall meet at least quarterly to advise the regional family support agency on matters related to local implementation of the family support program and to communicate information and recommendations regarding the family support program to the State Family Support Council.

(b) The Secretary of the Department of Human Services shall appoint a State Family Support Council comprised of at least twenty-two members, of whom at least a majority shall be persons with developmental disabilities or their parents or primary caregivers. A representative elected by each regional council shall serve on the state council. The state council shall also include a representative from each of the following agencies: The State Developmental Disabilities Council, the State Protection and Advocacy Agency, the Center for Excellence in Disabilities, the Office of Special Education, the Behavioral Health Care Providers Association and the Early Intervention Interagency Coordinating Council.

(c) The state council shall meet at least quarterly. The state council will participate in the development of program policies and procedures, annual contracts and perform other duties as are necessary for statewide implementation of the family support program.

(d) Members of the state and regional councils who are a member of the family or the primary caregiver of a developmentally disabled person shall be reimbursed for travel and lodging expenses incurred in attending official meetings of their councils. Child care expenses related to the developmentally disabled person shall also be reimbursed. Members of regional councils who are eligible for expense reimbursement shall be reimbursed by their respective regional family support agencies.

WV Legislature

§49-2-701. Caregiver consent for minor's health care; treatment.

(a) Except for minor children placed under the custody of the Department of Human Services pursuant to proceedings established by this chapter, a caregiver who possesses and presents a notarized affidavit pursuant to section seven hundred three of this article may consent on behalf of a minor to health care and treatment.

(b) Examination and treatment shall be prescribed by or under the supervision of a physician, advanced practice nurse, dentist or mental health professional licensed to practice in the state.

WV Legislature

§49-2-702. Duty of health care facility or practitioner.

The decision of a caregiver who possesses and presents a notarized affidavit of caregiver consent for a minor's health care pursuant to section seven hundred three of this article shall be honored by a health care facility or practitioner unless the health care facility or practitioner has actual knowledge that a parent, legal custodian or guardian of a minor has made a contravening decision to consent to or to refuse medical treatment for the minor.

WV Legislature

§49-2-703. Affidavit of caregiver consent; requirements.

An affidavit of caregiver consent for a minor's health care shall include the following:

(1) The caregiver's name and current home address;

(2) The caregiver's birth date;

(3) The relationship of the caregiver to the minor;

(4) The minor's name;

(5) The minor's birth date;

(6) The length of time the minor has resided with the caregiver;

(7) The caregiver's signature under oath affirming the truth of the matter asserted in the affidavit;

(8) The signature of the minor's parent, guardian or legal custodian consenting to the caregiver's authority over the minor's health care. The signature of the minor's parent, guardian or legal custodian is not necessary if the affidavit includes the following:

(A) A statement that the caregiver has attempted, but has been unable to obtain, the signature of the minor's parent, guardian or legal custodian;

(B) A statement that the minor's parent, guardian or legal custodian has not refused to give consent for health care and treatment of the minor child; and

(C) A description, in detail, of the attempts the caregiver made to obtain the signature of the minor's parent, guardian or legal custodian; and

(9) A statement, as follows:

"General Notices:

This declaration does not affect the rights of the minor's parent, guardian or legal custodian regarding the care, custody and control of the minor, other than with respect to health care, and does not give the caregiver legal custody of the minor.

This affidavit is valid for one year unless the minor no longer resides in the caregiver's home. Furthermore, the minor's parent, guardian or legal custodian may at any time rescind this affidavit of caregiver consent for a minor's health care by providing written notification of the rescission to the appropriate health care professional.

A person who relies in good faith on this affidavit of caregiver consent for a minor's health care has no obligation to conduct any further inquiry or investigation and is not subject to

WV Legislature

civil or criminal liability or to professional disciplinary action because of that reliance."

WV Legislature

§49-2-704. Revocation and termination of consent; written notice; validity.

(a) The affidavit of caregiver consent for a minor's health care is superseded by written notification from the minor's parent, guardian or legal custodian to the health care professionals providing services to the minor that the affidavit has been rescinded.

(b) The affidavit of caregiver consent for a minor's health care is valid for one year unless the minor no longer resides in the caregiver's home or a parent, guardian or legal custodian revokes his or her approval by written notification to the health care professionals providing services to the minor that the affidavit has been rescinded. If a parent, guardian or legal custodian revokes approval, the caregiver shall notify any health care provider or health service plans with which the minor has been involved through the caregiver.

WV Legislature

§49-2-705. Good faith reliance on affidavit; applicability.

(a) Any person who relies in good faith on the affidavit of caregiver consent for a minor's health care:

(1) Has no obligation to conduct any further inquiry or investigation; and

(2) Is not subject to civil or criminal liability or to professional disciplinary action because of the reliance.

(b) Subsection (a) of this section applies even if medical treatment is provided to a minor in contravention of a decision of a parent, legal custodian or guardian of the minor who signed the affidavit if the person providing care has no actual knowledge of the decision of the parent, legal custodian or guardian.

WV Legislature

§49-2-706. Exceptions to applicability.

The consent authorized by this section is not applicable for purposes of the Individuals with Disabilities Education Act, 20 U.S.C. §1400 et seq., or Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §701.

WV Legislature

§49-2-707. Penalty for false statement.

A person who knowingly makes a false statement in an affidavit under this article is guilty of a misdemeanor and, upon conviction, shall be fined not more than $1,000.

WV Legislature

§49-2-708. Rule-making authority.

(a) The Secretary of the Department of Human Services is authorized to propose rules for legislative approval necessary to implement this article in accordance with §29A-3-1 *et seq*. of this code.

(b) The rules:

(1) Shall create a three year certification period for a foster home, unless a substantial change occurs. A home safety assessment is performed at least annually. The department has sole authority to determine if a substantial change has occurred;

(2) Shall require that a criminal background check be conducted at the time of the recertification;

(3) May not prevent the placement or cause the removal of a foster child for cosmetic damage to a residence. "Cosmetic damages" means damage that does not affect the safety or wellbeing of a child;

(4) Shall permit the use of dedicated sleeping spaces as appropriate for the child's needs and age, and similar to the sleeping spaces for other household members; and

(5) Shall review and update the legislative rules while considering normalcy and the reasonable and prudent parent standard.

(c) Notwithstanding the time frames in §29A-3-1 *et seq.*, of this code the department shall revise the foster care legislative rules and shall submit for review and approval to the Rule-Making Review Committee by October 31, 2019.

