

NO. 2103

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

— ● —

ENROLLED

Com. Sub. for
HOUSE BILL No. 2103

(By  Delegate Hatfield)

— ● —

Passed April 8, 1989

In Effect from Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2103

(By DELEGATE HATFIELD)

[Passed April 8, 1989; in effect from passage.]

AN ACT to repeal article two-c, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the family protection shelter support act, and to enact in lieu thereof a new article two-c of said chapter, relating to the domestic violence act; licensure and funding of domestic violence shelters; definitions; establishing a family protection services board; duties; closure of shelters; provisional license waivers; establishing additional fee for filing of divorce actions to be collected by circuit clerk; funding application requirements; award provisions; referral to shelters; licenses; waiver; rules; and termination of board.

Be it enacted by the Legislature of West Virginia:

That chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by repealing thereto article two-c and enacting a new article, designated article two-c to read as follows:

ARTICLE 2C. DOMESTIC VIOLENCE ACT.

§48-2c-1. Title.

1 This article shall be known as the Domestic Violence

2 Act of 1989.

§48-2C-2. Definitions.

1 As used in this article, unless the contest clearly
2 requires otherwise:

3 (a) "Board" means the family protection services
4 board created pursuant to section three of this article;

5 (b) "Department" means the department of human
6 services or any successor agency however so named;

7 (c) "Shelter" or "Family Protection Shelter" means a
8 family shelter created for the purpose of receiving, on
9 a temporary basis, persons who are victims of domestic
10 violence, abuse or rape as well as the children of such
11 victims;

12 (d) "Commissioner" shall mean the commissioner of
13 the department of human services; and,

14 (e) "Family protection program" or "program" means
15 a program offered by a locally controlled organization
16 primarily for the purpose of providing services to
17 victims of domestic violence or abuse and their children.

§48-2C-3. Family protection services board.

1 (a) There is hereby created a family protection
2 services board. The board shall consist of five persons.
3 The Governor, with the advice and consent of the Senate,
4 shall appoint three members of the board. One such
5 member shall be a director of a shelter. One member
6 shall be a member of a major trade association which
7 represents shelters across the state. The final gubernatorial
8 appointee shall be a member of the public. The
9 other two members shall be the commissioner of the
10 department of human services, or his or her designee,
11 and the chairman of the governor's committee on crime,
12 delinquency and correction.

13 (b) The terms of the three members appointed by the
14 governor shall be staggered terms of three years. In the
15 case of the initial appointments, the director of the
16 shelter shall serve a one year term and the representative
17 of the trade association shall serve a two year term.

18 (c) In the event that a member of the board shall cease
19 to be qualified for appointment, then such appointment
20 shall terminate.

§48-2C-4. Duties of board.

1 It is the duty of the board to:

2 (a) Regulate its procedural practice;

3 (b) Receive and consider applications for the develop-
4 ment of shelters;

5 (c) Facilitate the formation and operation of shelters;

6 (d) Promulgate rules and regulations to implement
7 the provisions of this article and any applicable federal
8 guidelines;

9 (e) Advise the commissioner on matters of concern
10 relative to his or her responsibilities under this article;

11 (f) Study issues pertinent to family protection shel-
12 ters, programs for domestic violence victims, and report
13 the results to the governor and the Legislature;

14 (g) Conduct hearings as necessary under this article;

15 (h) Delegate to the commissioner such powers and
16 duties of the board as the board may deem appropriate
17 to delegate, including, but not limited to, the authority
18 to approve, disapprove, revoke or suspend licenses;

19 (i) Deliver funds to shelters within forty-five days of
20 the approval of a proposal for such shelters;

21 (j) Establish a system of peer review which will
22 ensure the safety, well being and health of the clients
23 of all shelters operating in the state;

24 (k) Evaluate annually each funded shelter to deter-
25 mine its compliance with the goals and objectives set out
26 in its original application for funding or subsequent
27 revisions;

28 (l) To award to shelters, for each fiscal year, ninety-
29 five percent of the total funds collected and paid over
30 during the fiscal year to the special revenue account
31 established pursuant to section twenty-four, article one

32 of this chapter and to expend, during said period a sum
33 not in excess of five percent of said funds for cost of
34 administering provisions of this article;

35 (m) Establish and enforce system of standards for
36 annual licensure for all shelters and programs in the
37 state;

38 (n) Enforce standards; and

39 (o) Review its rules and regulations biannually.

