WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

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ENROLLED

Com. Sub. for
HOUSE BILL No. 2130

(By Delegate Hatfield)

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Passed April 8, 1989

In Effect Ninety Days from Passage
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 state to assist dysfunctional families by providing
nurture and care to such families’ children as an alternative to removing children from such 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 such intervention service, but only to the extent that such moneys would normally be available for the removal and placement of the particular child at risk.

§49-2D-2. Definitions.

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

(a) “Dysfunctional family” means a parent or parents or an adult or adults and a child or children living together and functioning in an impaired or abnormal manner so as to cause substantial physical or emotional danger, injury or harm to one or more children thereof regardless of whether such children are natural offspring, adopted children, step children or unrelated children to such parents.

(b) “Home-based family preservation services” means services dispensed by the department of human services or by another person, association or group who has contracted with the department of human services to dispense such services when such services are intended to stabilize and maintain the natural or surrogate family in order to prevent the placement of children in substitute care. There are two types of home-based family preservation services and they are as follows:
§49-2D-3. Hearing required to determine “reasonable efforts.”

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

§49-2D-4. 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: Provided, that such services are not required when the child appears in imminent danger of serious bodily or serious emotional injury.

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

For purposes of this article, no contractor employee of the department of human services may exceed three families during any period of time when such 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 of human services or contractor shall provide trained personnel who shall be available during nonworking hours to assist families on an emergency basis.
§49-2D-6. Situational criteria requiring service.

1 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.

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

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

1 Services required by this article which are not practically deliverable directly from the department of human services 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. Such 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. 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. The department shall further include the results of this investigation in its report to the Legislature required by section nine of this article.

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

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

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 Act. Costs of providing home-based services described in this Act shall not exceed the costs of out-of-home care which would be incurred otherwise. Notwithstanding the other provisions of this article to the contrary, it is the intent of this legislation to permit the department to establish a pilot program in FY90 to serve 200 families. The department is vested with discretion to select target populations using geographical or other criteria it deems appropriate.

The department shall report back to the Legislature by the thirty-first day of December, one thousand nine hundred ninety, on the feasibility of using funds currently earmarked for the placement of children for the intervention and what additional amounts may be 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 10th approved this the 27th day of April, 1989.

Governor