WV Legislature

Part VIII. Reports of Children Suspected of Abuse

§49-2-801. Purpose.

It is the purpose of this article through the complete reporting of child abuse and neglect:

(1) To protect the best interests of the child;

(2) To offer protective services in order to prevent any further harm to the child or any other children living in the home;

(3) To stabilize the home environment, to preserve family life whenever possible;

(4) To promote adult responsibility for protecting children; and

(5) To encourage cooperation among the states to prevent future incidents of child abuse and neglect and in dealing with the problems of child abuse and neglect.

WV Legislature

§49-2-802. Establishment of child protective services; general duties and powers; administrative procedure; immunity from civil liability; cooperation of other state agencies.

(a) The department shall establish or designate in every county a local child protective services office to perform the duties and functions set forth in this article.

(b) The local child protective services office shall investigate all reports of child abuse or neglect. Under no circumstances may investigating personnel be relatives of the accused, the child or the families involved. In accordance with the local plan for child protective services, it shall provide protective services to prevent further abuse or neglect of children and provide for or arrange for and coordinate and monitor the provision of those services necessary to ensure the safety of children. The local child protective services office shall be organized to maximize the continuity of responsibility, care, and service of individual workers for individual children and families. Under no circumstances may the secretary or his or her designee promulgate rules or establish any policy which restricts the scope or types of alleged abuse or neglect of minor children which are to be investigated or the provision of appropriate and available services.

(c) Each local child protective services office shall:

(1) Receive or arrange for the receipt of all reports of children known or suspected to be abused or neglected on a 24-hour, seven-day-a-week basis and cross-file all reports under the names of the children, the family, and any person substantiated as being an abuser or neglecter by investigation of the Department of Human Services, with use of cross-filing of the person's name limited to the internal use of the department: *Provided*, That local child protective services offices shall disclose the names of alleged abusers pursuant to §49-2-802(c)(4) of this code;

(2) Provide or arrange for emergency children's services to be available at all times;

(3) Upon notification of suspected child abuse or neglect, commence or cause to be commenced a thorough investigation of the report and the child's environment. As a part of this response, within 14 days there shall be a face-to-face interview with the child or children and the development of a protection plan, if necessary, for the safety or health of the child, which may involve law-enforcement officers or the court;

(4) Make efforts as soon as practicable to determine the military status of parents whose children are subject to abuse or neglect allegations. If the office determines that a parent or guardian is in the military, the department shall notify a Department of Defense family advocacy program that there is an allegation of abuse and neglect that is screened in and open for investigation that relates to that military parent or guardian;

(5) Respond immediately to all allegations of imminent danger to the physical well-being of the child or of serious physical abuse. As a part of this response, within 72 hours there shall

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be a face-to-face interview with the child or children and the development of a protection plan, which may involve law-enforcement officers or the court; and

(6) In addition to any other requirements imposed by this section, when any matter regarding child custody is pending, the circuit court or family court may refer allegations of child abuse and neglect to the local child protective services office for investigation of the allegations as defined by this chapter and require the local child protective services office to submit a written report of the investigation to the referring circuit court or family court within the time frames set forth by the circuit court or family court.

(d) In those cases in which the local child protective services office determines that the best interests of the child require court action, the local child protective services office shall initiate the appropriate legal proceeding.

(e) The local child protective services office shall be responsible for providing, directing, or coordinating the appropriate and timely delivery of services to any child suspected or known to be abused or neglected, including services to the child's family and those responsible for the child's care.

(f) To carry out the purposes of this article, all departments, boards, bureaus, and other agencies of the state or any of its political subdivisions and all agencies providing services under the local child protective services plan shall, upon request, provide to the local child protective services office any assistance and information as will enable it to fulfill its responsibilities.

(g)(1) In order to obtain information regarding the location of a child who is the subject of an allegation of abuse or neglect, the Secretary of the Department of Human Services may serve, by certified mail or personal service, an administrative subpoena on any corporation, partnership, business, or organization for the production of information leading to determining the location of the child.

(2) In case of disobedience to the subpoena, in compelling the production of documents, the secretary may invoke the aid of:

(A) The circuit court with jurisdiction over the served party if the person served is a resident; or

(B) The circuit court of the county in which the local child protective services office conducting the investigation is located if the person served is a nonresident.

(3) A circuit court shall not enforce an administrative subpoena unless it finds that:

(A) The investigation is one the Division of Child Protective Services is authorized to make and is being conducted pursuant to a legitimate purpose;

(B) The inquiry is relevant to that purpose;

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(C) The inquiry is not too broad or indefinite;

(D) The information sought is not already in the possession of the Division of Child Protective Services; and

(E) Any administrative steps required by law have been followed.

(4) If circumstances arise where the secretary, or his or her designee, determines it necessary to compel an individual to provide information regarding the location of a child who is the subject of an allegation of abuse or neglect, the secretary, or his or her designee, may seek a subpoena from the circuit court with jurisdiction over the individual from whom the information is sought.

(h) No child protective services caseworker may be held personally liable for any professional decision or action taken pursuant to that decision in the performance of his or her official duties as set forth in this section or agency rules promulgated thereupon. However, nothing in this subsection protects any child protective services worker from any liability arising from the operation of a motor vehicle or for any loss caused by gross negligence, willful and wanton misconduct, or intentional misconduct.

WV Legislature

§49-2-802a. Information to be provided at the outset of a child protective services investigation.

(a) Notwithstanding any other provision to the contrary, immediately upon initiating an investigation of a parent or other person having legal custody of a child, the department shall, upon first contact with the individual, provide the individual with a copy of A Parent's Guide to Working with Child Protective Services (Guide).

(b) The Guide shall include a short and plain statement to include, but not be limited to, the following:

(1) Steps that the department will take to investigate signs of abuse and neglect;

(2) Steps that may need to be taken to make a safer or healthier home for the child;

(3) An overview of the court process;

(4) The confidentiality of maltreatment reports and case appeals;

(5) Child visitation; and

(6) Case appeals.

WV Legislature

§49-2-803. Persons mandated to report suspected abuse and neglect; requirements.

