WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989

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ENROLLED
Com. Sub. for
HOUSE BILL No. 2103

(By Delegate Hatfield)

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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

As used in this article, unless the context clearly requires otherwise:

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

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

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

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

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

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

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

(b) The terms of the three members appointed by the governor shall be staggered terms of three years. In the case of the initial appointments, the director of the shelter shall serve a one year term and the representative of the trade association shall serve a two year term.
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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 development
4 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 shelters, programs for domestic violence victims, and report
12 the results to the governor and the Legislature;
13 (g) Conduct hearings as necessary under this article;
14 (h) Delegate to the commissioner such powers and
15 duties of the board as the board may deem appropriate
16 to delegate, including, but not limited to, the authority
17 to approve, disapprove, revoke or suspend licenses;
18 (i) Deliver funds to shelters within forty-five days of
19 the approval of a proposal for such shelters;
20 (j) Establish a system of peer review which will
21 ensure the safety, well being and health of the clients
22 of all shelters operating in the state;
23 (k) Evaluate annually each funded shelter to determine
24 its compliance with the goals and objectives set out
25 in its original application for funding or subsequent
26 revisions;
27 (l) To award to shelters, for each fiscal year, ninety-
28 five percent of the total funds collected and paid over
29 during the fiscal year to the special revenue account
30 established pursuant to section twenty-four, article one
of this chapter and to expend, during said period a sum
not in excess of five percent of said funds for cost of
administering provisions of this article;
(m) Establish and enforce system of standards for
annual licensure for all shelters and programs in the
state;
(n) Enforce standards; and
(o) Review its rules and regulations biannually.
§48-2C-5. Closure of shelters; provisional licensee
waivers.

(a) The board may close any shelter which violates the
standards established under this article and which
threatens the health, well being and safety of its clients:
Provided, That the board shall establish a plan to place
such clients in other shelters and to develop a method
to continue serving the areas served by the shelter to be
closed.
(b) The board may place a shelter, which violates
standards established under this article and which
threatens the health, well being and safety of its clients,
under receivership and operate said shelter. The board
shall have access and may use all assets of the shelter.
(c) In order to close or place a shelter in receivership,
the board shall hold a public hearing within the confines
of municipality or county in which the shelter is located.
The board, by the first day of September, one thousand
nine hundred eighty-nine, shall establish rules and
regulations to govern the conduct of such hearings:
Provided, That four members of the board must vote in
the affirmative before a shelter is closed or placed in
receivership.
(d) If a shelter disagrees with the findings of the
board, the shelter may appeal such ruling to the circuit
court of Kanawha County or the circuit court of the
county where the shelter is located pursuant to the
provisions of section four, article five, chapter twenty-nine-a of this code.
§48-2C-6. Additional fee to be collected for divorce filing.
In addition to any fee heretofore established for the filing of a divorce action, the clerk of the circuit court shall collect an additional fee of thirty dollars. The fee shall be deposited in the special revenue fund established pursuant to section twenty-four, article one, chapter forty-eight of this code: Provided, That such additional fee shall not be collected by the clerk from persons complying with the provisions of section one, article two, chapter fifty-nine of this code pertaining to suits filed by poor persons.

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

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

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

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

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

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

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

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

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

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

(1) Provide or propose to provide a facility which will serve as temporary shelter to receive, care and provide services for persons who are victims of domestic violence or abuse and their children;
(2) Be incorporated in this state as a nonprofit corporation;

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

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

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

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

(d) A family protection shelter program may not be refunded if its original application projected the provision of residential services and such services were not provided in the first six months following disbursement of the original funds under this article. Provided, that upon a subsequent showing that the funds were used in the manner proposed in the original application, the shelter or program is not barred from subsequent funding. A revision of the original application may be filed with the board.

§48-2C-8. Award provisions.

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

(a) Demonstration of local need for proposed services;

(b) Merit of project as proposed;

(c) Demonstration of local control of the shelter or program;
(d) Administrative design and efficiency of the project; and
(e) The Board shall develop a formula for equal distribution of fifty percent of any money it awards.

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

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

§48-2C-10. Referral to shelters.

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


(a) The board shall establish an application for licensure for all shelters and programs.
(b) Licenses may be renewed on an annual basis with all such licenses having a term of one year commencing on the first day of July and terminating on the thirtieth day of June on the next year.
(c) The board shall grant or deny any license within forty-five days of the receipt of the application.
(d) The license granted by the board shall be conspicuously displayed by the licensees.

§48-2C-12. Waiver.

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.

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.

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 10th day of April, 1989, approved this the 27th day of April, 1989.

Governor