WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

ENROLLED

Committee Substitute for

SENATE BILL NO. 41

(By Senator Schoonover, et al.)

PASSED March 11, 1994
In Effect 90 days from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 41

(SENATORS SCHOONOVER, ANDERSON, BAILEY,
BLATNIK, BOLEY, BURDETT, MR. PRESIDENT, CHAFIN,
CLAYPOLE, CRAIGO, DALTON, DITTMAR, GRUBE,
HELMICK, HOLLIDAY, HUMPHREYS, JONES, LUCHT,
MACNAUGHTAN, MANCHIN, MILLER, MINARD, PLYMALE,
ROSS, SHARPE, TOMBLIN, WAGNER, WEHRLE, WALKER,
WHITLOW, WIEDEBUSCH, WITHERS, YODER, WOOTON
AND CHERNENKO, original sponsors)

[Passed March 11, 1994; in effect ninety days from passage.]

AN ACT to amend and reenact section sixteen, article four,
chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to
prohibiting the sale or purchase of a child; and creating
criminal penalties and exceptions.

Be it enacted by the Legislature of West Virginia:
That section sixteen, article four, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 4. ADOPTION.

§48-4-16. Prohibition of purchase or sale of child; penalty; definitions; exceptions.

(a) Any person or agency who knowingly offers, gives or agrees to give to another person money, property, service or other thing of value in consideration for the recipient's locating, providing or procuring a minor child for any purpose which entails a transfer of the legal or physical custody of said child, including, but not limited to, adoption or placement, shall be guilty of a felony and subject to fine and imprisonment as provided herein.

(b) Any person who knowingly receives, accepts or offers to accept money, property, service or other thing of value to locate, provide or procure a minor child for any purpose which entails a transfer of the legal or physical custody of said child, including, but not limited to, adoption or placement, shall be guilty of a felony and subject to fine and imprisonment as provided herein.

(c) Any person who violates the provisions of this section shall be guilty of a felony, and, upon conviction thereof, may be imprisoned in the penitentiary for not less than one year nor more than five years or, in the discretion of the court, be confined in jail not more than one year and shall be fined not less than one hundred dollars nor more than two thousand dollars.

(d) A child whose parent, guardian or custodian has sold or attempted to sell said child in violation of the provisions of this article may be deemed an abused child as defined by section three, article one, chapter forty-nine of this code. The court may place such a child in the custody of the department of health and human resources or with such other responsible person as the best interests of the child dictate.
(e) This section does not prohibit the payment or receipt of the following:

1. Fees paid for reasonable and customary services provided by the department of health and human resources or any licensed or duly authorized adoption or child-placing agency.

2. Reasonable and customary legal, medical, hospital or other expenses incurred in connection with legal adoption proceedings.

3. Fees and expenses included in any agreement in which a woman agrees to become a surrogate mother.

4. Any fees or charges authorized by law or approved by a court in a proceeding relating to the placement plan, prospective placement or placement of a minor child for adoption.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Donald W. Hupp
Clerk of the House of Delegates

Murl B. Burnett
President of the Senate

Speaker House of Delegates

The within ............... this the 30th

day of March ................. , 1994.

Governor