(a) Any medical, dental, or mental health professional, Christian Science practitioner, religious healer, school teacher or other school personnel, social service worker, child care or foster care worker, emergency medical services personnel, peace officer or law-enforcement official, humane officer, member of the clergy, circuit court judge, family court judge, employee of the Division of Juvenile Services, magistrate, youth camp administrator or counselor, employee, coach or volunteer of an entity that provides organized activities for children, or commercial film or photographic print processor who has reasonable cause to suspect that a child is neglected or abused, including sexual abuse or sexual assault, or observes the child being subjected to conditions that are likely to result in abuse or neglect shall immediately, and not more than 24 hours after suspecting this abuse or neglect, report the circumstances to the Department of Human Services. In any case where the reporter believes that the child suffered serious physical abuse or sexual abuse or sexual assault, the reporter shall also immediately report to the State Police and any law-enforcement agency having jurisdiction to investigate the complaint. Any person required to report under this article who is a member of the staff or volunteer of a public or private institution, school, entity that provides organized activities for children, facility, or agency shall also immediately notify the person in charge of the institution, school, entity that provides organized activities for children, facility, or agency, or a designated agent thereof, who may supplement the report or cause an additional report to be made: *Provided*, That notifying a person in charge, supervisor, or superior does not exempt a person from his or her mandate to report suspected abuse or neglect.

(b) County boards of education and private school administrators shall provide all employees with a written statement setting forth the requirements contained in this section and shall obtain and preserve a signed acknowledgment from school employees that they have received and understand the reporting requirement.

(c) Nothing in this article is intended to prevent individuals from reporting suspected abuse or neglect on their own behalf. In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of children, any other person may make a report if that person has reasonable cause to suspect that a child has been abused or neglected in a home or institution or observes the child being subjected to conditions or circumstances that would reasonably result in abuse or neglect.

(d) The provisions of this section are not applicable to persons under the age of 18.

WV Legislature

§49-2-804. Notification of disposition of reports.

The Department of Human Services shall continue to develop, update and implement a procedure to notify any person mandated to report suspected child abuse and neglect pursuant to section eight hundred three of this article, of whether an investigation into the reported suspected abuse or neglect has been initiated and when the investigation is completed.

WV Legislature

§49-2-805. Educational programs; requirements.

Subject to appropriation in the budget, the department shall conduct educational and training programs for persons required to report suspected abuse or neglect, and the general public, as well as implement evidence-based programs that reduce incidents of child maltreatment including sexual abuse. Training for persons require to report and the general public shall include:

(1) Indicators of child abuse and neglect;

(2) Tactics used by sexual abusers;

(3) How and when to make a report; and

(4) Protective factors that prevent abuse and neglect in order to promote adult responsibility for protecting children, encourage maximum reporting of child abuse and neglect, and to improve communication, cooperation and coordination among all agencies involved in the identification, prevention and treatment of the abuse and neglect of children.

WV Legislature

§49-2-806. Mandatory reporting of suspected animal cruelty by child protective service workers.

In the event a child protective service worker, in response to a report mandated by section eight hundred two and eight hundred three of this article, forms a reasonable suspicion that an animal is the victim of cruel or inhumane treatment, he or she shall report the suspicion and the basis therefor to the county humane officer provided under section one, article ten, chapter seven of this code within twenty-four hours of the response to the report.

WV Legislature

§49-2-807. Mandatory reporting to medical examiner or coroner; postmortem investigation.

Any person or official who is required pursuant to section eight hundred three of this article to report cases of suspected child abuse or neglect and who has reasonable cause to suspect that a child has died as a result of child abuse or neglect, shall report that fact to the appropriate medical examiner or coroner. Upon the receipt of that report, the medical examiner or coroner shall cause an investigation to be made and report his or her findings to the police, the appropriate prosecuting attorney, the local child protective service agency and, if the institution making a report is a hospital, to the hospital.

WV Legislature

§49-2-808. Photographs and X rays.

Any person required to report cases of children suspected of being abused and neglected may take or cause to be taken, at public expense, photographs of the areas of trauma visible on a child and, if medically indicated, cause to be performed radiological examinations of the child. Any photographs or X rays taken shall be sent to the appropriate child protective service as soon as possible.

WV Legislature

§49-2-809. Reporting procedures.

(a) Reports of child abuse and neglect pursuant to this article shall be made immediately to the Bureau for Social Services. Reports of child abuse and neglect shall be made to the Bureau of Social Services via a 24-hour, seven-day-a week hotline (centralized intake) that shall be maintained by the Bureau of Social Services to receive calls reporting suspected or known child abuse or neglect or such reports may be made via web-based reporting (email, electronic fax, fillable form, or other electronic form) that sends the reports to a live person to handle the reports immediately. Both systems shall give the reporter a specific case identifier immediately upon making a report.

(b) If a report of child abuse and neglect is made in any fashion other than specified in subsection (a) of this section, then Bureau of Social Services is still required to act upon such report as if the report were made to centralized intake.

(c) A copy of any report of serious physical abuse, sexual abuse, or assault shall be forwarded by the department to the appropriate law-enforcement agency, the prosecuting attorney, or the coroner or medical examiner’s office. All reports under this article are confidential. Reports of known or suspected institutional child abuse or neglect shall be made and received as all other reports made pursuant to this article.

(d) The department shall annually submit a report in an electronic format, via the legislative webpage, on July 1 to the Joint Committee on Government and Finance, which shall contain: How many calls were made to centralized intake on a per county basis, how many calls were referred to centralized intake on a per county basis, how many calls were screened out centralized intake on a per county basis, and the time from referral to investigation on a per county basis.

(e) All reports made to centralized intake by email, fax, fillable form, or other electronic form from a reporter, shall be retained in the Comprehensive Child Welfare Information System in its original format for at least 12 months.

(f) Audio files recorded from reports made to centralized intake shall be retained in the Comprehensive Child Welfare Information System for at least 12 months.

(g) Any such person receiving a report pursuant to subsection (b) of this section shall make a written record in the Comprehensive Child Welfare Information system detailing the report and retain that record in an appropriate format for a period of at least 12 months.

WV Legislature

§49-2-810. Immunity from liability.

Any person, official, or institution participating in good faith in any act permitted or required by this article is immune from any civil or criminal liability that otherwise might result by reason of those actions, including individuals making good faith reports of suspected or known instances of child abuse or neglect, or who otherwise provide information or assistance, including medical evaluations or consultations, in connection with a report, investigation or legal intervention pursuant to a good faith report of child abuse or neglect.

WV Legislature

§49-2-811. Abrogation of privileged communications; exception.

The privileged quality of communications between husband and wife and between any professional person and his or her patient or his or her client, except that between attorney and client, is hereby abrogated in situations involving suspected or known child abuse or neglect.

WV Legislature

§49-2-812. Failure to report; penalty.