**§48-2C-5. Closure of shelters; provisional licensee
waivers.**

1 (a) The board may close any shelter which violates the
2 standards established under this article and which
3 threatens the health, well being and safety of its clients:
4 *Provided*, That the board shall establish a plan to place
5 such clients in other shelters and to develop a method
6 to continue serving the areas served by the shelter to be
7 closed.

8 (b) The board may place a shelter, which violates
9 standards established under this article and which
10 threatens the health, well being and safety of its clients,
11 under receivership and operate said shelter. The board
12 shall have access and may use all assets of the shelter.

13 (c) In order to close or place a shelter in receivership,
14 the board shall hold a public hearing within the confines
15 of municipality or county in which the shelter is located.
16 The board, by the first day of September, one thousand
17 nine hundred eighty-nine, shall establish rules and
18 regulations to govern the conduct of such hearings:
19 *Provided*, That four members of the board must vote in
20 the affirmative before a shelter is closed or placed in
21 receivership.

22 (d) If a shelter disagrees with the findings of the
23 board, the shelter may appeal such ruling to the circuit
24 court of Kanawha County or the circuit court of the
25 county where the shelter is located pursuant to the
26 provisions of section four, article five, chapter twenty-
27 nine-a of this code.

§48-2C-6. Additional fee to be collected for divorce filing.

1 In addition to any fee heretofore established for the
 2 filing of a divorce action, the clerk of the circuit court
 3 shall collect an additional fee of thirty dollars. The fee
 4 shall be deposited in the special revenue fund estab-
 5 lished pursuant to section twenty-four, article one,
 6 chapter forty-eight of this code: *Provided*, That such
 7 additional fee shall not be collected by the clerk from
 8 persons complying with the provisions of section one,
 9 article two, chapter fifty-nine of this code pertaining to
 10 suits filed by poor persons.

§48-2C-7. Funding application requirements.

1 (a) A shelter or program may apply to the board for
 2 a grant of funds as provided by this article. The
 3 application shall include, but not be limited to, the
 4 following:

5 (1) Evidence that the organization submitting the
 6 application is incorporated in this state as a nonprofit
 7 corporation.

8 (2) A list of the incorporators of the corporation and
 9 a list of the officers and the board of directors;

10 (3) The proposed budget of the shelter or program for
 11 the following fiscal year;

12 (4) A summary of the services proposed to be offered
 13 in the following fiscal year by the shelter or program;

14 (5) An evaluation of local needs for a shelter or
 15 program;

16 (6) An estimate of the number of people to be served
 17 by the shelter or program during the following fiscal
 18 year; and,

19 (7) Any other information the board may feel is
 20 necessary.

21 (b) In order to qualify for a grant of funds under this
 22 article, each family protection shelter or program shall:

23 (1) Provide or propose to provide a facility which will
 24 serve as temporary shelter to receive, care and provide
 25 services for persons who are victims of domestic violence
 26 or abuse and their children;

27 (2) Be incorporated in this state as a nonprofit
28 corporation;

29 (3) Have a board of directors which represents a
30 broad spectrum of the community to be served, includ-
31 ing at least one person who is or has been a victim of
32 domestic violence or abuse;

33 (4) Receive at least fifty-five percent of its funds from
34 sources other than funds distributed under this article.
35 These sources may be public or private and may include
36 contributions of goods or services; and

37 (5) Require persons employed by or volunteering
38 services to the shelter or program to maintain the
39 confidentiality of any information which may identify
40 individuals served by it.

41 (c) A family protection shelter or program may not be
42 funded initially if it is shown that it discriminates in its
43 services on the basis of race, religion, age, sex, marital
44 status, national origin or ancestry. If such discrimina-
45 tion occurs after initial funding, the shelter or program
46 may not be refunded until the discrimination ceases.

