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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1994



# ENROLLED

SENATE BILL NO. 1001

(By Senator Jones, et al)



PASSED March 15, 1994

In Effect 90 days from Passage

**E N R O L L E D**

**Senate Bill No. 1001**

(BY SENATORS JONES, PLYMALE, BURDETTE, MR. PRESIDENT,  
CRAIGO, WAGNER, CHERNENKO, MINARD, ANDERSON,  
DALTON, LUCHT, WHITLOW, WOOTON, HUMPHREYS, BOLEY,  
MANCHIN, GRUBB, SCHOONOVER, DITTMAR, BAILEY, ROSS,  
WITHERS, HELMICK, BLATNIK, WALKER, WEHRLE, TOMBLIN,  
MILLER, HOLLIDAY, YODER AND SHARPE)

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[Passed March 15, 1994; in effect ninety days from passage.]

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AN ACT to amend article four, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto two new sections, designated sections four and five; and to amend chapter forty-nine of said code by adding thereto a new article, designated article five-d, all relating to prosecuting advisory council; responsibilities of council; election of chairman; victim advocates; requiring cooperation from other state and local government units; participation in multidisciplinary planning process, multidisciplinary treatment teams; purposes of teams; additional cases and teams; establishment of investigative teams; procedures; coordination between agencies; multidisciplinary treatment planning process; and report of teams.

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

That article four, chapter seven of the code of West Virginia,

one thousand nine hundred thirty-one, as amended, be amended by adding thereto two new sections, designated sections four and five; and that chapter forty-nine of said code be amended by adding thereto a new article, designated article five-d, all to read as follows:

**CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

**ARTICLE 4. PROSECUTING ATTORNEY, REWARDS AND LEGAL ADVICE.**

**§7-4-4. Prosecutor's advisory council; victim advocates; participation in multidisciplinary planning process.**

1     There is hereby created the prosecutor's advisory  
2     council composed of elected prosecuting attorneys of  
3     each county of the state or a designated member of their  
4     staff. The prosecutor's advisory council shall conduct an  
5     initial meeting of all members not later than the first day  
6     of September, one thousand nine hundred ninety-four,  
7     and shall meet not less than one time each year. At the  
8     initial meeting and annually thereafter, the council shall  
9     elect from among its membership a chairman of the  
10    council who shall set the agenda for the council's  
11    meetings and shall appoint necessary committees and  
12    direct the work of the council in carrying out its duties  
13    under the provisions of this section.

14    The council shall provide advice, assistance, training  
15    and leadership to the offices of the various county  
16    prosecuting attorneys of this state in criminal and civil  
17    cases which involve child abuse or neglect or sexual  
18    assault or sexual abuse of children. The council shall  
19    also provide advice and assistance to the secretary of the  
20    department of health and human resources in the  
21    implementation of a multidisciplinary planning process  
22    as set forth in article five-d, chapter forty-nine of this  
23    code.

24    The council may seek funds and programs to provide  
25    each prosecuting attorney's office with a staff person to  
26    assist children who are crime victims to obtain services  
27    and assistance from other agencies and programs in the

28 community. Prosecuting attorneys shall be reimbursed  
29 by their respective county commissions for necessary  
30 expenses actually incurred when attending meetings of  
31 the council.

32 The council may apply for and receive funds from any  
33 grant program of any agency or institution in the United  
34 States, public or private, to be used for carrying out the  
35 purposes of this section.

#### **§7-4-5. Multidisciplinary investigative teams.**

1 On or before the first day of January, one thousand  
2 nine hundred ninety-five, the prosecuting attorney of  
3 each county in the state shall establish a multi-  
4 disciplinary investigative team, in accordance with the  
5 provisions of section three, article five-d, chapter forty-  
6 nine of this code.

### **CHAPTER 49. CHILD WELFARE.**

#### **ARTICLE 5D. MULTIDISCIPLINARY TEAMS.**

##### **§49-5D-1. Purpose; additional cases and teams.**

1 (a) The purpose of this article is to provide a system for  
2 evaluation of and coordinated service delivery for  
3 children who may be victims of abuse, neglect, sexual  
4 assault or sexual abuse, multineed children and children  
5 undergoing delinquency proceedings. It is the further  
6 purpose of this article to establish, as a complement to  
7 other programs of the department of health and human  
8 resources, a multidisciplinary screening, advisory and  
9 planning system to assist courts in facilitating perma-  
10 nency planning, to recommend alternatives and to  
11 coordinate evaluations and in-community services. It is  
12 the further purpose of this article to ensure that children  
13 are safe from abuse and neglect and to coordinate  
14 investigation of alleged child abuse offenses and  
15 competent criminal prosecution of offenders to ensure  
16 that safety, as determined appropriate by the prosecut-  
17 ing attorney.