(a) Any person, official or institution required by this article to report a case involving a child known or suspected to be abused or neglected, or required by section eight hundred nine of this article to forward a copy of a report of serious injury, who knowingly fails to do so or knowingly prevents another person acting reasonably from doing so, is guilty of a misdemeanor and, upon conviction, shall be confined in jail not more than ninety days or fined not more than $5,000, or both fined and confined.

(b) Any person, official or institution required by this article to report a case involving a child known or suspected to be sexually assaulted or sexually abused, or student known or suspected to have been a victim of any non-consensual sexual contact, sexual intercourse or sexual intrusion on school premises, who knowingly fails to do so or knowingly prevents another person acting reasonably from doing so, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not more than six months or fined not more than $10,000, or both.

WV Legislature

§49-2-813. Statistical index; reports.

The Department of Human Services shall maintain a statewide child abuse and neglect statistical index of all substantiated allegations of child abuse or neglect cases to include information contained in the reports required under this article and any other information considered appropriate by the Secretary of the Department of Human Services. Nothing in the statistical data index maintained by the Department of Human Services may contain information of a specific nature that would identify individual cases or persons. Notwithstanding section two hundred one, article four of this chapter, the Department of Human Services shall provide copies of the statistical data maintained pursuant to this subsection to the State Police child abuse and neglect investigations unit to carry out its responsibilities to protect children from abuse and neglect.

WV Legislature

§49-2-814. Task Force on Prevention of Sexual Abuse of Children.

(a) This section may be referred to as "Erin Merryn's Law".

(b) The Task Force on Prevention of Sexual Abuse of Children is established. The task force consists of the following members:

(1) The Chair of the West Virginia Senate Committee on Health and Human Resources, or his or her designee;

(2) The Chair of the House of Delegates Committee on Health and Human Resources, or his or her designee;

(3) The Chair of the West Virginia Senate Committee on Education, or his or her designee;

(4) The Chair of the House of Delegates Committee on Education, or his or her designee;

(5) One citizen member appointed by the President of the Senate;

(6) One citizen member appointed by the Speaker of the House of Delegates;

(7) One citizen member, who is a survivor of child sexual abuse, appointed by the Governor;

(8) The President of the State Board of Education, or his or her designee;

(9) The State Superintendent of Schools, or his or her designee;

(10) The Secretary of the Department of Human Services, or his or her designee;

(11) The Director of the Prosecuting Attorney's Institute, or his or her designee;

(12) One representative of each statewide professional teachers' organization, each selected by the leader of his or her respective organization;

(13) One representative of the statewide school service personnel organization, selected by the leader of the organization;

(14) One representative of the statewide school principals' organization, appointed by the leader of the organization;

(15) One representative of the statewide professional social workers' organization, appointed by the leader of the organization;

(16) One representative of a teacher preparation program of a regionally accredited institution of higher education in the state, appointed by the Chancellor of the Higher Education Policy Commission;

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(17) The Chief Executive Officer of the Center for Professional Development, or his or her designee;

(18) The Director of Prevent Child Abuse West Virginia, or his or her designee;

(19) The Director of the West Virginia Child Advocacy Network, or his or her designee;

(20) The Director of the West Virginia Coalition Against Domestic Violence, or his or her designee;

(21) The Director of the West Virginia Foundation for Rape Information and Services, or his or her designee;

(22) The Administrative Director of the West Virginia Supreme Court of Appeals, or his or her designee;

(23) The Executive Director of the West Virginia Sheriffs' Association, or his or her designee;

(24) One representative of an organization representing law enforcement, appointed by the Superintendent of the West Virginia State Police; and

(25) One practicing school counselor appointed by the leader of the West Virginia School Counselors Association.

(c) To the extent practicable, members of the task force shall be individuals actively involved in the fields of child abuse and neglect prevention and child welfare.

(d) At the joint call of the House of Delegates and Senate Education Committee Chairs, the task force shall convene its first meeting and by majority vote of members present elect presiding officers. Subsequent meetings shall be at the call of the presiding officer.

(e) The task force shall make recommendations for decreasing incidence of sexual abuse of children in West Virginia. In making those recommendations, the task force shall:

(1) Gather information regarding sexual abuse of children throughout the state;

(2) Receive related reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations;

(3) Create goals for state education policy that would prevent sexual abuse of children;

(4) Create goals for other areas of state policy that would prevent sexual abuse of children; and

(5) Submit a report with its recommendations to the Governor and the Legislature.

(f) The recommendations may include proposals for specific statutory changes and methods

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to foster cooperation among state agencies and between the state and local governments. The task force shall consult with employees of the Bureau for Children and Family Services, the Division of Justice and Community Services, the West Virginia State Police, the State Board of Education, and any other state agency or department as necessary to accomplish its responsibilities under this section.

(g) Task force members serve without compensation and do not receive expense reimbursement.

WV Legislature

§49-2-815. Pilot program for the use of technology in child abuse and neglect investigations.

(a) Beginning October 1, 2027, the department shall implement a pilot project in two counties that requires the use of mobile devices, including, but not limited to, computers or tablets, to access the department's case management system. The purpose of the project is to assist Child Protective Services workers and the department in conducting child abuse and neglect investigations by using advanced technology to enhance and expedite real-time fact gathering and data management during investigations.

(b) The department shall determine which counties shall participate in the pilot program.

(c) The department shall develop policies to implement the pilot program which shall include, at a minimum, the following:

(1) The mobile device shall have an operating system that is customized for child welfare casework;

(2) The operating system on the mobile device shall allow a Child Protective Services worker to create a contemporaneous, digital record of all components of the investigation;

(3) The mobile device shall automatically and securely upload to the department's server on a daily basis;

(4) The operating system used in the mobile device shall be interoperable with existing department programs to allow relevant quality metrics to be extracted from the operating system into standard reports to be analyzed for systemic improvement; and

(5) The mobile device shall be used on at least 70 percent of the cases in the pilot counties during the time period being studied.

(d) The quality metrics shall be extracted on a monthly basis and analyzed by the secretary and members of his or her staff charged with systemic improvement of the child welfare system.

(e) The pilot program shall terminate five years from the time the department fully implements the pilot program in two counties.

(f) The department shall file annual reports beginning July 1, 2028, and July 1 annually thereafter, with the Legislative Oversight Commission on Health and Human Resources Accountability to provide a program update on the status of the pilot program, including metrics on the use of the technology.

WV Legislature

§49-2-901. Policy; cooperation.

