

NO. 2130

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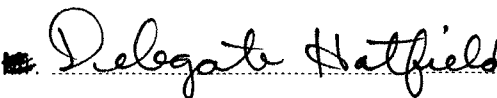
# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

— ● —

# ENROLLED

Com. Sub. for  
HOUSE BILL No. 2130

(By  Delegate Hatfield )

— ● —

Passed April 8, 1989

In Effect Ninety Days from Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 2130**  
(By DELEGATE HATFIELD)

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

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AN ACT to amend chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-d, relating to providing services to dysfunctional families in order to prevent outside placement of the children thereof; findings and purpose; definitions; requiring a judicial determination of whether or not reasonable efforts have been made before children may be placed outside the home; caseload limits; situational criteria requiring service; service delivery through purchase of service contracts; and provision of special services.

*Be it enacted by the Legislature of West Virginia:*

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

**ARTICLE 2D. HOME-BASED FAMILY PRESERVATION ACT.**

**§49-2D-1. Findings and purpose.**

1     The Legislature finds that there exists a need in this  
2     state to assist dysfunctional families by providing

3 nurture and care to such families' children as an  
4 alternative to removing children from such families.

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

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

13 The purpose of this article is to establish a pilot  
14 program to evaluate the utility of providing intensive  
15 intervention with the families of children that are at  
16 risk of being removed from the home. For these limited  
17 purposes, the department is authorized to use available  
18 appropriate funds for such intervention service, but only  
19 to the extent that such moneys would normally be  
20 available for the removal and placement of the partic-  
21 ular child at risk.

#### **§49-2D-2. Definitions.**

1 As used in this article, the following terms have the  
2 meanings indicated:

3 (a) "Dysfunctional family" means a parent or parents  
4 or an adult or adults and a child or children living  
5 together and functioning in an impaired or abnormal  
6 manner so as to cause substantial physical or emotional  
7 danger, injury or harm to one or more children thereof  
8 regardless of whether such children are natural offsp-  
9 ring, adopted children, step children or unrelated  
10 children to such parents.

11 (b) "Home-based family preservation services" means  
12 services dispensed by the department of human services  
13 or by another person, association or group who has  
14 contracted with the department of human services to  
15 dispense such services when such services are intended  
16 to stabilize and maintain the natural or surrogate family  
17 in order to prevent the placement of children in  
18 substitute care. There are two types of home-based  
19 family preservation services and they are as follows:

20 (1) Intensive, short term intervention of four to six  
21 weeks; and

22 (2) Home-based, longer term after care following  
23 intensive intervention.

**§49-2D-3. Hearing required to determine “reasonable efforts.”**

1 A hearing by a circuit court of competent jurisdiction  
2 is required to determine whether or not “reasonable  
3 efforts” have been made to stabilize and maintain the  
4 family situation before any child may be placed outside  
5 the home: *Provided*, That in the event any child appears  
6 in imminent danger of serious bodily or emotional injury  
7 or death in any home, a post-removal hearing shall be  
8 substituted for the pre-removal hearing.

**§49-2D-4. When family preservation services required.**

1 Home-based family preservation services are required  
2 in all cases where the removal of a child or children is  
3 seriously being considered, whether from a natural  
4 home or a surrogate home, wherein a child or children  
5 have lived for a substantial period of time: *Provided*,  
6 That such services are not required when the child  
7 appears in imminent danger of serious bodily or serious  
8 emotional injury.

**§49-2D-5. Caseload limits for home-based preservation services.**

1 For purposes of this article, no contractor employee  
2 of the department of human services may exceed three  
3 families during any period of time when such contractor  
4 employee is engaged in providing intensive, short term  
5 home-based family preservation intervention. In addi-  
6 tion, no caseload may exceed six families during any  
7 period of time when home-based aftercare is provided  
8 pursuant to this article.

9 When providing either type of home-based family  
10 preservation services to any family, the department of  
11 human services or contractor shall provide trained  
12 personnel who shall be available during nonworking  
13 hours to assist families on an emergency basis.