18 (b) Nothing in this article precludes any multi-

19 disciplinary team from considering any case upon the  
20 consent of the members of the team.

**§49-5D-2. Multidisciplinary investigative teams; establishment; procedures; coordination between agencies.**

1 (a) The prosecuting attorney shall establish a  
2 multidisciplinary investigative team in each county. The  
3 multidisciplinary team shall be headed and directed by  
4 the prosecuting attorney and shall include as permanent  
5 members the prosecuting attorney or his or her designee,  
6 a local child protective services caseworker from the  
7 department of health and human resources and a local  
8 law-enforcement officer employed by a law-enforcement  
9 agency in the county. The department of health and  
10 human resources and any local law-enforcement agency  
11 or agencies selected by the prosecuting attorney shall  
12 appoint their representatives to the team by submitting  
13 a written designation of the team to the prosecuting  
14 attorney of each county within thirty days of the  
15 prosecutor's request that the appointment be made.  
16 Within fifteen days of the appointment, the prosecuting  
17 attorney shall notify the chief judge of each circuit  
18 within which the county is situated of the names of the  
19 representatives so appointed. Any other person or any  
20 other appointee of an agency who may contribute to the  
21 team's efforts to assist a minor child as may be deter-  
22 mined by the permanent members of the team may also  
23 be appointed as a member of the team by the prosecutor  
24 with notification to the chief judge.

25 (b) Any permanent member of the multidisciplinary  
26 investigative team shall refer all cases of accidental  
27 death of any child reported to their agency and all cases  
28 when a child dies while in the custody of the state for  
29 investigation and review by the team. The multi-  
30 disciplinary investigative team shall meet at regular  
31 intervals at least once every calendar month.

32 (c) The investigative team shall be responsible for  
33 coordinating or cooperating in the initial and ongoing

34 investigation of all civil and criminal allegations  
35 pertinent to cases involving child sexual assault, child  
36 sexual abuse, child abuse and neglect, and shall make a  
37 recommendation to the county prosecuting attorney as to  
38 the initiation or commencement of a civil petition and/or  
39 criminal prosecution.

40 (d) State, county and local agencies shall provide the  
41 multidisciplinary investigative team with any informa-  
42 tion requested in writing by the team as allowable by  
43 law or upon receipt of a certified copy of the circuit  
44 court's order directing said agencies to release informa-  
45 tion in its possession relating to the child. The team shall  
46 assure that all information received and developed in  
47 connection with the provisions of this article remains  
48 confidential. For purposes of this section, the term  
49 "confidential" shall be construed in accordance with the  
50 provisions of section one, article seven of this chapter.

#### **§49-5D-3. Multidisciplinary treatment planning process.**

1 (a) On or before the first day of January, one thousand  
2 nine hundred ninety-five, a multidisciplinary treatment  
3 planning process shall be established within each county  
4 of the state, either separately or in conjunction with a  
5 contiguous county by the secretary of the department of  
6 health and human resources, with advice and assistance  
7 from the prosecutor's advisory council as set forth in  
8 section four, article four, chapter seven of this code.

9 Treatment teams shall assess, plan and implement a  
10 comprehensive, individualized service plan for children  
11 who are victims of abuse, neglect, sexual assault or  
12 sexual abuse, multineed children and their families and  
13 for children and their families involved in delinquency  
14 proceedings.

15 (b) Each treatment team shall be convened and  
16 directed by the child's or family's case manager. The  
17 treatment team shall consist of the child's custodial  
18 parent(s) or guardian(s), other immediate family  
19 members, the attorney(s) representing the parent(s) of

20 the child if assigned by a judge of the circuit court, the  
21 child, if the child is over the age of twelve, and if the  
22 child's participation is otherwise appropriate, the child,  
23 if under the age of twelve when the team determines that  
24 the child's participation is appropriate, the guardian ad  
25 litem, the prosecuting attorney or his or her designee,  
26 and any other agency, person or professional who may  
27 contribute to the team's efforts to assist the child and  
28 family.