(a) It is the policy of the state to:

(1) Provide a coordinated continuum of care for its children who have been charged with an offense which would be a crime if committed by an adult, whether they are taken into custody and securely detained or released pending adjudication by the court; and

(2) Ensure the safe and efficient custody of a securely detained child through the entire juvenile justice process, and this can best be accomplished by the state by providing for cooperation and coordination between the agencies of government which are charged with responsibilities for the children of the state.

(b) When any juvenile is ordered by the court to be transferred from the custody of one of these agencies into the custody of the other, the Department of Human Services and the Division of Juvenile Services shall cooperate with each other to the maximum extent necessary in order to ease the child's transition and to reduce unnecessary cost, duplication and delay.

WV Legislature

§49-2-902. Division of Juvenile Services; transfer of functions; juvenile placement.

(a) The Division of Juvenile Services is created within the Department of Military Affairs and Public Safety. The director shall be appointed by the Governor with the advice and consent of the Senate and shall be responsible for the control and supervision of each of its offices. The director may appoint deputy directors and assign them duties as may be necessary for the efficient management and operation of the division.

(b) The Division of Juvenile Services consists, at a minimum, of three subdivisions:

(1) The Office of Juvenile Detention, which is responsible for operating and maintaining centers for the predispositional detention of juveniles, including juveniles who have been transferred to adult criminal jurisdiction pursuant to part eight, article four of this chapter and juveniles who are awaiting transfer to a juvenile corrections facility;

(2) The Office of Juvenile Corrections, which is also responsible for operating and maintaining juvenile corrections facilities; and

(3) The Office of Community-Based Services, shall provide at a minimum, masters level therapy services; family, individual and group counseling; community service activities; transportation; and aftercare programs.

(c) Notwithstanding any provisions of this code to the contrary, whenever a juvenile is ordered into the custody of the Division of Juvenile Services, the director may place the juvenile while he or she is in the division's custody at whichever facility operated by the division is deemed by the director to be most appropriate considering the juvenile's well-being and any recommendations of the court placing the juvenile in the division's custody.

WV Legislature

§49-2-903. Powers and duties; comprehensive strategy; cooperation.

The Division of Juvenile Services has the following duties as to juveniles in detention facilities or juvenile corrections facilities:

(1) Cooperating with the United States Department of Justice in operating, maintaining and improving juvenile correction facilities and predispositional detention centers, complying with regulations thereof, and receiving and expending federal funds for the services;

(2) Providing care for children needing secure detention pending disposition by a court having juvenile jurisdiction or temporary care following a court action;

(3) Assigning the necessary personnel and providing adequate space for the support and operation of any facility providing for the secure detention of children committed to the care of the Division of Juvenile Services;

(4) Proposing rules which outline policies and procedures governing the operation of correctional, detention and other facilities in its division wherein juveniles may be securely housed;

(5) Assigning the necessary personnel and providing adequate space for the support and operation of its facilities;

(6) Developing a comprehensive plan to maintain and improve a unified state system of regional predispositional detention centers for juveniles;

(7) Working in cooperation with the Department of Human Services in establishing, maintaining, and continuously refining and developing a balanced and comprehensive state program for children who have been adjudicated delinquent;

(8) In cooperation with the Department of Human Services establishing programs and services within available funds, designed to:

(A) Prevent juvenile delinquency;

(B) To divert juveniles from the juvenile justice system:

(C) To provide community-based alternatives to juvenile detention and correctional facilities; and

(D) To encourage a diversity of alternatives within the juvenile justice system.

Working in collaboration with the Department of Human Services, the Division of Juvenile Services shall employ a comprehensive strategy for the social and rehabilitative programming and treatment of juveniles, consistent with the principles adopted by the Office of Juvenile Justice and Delinquency Prevention of the Office of Justice Programs of the

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United States Department of Justice.

WV Legislature

§49-2-904. Rules for specialized training for juvenile corrections officers and detention center employees.

The Division of Juvenile Services shall propose rules for Legislative approval pursuant to chapter twenty-nine-a of this code, which require juvenile corrections officers and detention center employees to complete specialized training and certification. The training programs shall meet the standards of those offered or endorsed by the Office of Juvenile Justice and Delinquency Prevention of the Office of Justice Programs of the United States Department of Justice.

WV Legislature

§49-2-905. Juvenile detention and corrections facility personnel.

(a) All persons employed at a juvenile detention or corrections facility shall be employed at a salary and with benefits consistent with the approved plan of compensation of the Division of Personnel, created under section five, article six, chapter twenty-nine of this code; all employees will also be covered by the policies and procedures of the West Virginia Public Employees Grievance Board, created under article two, chapter six-c of this code and the classified service protection policies of the Division of Personnel.

(b) The Division of Juvenile Services of the Department of Military Affairs and Public Safety is authorized to assign the necessary personnel and provide adequate space for the support and operation of any facility operated by the Division of Juvenile Services of the Department of Military Affairs and Public Safety providing for the detention of children as provided in this article, subject to and not inconsistent with the appropriation and availability of funds.

WV Legislature

§49-2-906. Medical and other treatment of juveniles in custody of the division; consent; service providers; medical care; pregnant inmates; claims processing and administration by the department; authorization of cooperative agreements.

(a) Notwithstanding any other provision of law to the contrary, the director, or his or her designee, is hereby authorized to consent to the medical or other treatment of any juvenile in the legal or physical custody of the director or the division.

(b) In providing or arranging for the necessary medical and other care and treatment of juveniles committed to the division's custody, the director shall use service providers who provide the same or similar services to juveniles under existing contracts with the Department of Human Services. In order to obtain the most advantageous reimbursement rates, to capitalize on an economy of scale and to avoid duplicative systems and procedures, the department shall administer and process all claims for medical or other treatment of juveniles committed to the division's custody.

(c) In providing or arranging for the necessary medical and other care and treatment of juveniles committed to the division's custody, the director shall assure that pregnant inmates will not be restrained after reaching the second trimester of pregnancy until the end of the pregnancy. However, if the inmate, based upon her classification, discipline history or other factors deemed relevant by the director poses a threat of escape, or to the safety of herself, the public, staff, or the unborn child, the inmate may be restrained in a manner reasonably necessary. Additionally, that prior to directing the application of restraints and where there is no threat to the safety of the inmate, the public, staff or the fetus, the director or designee shall consult with an appropriate health care professional to assure that the manner of restraint will not pose an unreasonable risk of harm to the inmate or the fetus.