47 (d) A family protection shelter program may not be
48 refunded if its original application projected the
49 provision of residential services and such services were
50 not provided in the first six months following disburse-
51 ment of the original funds under this article: *Provided,*
52 That upon a subsequent showing that the funds were
53 used in the manner proposed in the original application,
54 the shelter or program is not barred from subsequent
55 funding. A revision of the original application may be
56 filed with the board.

§48-2C-8. Award provisions.

1 Grants made pursuant to this article shall be awarded
2 on the basis of the following criteria:

3 (a) Demonstration of local need for proposed services;

4 (b) Merit of project as proposed;

5 (c) Demonstration of local control of the shelter or
6 program;

7 (d) Administrative design and efficiency of the
8 project; and

9 (e) The Board shall develop a formula for equal
10 distribution of fifty percent of any money it awards.

§48-2C-9. Annual reports of shelter and programs.

1 A shelter or program receiving funds pursuant to this
2 article shall file an annual report with the board by the
3 thirty-first day of each October for the prior fiscal year.
4 The report shall include statistics on the number of
5 persons served, the relationship of the victim to the
6 abuser, services provided to the abuser, the number of
7 referrals made for medical, psychological, financial,
8 educational, vocational, child care or legal services and
9 the results of an independent audit. No information
10 contained in the report may identify any person served
11 by the shelter or enable any person to determine the
12 identity of any such person.

§48-2C-10. Referral to shelters.

1 Where shelters are available, any law-enforcement
2 officer or any public authority investigating an alleged
3 incident of domestic violence shall advise the victim of
4 such abuse of the availability of the family protection
5 shelter to which such person may be admitted.

§48-2C-11. Licenses.

1 (a) The board shall establish an application for
2 licensure for all shelters and programs.

3 (b) Licenses may be renewed on an annual basis with
4 all such licenses having a term of one year commencing
5 on the first day of July and terminating on the thirtieth
6 day of June on the next year.

7 (c) The board shall grant or deny any license within
8 forty-five days of the receipt of the application.

9 (d) The license granted by the board shall be conspic-
10 uously displayed by the licensees.

§48-2C-12. Waiver.

1 The board may grant a provisional license or grant

- 2 a waiver of licensure if the board deems such waiver or
- 3 provisional license necessary for the shelter or program.
- 4 All such waivers or provisional licenses shall be
- 5 reviewed semi-annually.

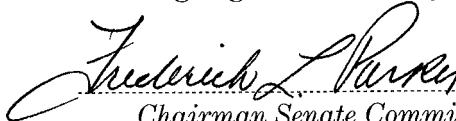
§48-2C-13. Rules and regulations.

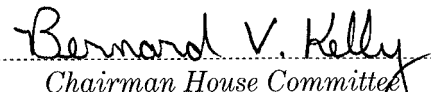
- 1 The board shall promulgate rules and regulations to
- 2 effectuate the provisions of this article. The rules and
- 3 regulations shall not take effect until the first set of
- 4 rules and regulations are approved by the Legislature.

§48-2C-14. Termination of board.

- 1 The family protection services board shall be termi-
- 2 nated pursuant to the provisions of article ten, chapter
- 3 four of this code, on the first day of July, one thousand
- 4 nine hundred ninety-two, unless sooner terminated or
- 5 unless sooner continued or reestablished pursuant to
- 6 that article.


The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee

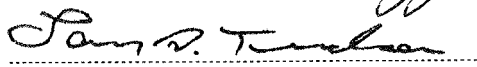

Chairman House Committee

Originating in the House.

Takes effect from passage.

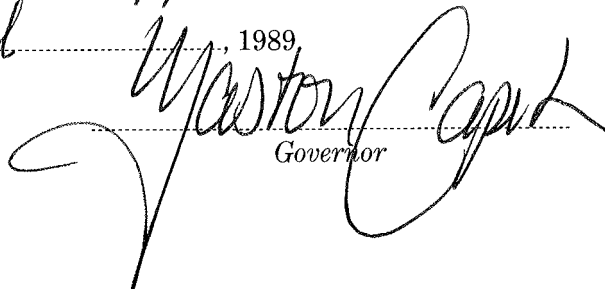

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within *is* *approved* this the *27th*
day of *April*, 1989.


Governor

PRESENTED TO THE

GOVERNOR

Date 4/21/89

Time 2:31 PM