**§49-2D-6. Situational criteria requiring service.**

1 Services required by this article shall be made  
2 available to any dysfunctional family in which there  
3 exists an imminent risk of placement of at least one  
4 child outside the home as the result of abuse, neglect,  
5 dependency or delinquency or any emotional and  
6 behavioral problems.

7 Payment for contractual services shall be on a cost per  
8 family basis. Any renewal of any such contract shall be  
9 based on performance.

**§49-2D-7. Service delivery through service contracts;  
accountability.**

1 Services required by this article which are not  
2 practically deliverable directly from the department of  
3 human services may be subcontracted to professionally  
4 qualified private individuals, associations, agencies,  
5 corporations, partnerships or groups. The service  
6 provider shall be required to submit monthly activity  
7 reports as to any services rendered to the department  
8 of human services. Such activity reports shall include  
9 project evaluation in relation to individual families  
10 being served as well as statistical data concerning  
11 families that are referred for services which are not  
12 served due to unavailability of resources. Costs of  
13 program evaluation are an allowable cost consideration  
14 in any service contract negotiated in accordance with  
15 this article. The department shall conduct a thorough  
16 investigation of the contractors utilized by the depart-  
17 ment pursuant to this article. The department shall  
18 further include the results of this investigation in its  
19 report to the Legislature required by section nine of this  
20 article.

**§49-2D-8. Provision of special services.**

1 Costs of providing special services to families receiv-  
2 ing regular services in accordance with this article are  
3 allowable to the extent such goods and services are  
4 justified pursuant to carrying out the purposes of this  
5 article. Such special services may include, but are not  
6 limited to, homemaker assistance, food, clothing,

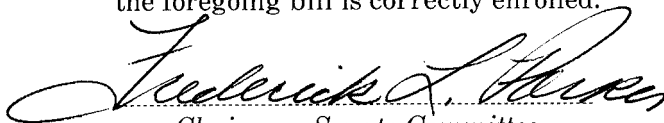
7 educational materials, respite care and recreational or  
8 social activities.

**§49-2D-9. Development of home-based family preservation services.**

1 The department is authorized to use appropriate state,  
2 federal, and/or private funds within its budget for the  
3 provision of family preservation and reunification  
4 services. Appropriated state funding made available  
5 through capture of additional federal funds shall be  
6 utilized to provide family preservation and reunification  
7 services as described in this Act. Costs of providing  
8 home-based services described in this Act shall not  
9 exceed the costs of out-of-home care which would be  
10 incurred otherwise. Notwithstanding the other provisions  
11 of this article to the contrary, it is the intent of  
12 this legislation to permit the department to establish a  
13 pilot program in FY90 to serve 200 families. The  
14 department is vested with discretion to select target  
15 populations using geographical or other criteria it  
16 deems appropriate.

17 The department shall report back to the Legislature  
18 by the thirty-first day of December, one thousand nine  
19 hundred ninety, on the feasibility of using funds  
20 currently earmarked for the placement of children for  
21 the intervention and what additional amounts may be  
22 needed to fully implement this article.

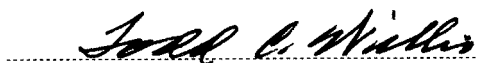
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


  
Chairman Senate Committee

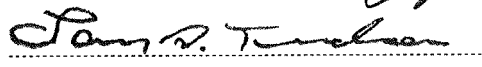
  
Chairman House Committee


Originating in the House.

Takes effect ninety days from passage.

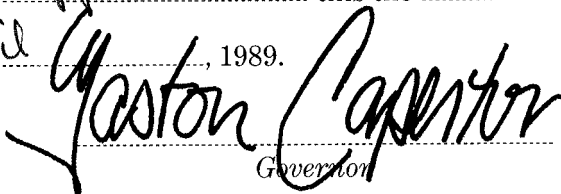
  
Clerk of the Senate

  
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

9/20/89

Time

10:19