(d) For purposes of implementing the mandates of this section, the director is hereby authorized and directed to enter into any necessary agreements with the Department of Human Services. An agreement will include, at a minimum, for the direct and incidental costs associated with that care and treatment to be paid by the Division of Juvenile Services.

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§49-2-907. Examination, diagnosis classification and treatment; period of custody.

(a) As a part of the disposition for a juvenile who has been adjudicated delinquent, and who has been determined by a risk and needs assessment to be high risk or who has committed an act or acts of violence, the court may, upon its own motion or upon request of counsel, order the juvenile to be delivered into the custody of the Director of the Division of Juvenile Services, who shall cause the juvenile to be transferred to a juvenile diagnostic center for a period not to exceed thirty days. During this period, the juvenile shall undergo examination, diagnosis, classification and a complete medical examination and shall at all times be kept apart from the general juvenile inmate population in the director's custody.

(b) During the examination period established by subsection (a) of this section, the director, or his or her designee, shall convene and direct a multidisciplinary treatment team for the juvenile which team will include the juvenile, if appropriate, the juvenile's probation officer, the juvenile's case worker, if any, the juvenile's custodial parent or parents, the juvenile's guardian, attorneys representing the juvenile or the parents, the guardian ad litem, if any, the prosecuting attorney and an appropriate school official or representative. The team may also include, where appropriate, a court-appointed special advocate, a member of a child advocacy center and any other person who may assist in providing recommendations for the particular needs of the juvenile and the family.

(c) Not later than thirty days after commitment pursuant to this section the juvenile shall be remanded and delivered to the custody of the director, an appropriate agency or any other person that the court by its order directs. Within ten days after the end of the examination, diagnosis and classification, the Director of the Division of Juvenile Services shall make or cause to be made a report to the court containing the results, findings, conclusions and recommendations of the multidisciplinary team with respect to that juvenile.

WV Legislature

§49-2-908. Educational services for juveniles placed in predispositional and postdispositional facilities; authorization; cooperation; rule-making.

(a) The State Board of Education is authorized to provide for adequate and appropriate education opportunities for juveniles placed in secure predispositional or post dispositional centers operated by or under contract with the Division of Juvenile Services.

(b) Subject to appropriations by the Legislature, the state board is authorized:

(1) To provide education programs and services for juveniles on the grounds of secure predispositional or postdispositional centers;

(2) To hire classroom teachers and other school personnel necessary to provide adequate and appropriate education opportunities to these juveniles, and

(3) To provide education services for the detained juveniles on a twelve-month basis.

(c) The Division of Juvenile Services shall cooperate with the state board and the state superintendent in the establishment and maintenance of education programs authorized under this section. Subject to appropriations by the Legislature, the Division of Juvenile Services shall provide, or cause to be provided, adequate space and facilities for the education programs. The state board may not be required to construct, improve or maintain any building, other improvement to real estate or fixtures attached thereto at any secure predispositional detention center for the purpose of establishing and maintaining an education program.

(d) The state board may develop and approve rules in accordance with article three-a, chapter twenty-nine-a of this code for the education of juveniles in secure predispositional detention centers.

WV Legislature

§49-2-909. Arrest authority of juvenile correctional and detention officers.

(a) Persons employed by the Division of Juvenile Services as juvenile correctional officers are authorized and empowered to arrest persons already in the custody of the Division of Juvenile Services for violations of law that occur in the officer's presence, including escape.

(b) Nothing in this section may be construed as to make a juvenile correctional officer employed by the Division of Juvenile Services a law-enforcement officer as defined in section one, article twenty-nine, chapter thirty of this code.

WV Legislature

§49-2-910. Juvenile trustee accounts and funds, earnings and personal property of juveniles; return of property; reports;

(a) The Director of Juvenile Services may establish at each facility under his or her jurisdiction a "Juvenile Trustee Fund". The administrator or designee of each facility may receive and take charge of the money and personal property, as defined by policy, of all juveniles in his or her facility and all money or personal property, as defined by policy, sent to the juveniles or earned by the juveniles as compensation for work performed while they are domiciled there. The administrator or designee shall credit the money and earnings to the juveniles entitled to it and shall keep an accurate account of all the money and personal property so received, which account is subject to examination by the Director of Juvenile Services and the Assistant Director of Budget and Finance of the Division of Juvenile Services. The administrator or designee shall deposit the moneys in one or more responsible banks in accounts to be designated a "Juvenile Trustee Fund".

(b) The administrator or designee shall keep in an account for all juveniles at least ten percent of all money earned during the juveniles commitment and pay the money to the juvenile at the time of the juvenile's release. The administrator or designee may authorize the juvenile to withdraw money from his or her mandatory savings for the purpose of preparing the juvenile for reentry into society.

(c) The administrator or designee shall deliver to the juvenile at the time he or she leaves the facility, or as soon as practicable after departure, all personal property, moneys and earnings then credited to the juvenile, or in case of the death of the juvenile before authorized release from the facility, the administrator or designee shall deliver the property to the juvenile's personal representative. If a conservator is appointed for the juvenile while he or she is domiciled at the facility, the administrator or designee shall deliver to the conservator, upon proper demand, all moneys and personal property belonging to the juvenile that are in the custody of the administrator.

(d) If any money is credited to a former juvenile resident after remittance of the sum of money as provided in subsection (c) of this section, the administrator or designee shall mail the funds to the former juvenile resident's last known address. If the funds are returned to the facility, the administrator or designee will forward those funds to the Division of Juvenile Service's Assistant Director of Budget and Finance to submit the funds to the State Treasurer's Office-Unclaimed Property Division.

(e) The facility shall compile a monthly report that specifically documents juvenile trustee fund receipts and expenditures and submit the reconciled monthly bank statements to the Division of Juvenile Service's Assistant Director of Budget and Finance.

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§49-2-911. Juvenile benefit funds; uses; reports.

(a) There is hereby established a special revenue account in the State Treasury for each juvenile benefit fund established by the director. Moneys received by an institution for deposit in an juvenile benefit fund shall be deposited with the State Treasurer to be credited to the special revenue account created for the institution's juvenile benefit fund. Moneys in a special revenue account established for a juvenile benefit fund may be expended by the institution for the purposes set forth in this section.