29 (c) The treatment team shall coordinate their activities  
30 and membership with local family resource networks,  
31 and coordinate with other local and regional child and  
32 family service planning committees to assure the  
33 efficient planning and delivery of child and family  
34 services on a local and regional level.

35 (d) State, county and local agencies shall provide the  
36 multidisciplinary treatment teams with any information  
37 requested in writing by the team as allowable by law or  
38 upon receipt of a certified copy of the circuit court's  
39 order directing said agencies to release information in its  
40 possession relating to the child. The team shall assure  
41 that all information received and developed in connec-  
42 tion with the provisions of this article remain confiden-  
43 tial. For purposes of this section, the term "confidential"  
44 shall be construed in accordance with the provisions of  
45 section one, article seven of this chapter.

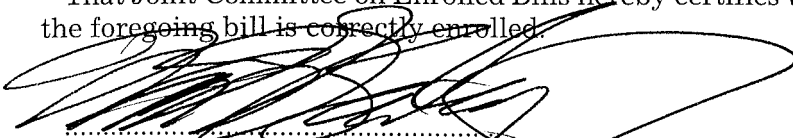
#### **§49-5D-4. Report of teams.**

1 All persons directing any team created pursuant to this  
2 article shall maintain records of each meeting indicating  
3 the name and position of persons attending each meeting  
4 and the number of cases discussed at the meeting,  
5 including a designation of whether or not that case was  
6 previously discussed by any multidisciplinary team.  
7 Further, all investigative teams shall maintain a log of  
8 all cases to indicate the number of referrals to that team,  
9 whether or not a police report was filed with the  
10 prosecuting attorney's office, whether or not a petition  
11 was sought pursuant to section one, article six of this

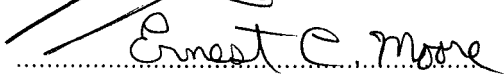
12 chapter, or whether or not a criminal complaint was  
13 issued and a case was criminally prosecuted. All  
14 treatment teams shall maintain a log of all cases to  
15 indicate the basis for failure to review a case for a period  
16 in excess of six months.



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



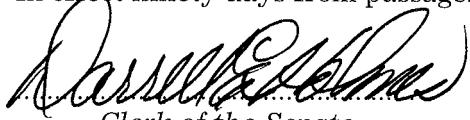
Chairman Senate Committee



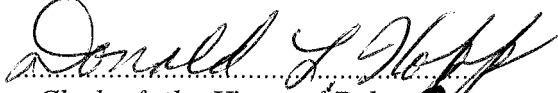
Chairman House Committee

Originated in the Senate.

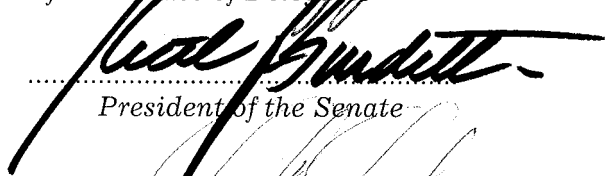
In effect ninety days from passage.



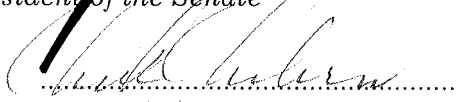
Clerk of the Senate



Clerk of the House of Delegates

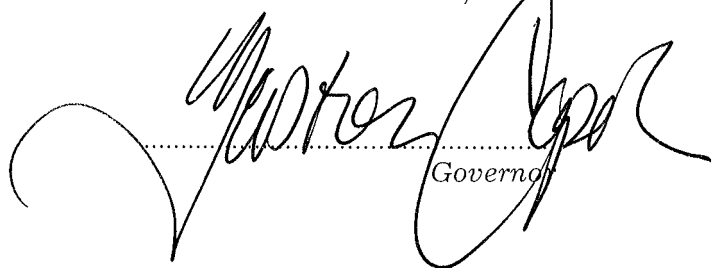


President of the Senate



Speaker House of Delegates

The within *is approved* this the *1st* day of *April*, 1994.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/94

Time 9:26 am