(b) Moneys in an account established for a juvenile benefit fund may be expended by the facility for the purposes set forth in this section. Moneys to be deposited into a juvenile benefit fund consist of:

(1) All profit from the exchange or commissary operation and, if the commissary is operated by a vendor, whether a public or private entity, the profit is the negotiated commission paid to the Division of Juvenile Services by the vendor;

(2) All net proceeds from vending machines used for juvenile resident visitation;

(3) All proceeds from contracted juvenile resident telephone commissions;

(4) Any funds that may be assigned by juveniles or donated to the facility by the general public or a service organization on behalf of all the juveniles; and

(5) Any funds confiscated considered contraband.

(c) The juvenile benefit fund may only be used for the following purposes at juvenile facilities:

(1) Open-house visitation functions or other nonroutine campus-wide activities which will enhance programming goals of the facility;

(2) Holiday functions which may include decorations, food and gifts for residents or family of residents;

(3) Rental of videos;

(4) Payment of video license;

(5) Supplemental supplies and equipment which will enrich the facilities' program activities;

(6) Hardship needs for juvenile residents if approved by the Division of Juvenile Services Director; and

(7) Any special activities or rewards for residents.

(d) The facility shall compile a monthly report that specifically documents juvenile benefit

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fund receipts and expenditures and submit the reconciled monthly bank statements to the Division of Juvenile Services Assistant Director of Budget and Finance.

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§49-2-912. Youth reporting centers.

(a) The Division of Juvenile Services shall operate community-based youth reporting centers to provide services to youth involved in the juvenile justice system as an alternative to detention, corrections or out-of-home placement.

(b) Based upon identifiable need, the Division of Juvenile Services shall operate a total of at least fifteen youth reporting centers by July 1, 2016.

(c) Based upon identifiable need, the Division of Juvenile Services shall operate a total of at least nineteen youth reporting centers by July 1, 2018.

(d) The Division of Juvenile Services shall promulgate guidelines, policies and procedures regarding referrals, assessments, case management, services, education and connection to services in the community.

(e) The Division of Juvenile Services shall collaborate with county boards of education to provide education services to certain youth referred to youth reporting centers, whenever feasible.

(f) The Division of Juvenile Services may convene local or regional advisory boards for youth reporting centers.

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§49-2-913. Juvenile Justice Reform Oversight Committee.

[Repealed.]

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§49-2-1001. Purpose; intent.

It is the intent of the Legislature to provide for the creation of all reasonable means and methods that can be established by a humane and enlightened state, solicitous of the welfare of its children, for the prevention of delinquency and for the care and rehabilitation of juvenile delinquents and status offenders. It is further the intent of the Legislature that this state, through the Department of Human Services and the Division of Juvenile Services, establish, maintain, and continuously refine and develop, a balanced and comprehensive state program for juveniles who are potentially delinquent or are status offenders or juvenile delinquents in the care or custody of the department.

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§49-2-1002. Responsibilities of the Department of Human Services and Division of Juvenile Services of the Department of Military Affairs and Public Safety; programs and services; rehabilitation; cooperative agreements.

(a) The Department of Human Services and the Division of Juvenile Services of the Department of Military Affairs and Public Safety shall establish programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, to provide community-based alternatives to juvenile detention and correctional facilities and to encourage a diversity of alternatives within the child welfare and juvenile justice system. The development, maintenance and expansion of programs and services may include, but not be limited to, the following:

(1) Community-based programs and services for the prevention and treatment of juvenile delinquency through the development of foster-care and shelter-care homes, group homes, halfway houses, homemaker and home health services, 24-hour intake screening, volunteer and crisis home programs, day treatment and any other designated community-based diagnostic, treatment or rehabilitative service;

(2) Community-based programs and services to work with parents and other family members to maintain and strengthen the family unit so that the juvenile may be retained in his or her home;

(3) Youth service bureaus and other community-based programs to divert youth from the juvenile court or to support, counsel or provide work and recreational opportunities for status offenders, juvenile delinquents and other youth to help prevent delinquency;

(4) Projects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting rights of youth affected by the juvenile justice system;

(5) Educational programs or supportive services designed to encourage status offenders, juvenile delinquents and other youth to remain in elementary and secondary schools or in alternative learning situations;

(6) Expanded use of professional and paraprofessional personnel and volunteers to work effectively with youth;

(7) Youth-initiated programs and outreach programs designed to assist youth who otherwise would not be reached by traditional youth assistance programs;

(8) A statewide program designed to reduce the number of commitments of juveniles to any form of juvenile facility as a percentage of the state juvenile population; to increase the use of nonsecure community-based facilities as a percentage of total commitments to juvenile facilities; and to discourage the use of secure incarceration and detention; and

(9) Transitional programs designed to assist juveniles who are in the custody of the state

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upon reaching the age of eighteen years.

(b) By January 1, 2017, the department and the Division of Juvenile Services shall allocate at least fifty percent of all community services funding, as defined in section two hundred six, article one of this chapter, either provided directly or by contracted service providers, for the implementation of evidence-based practices, as defined in section two hundred six, article one of this chapter.

(c) (1) The Department of Human Services shall establish an individualized program of rehabilitation for each status offender referred to the department and to each alleged juvenile delinquent referred to the department after being allowed a pre-adjudicatory community supervision period by the juvenile court, and for each adjudicated juvenile delinquent who, after adjudication, is referred to the department for investigation or treatment or whose custody is vested in the department.

(2) An individualized program of rehabilitation shall take into account the programs and services to be provided by other public or private agencies or personnel which are available in the community to deal with the circumstances of the particular juvenile.

(3) For alleged juvenile delinquents and status offenders, an individualized program of rehabilitation shall be furnished to the juvenile court and made available to counsel for the juvenile; it may be modified from time to time at the direction of the department or by order of the juvenile court.

(4) The department may develop an individualized program of rehabilitation for any juvenile referred for noncustodial counseling under section seven hundred two-a, article four of this chapter or for any juvenile upon the request of a public or private agency.

(d) (1) The individualized program of rehabilitation required by the provisions of subsection (c) of this section shall, for any juvenile in out-of-home placement, include a plan to return the juvenile to his or her home setting and transition the juvenile into community services to continue his or her rehabilitation.

(2) Planning for the transition shall begin upon the juvenile's entry into the residential facility. The transition process shall begin thirty days after admission to the residential facility and conclude no later than three months after admission.

(3) The Department of Human Services staff shall, during its monthly site visits at contracted residential facilities, ensure that the individualized programs of rehabilitation include a plan for transition in accordance with this subsection.

(4) If further time in residential placement is necessary and the most effective method of attaining the rehabilitation goals identified by the rehabilitation individualized plan created under subsection (c) of this section, then the department shall provide information to the multidisciplinary team to substantiate that further time in a residential facility is necessary.

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The court, in consultation with the multidisciplinary team, may order an extension of time in residential placement prior to the juvenile's transition to the community if the court finds by clear and convincing evidence that an extension is in the best interest of the child. If the court finds that the evidence does not support an extension, the court shall order that the transition to community services proceed.

(e) The Department of Human Services and the Division of Juvenile Services are directed to enter into cooperative arrangements and agreements with each other and with private agencies or with agencies of the state and its political subdivisions to fulfill their respective duties under this article and chapter.

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§49-2-1003. Rehabilitative facilities for status offenders; requirements; educational instruction.

(a) The Department of Human Services shall establish and maintain one or more rehabilitative facilities to be used exclusively for the lawful custody of status offenders. Each facility will be a nonsecure facility having as its purpose the rehabilitation of status offenders. The facility will have a bed capacity for not more than twenty juveniles and shall minimize the institutional atmosphere and prepare the juvenile for reintegration into the community.

(b) Rehabilitative programs and services shall be provided by or through each facility and may include, but not be limited to, medical, educational, vocational, social and psychological guidance, training, counseling, substance abuse treatment and other rehabilitative services. The Department of Human Services shall provide to each status offender committed to the facility a program of treatment and services consistent with the individualized program of rehabilitation developed for the juvenile. In the case of any other juvenile residing at the facility, the department shall provide those programs and services as may be proper in the circumstances including, but not limited to, any programs or services directed to be provided by the court.

(c) The board of education of the county in which the facility is located shall provide instruction for juveniles residing at the facility. Residents who can be permitted to do so shall attend local schools and instruction shall otherwise take place at the facility.

(d) Facilities established pursuant to this section shall be structured as community-based facilities.

(e) The Department of Human Services may enter into cooperative arrangements and agreements with private agencies or with agencies of the state and its political subdivisions to fulfill its duties under this section: *Provided*, That after January 1, 2016, the department shall not enter into an agreement with the Division of Juvenile Services to house juvenile status offenders.

WV Legislature

§49-2-1004. The Juvenile Services Reimbursement Offender Fund; use; expenditures.

There is created within the State Treasury a special revenue account designated "The Juvenile Services Reimbursement Offender Fund" within and for the benefit of the Division of Juvenile Services for expenses incurred in servicing juvenile status offenders in need of stabilization and specialized supervision. Moneys shall be paid into the account by the Department of Human Services, based upon an established per diem rate, or other funding sources. The Department of Human Services and the Division of Juvenile Services shall jointly establish the per diem rate to be paid into the fund by the Department of Human Services for each juvenile status offender in need of stabilization and specialized supervision by the Division of Juvenile Services pursuant to this article and by cooperative agreement. The Director of Juvenile Services is authorized to make expenditures from the fund in accordance with article three, chapter twelve of this code to offset expenses incurred by the Division of Juvenile Services in housing, treatment and caring for juvenile offenders.

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§49-2-1005. Legal custody; law-enforcement agencies.

The Department of Human Services may require any juvenile committed to its legal custody to remain at and to return to the residence to which the juvenile is assigned by the department or by the juvenile court. In aid of that authority, and upon request of a designated employee of the department, any police officer, sheriff, deputy sheriff, or juvenile court probation officer is authorized to take the juvenile into custody and return the juvenile to his or her place of residence or into the custody of a designated employee of the department.

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§49-2-1006. Reporting requirements; cataloguing of services.

(a) The Department of Human Services and the Division of Juvenile Services shall annually review its programs and services and submit a report by December 31, of each year to the Governor, the Legislature and the Supreme Court of Appeals. This report shall analyze and evaluate the effectiveness of the programs and services being carried out by the Department of Human Services or the Division of Juvenile Services. That report shall include, but is not limited to:

(1) An analysis and evaluation of programs and services continued, established and discontinued during the period covered by the report;

(2) A description of programs and services which should be implemented to further the purposes of this article;

(3) Relevant information concerning the number of juveniles comprising the population of any rehabilitative facility during the period covered by the report;

(4) The length of residence, the nature of the problems of each juvenile, the juvenile's response to programs and services; and

(5) Any other information as will enable a user of the report to ascertain the effectiveness of the facility as a rehabilitative facility.

(b) The Department of Human Services and the Division of Juvenile Services shall prepare a descriptive catalogue of its juvenile programs and services available in local communities throughout this state and shall distribute copies of the same to every juvenile court in the state and, at the direction of the juvenile court, the catalogue shall be distributed to attorneys practicing before the court. The catalogue shall:

(1) Be made available to members of the general public upon request:

(2) Contain sufficient information as to particular programs and services so as to enable a user of the catalogue to make inquiries and referrals; and

(3) Be constructed so as to meaningfully identify and describe programs and services.

(c) The requirements of this section are not satisfied by a simple listing of specific agencies or the individuals in charge of programs at a given time. The catalogue shall be updated and republished or supplemented from time to time as may be required to maintain its usefulness as a resource manual.

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Part XI. Child Care Subsidies

§49-2-1101. Mitigation of child care subsidy cliff effect.

(a) The Legislature finds that abrupt loss of child care assistance due to modest increases in family income creates a benefits cliff that discourages wage growth, limits workforce participation, and destabilizes child care arrangements for children and families.

(b) The Department of Human Services may adopt policies that reduce the child care subsidy cliff effect by gradually phasing out assistance as family income increases. To implement the provisions of this section, the department may propose rules, consistent with state and federal law and with available funding, for legislative approval consistent with the provisions of §29A-3-1 *et seq.*

(c) In carrying out this section, the department may:

(1) Expand the sliding fee scale for family copayments so that contributions increase progressively with income;

(2) Establish higher exit eligibility thresholds that allow families to maintain access to assistance while transitioning toward self-sufficiency;

(3) Implement graduated phase-out structures that prevent sudden loss of benefits;

(4) Adjust copayment amounts based on household income as a percentage of income; and

(5) Establish transitional eligibility periods or other mechanisms to support continuity of care.

(d) Policies adopted pursuant to this section shall be designed to encourage employment, wage growth, and career advancement while promoting stability for children and child care providers.

(e) The department shall implement cliff mitigation policies pursuant to this section no later than January 1, 2027.

(f) The department shall submit an annual written report, in electronic format, to the Joint Committee on Government and Finance on or before the first day of each regular session of the Legislature regarding the implementation and impact of cliff mitigation strategies implemented under the provisions of this statute.

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