WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

HOUSE BILL No. 4474

(By Delegates Douglas Trump Jenkins
and Manuel)

Passed March 9, 1996

In Effect Ninety Days From Passage
ENROLLED

H. B. 4474

(BY DELEGATES DOUGLAS, TRUMP, JENKINS AND MANUEL)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend article five-d, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto three new sections, designated sections five, six and seven, all relating to the establishment of the state child fatality review team; rule-making authority; requirement to submit annual reports to the governor and Legislature; contents of reports; investigation of deaths; review team reports; cooperation of governmental agencies; and confidentiality.

Be it enacted by the Legislature of West Virginia:

That article five-d, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto three new sections, designated sections five, six and seven, all to read as follows:

ARTICLE 5D. MULTIDISCIPLINARY TEAMS.

§49-5D-5. Child fatality review team.

(a) The state child fatality review team is hereby established under the office of medical examinations which shall be a multidisciplinary team created to review the deaths of children under the age of eighteen years as provided for in this section. It shall include among its membership the following, appointed by the governor, to serve three year terms:

(1) The state medical examiner, who shall serve as the chairperson of the state child fatality review team;
(2) One prosecuting attorney or his or her designee;
(3) The state superintendent of the West Virginia state police or his or her designee;
(4) One law-enforcement official other than a member of the West Virginia state police;
(5) One child protective services worker currently employed in investigating reports of child abuse or neglect;
(6) One health care provider, specializing in the practice of pediatric medicine or family medicine; and
(7) One social worker who may be employed in the area of public health;

Members of the state child fatality review team shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and have qualified. Each appointment of a prosecuting attorney, whether for a full term or to fill a vacancy, shall be made by the governor from among three nominees therefor selected by the West Virginia prosecuting attorneys institute. Each appointment of a law enforcement officer, whether for a full term or to fill a vacancy, shall be made by the governor from among three nominees therefor selected by the state fraternal order of police. Each appointment of a child protective services worker and a social worker, whether for a full term or to fill a vacancy, shall be made by the governor from among three nominees therefor selected by the West Virginia social work licensing board. Each appointment of a physician, whether for a full term or to fill a vacancy, shall be made by the governor from among three nominees therefor selected by the West Virginia state medical association. When an appointment for a full term, the nomination shall be submitted to the governor not later than eight months prior to the date on which the appointment shall become effective. In the case of an appointment to fill a vacancy, such nominations shall be submitted to the governor within thirty days after the request for the nomination has been made by the governor to the chairperson or president of the organization. When an association fails to
submit to the governor nominations for the appointment
in accordance with the requirements of this section, the
governor may make the appointment without nomina-
tions.

Each member of the state child fatality review team
shall serve without additional compensation and may not
be reimbursed for any expenses incurred in the dis-
charged of the duties under the provisions of this article.

(b) The state child fatality review team shall, pursuant
to the provisions of chapter twenty-nine-a, promulgate
rules applicable to the following:

(1) The standard procedures for the establishment,
formation and conduct of the state child fatality review
team;

(2) Guidelines for hospitals, physicians and other
health-care providers to utilize in order to report the
deaths of children to the state child fatality review team;
and

(3) Recommend protocols for the review of child
fatalities where other than natural causes are suspected.

(c) The state child fatality review team shall submit an
annual report to the governor and to the Legislature con-
cerning its activities and the incidents of child fatalities
within the state. The first such report shall be due on the
first day of July, one thousand nine hundred ninety-seven.
Thereafter, a report shall be due annually on the first day
of July. The report shall include statistics setting forth the
number of child fatalities. Such statistical analysis may
include information regarding the causes of child fatalities
in the state. The report shall also include the number of
children whose deaths have been determined to have been
unexpected or unexplained and whether court proceed-
ings regarding criminal prosecution have commenced.

(d) The local multidisciplinary team created pursuant
to the provisions of section two of this article shall review
all cases referred to the team pursuant to the provisions of
that section: Provided, That a local team may refer any or
all cases for review of deaths to the state multidisciplinary
team. Further, the local multidisciplinary team shall pro-
vide all information to the state child fatality review team necessary for the state child fatality review team to create and submit any report required by this section.

(e) All information and records acquired by the state team or by a local team in the exercise of its purpose and duties pursuant to this article shall be confidential. For purposes of this section the term confidential shall be defined consistent with the definition set forth in section one, article seven, chapter forty-nine of this code.

§49-5D-6. Other agencies of government required to cooperate.

State, county and local agencies shall provide the multi-disciplinary teams with any information requested in writing by the team as allowable by law or upon receipt of a certified copy of the circuit court’s order directing said agencies to release information in its possession relating to the child. The team shall assure that all information received and developed in connection with the provisions of this article remain confidential. For purposes of this section, the term "confidential" shall be construed in accordance with the provisions of section one, article seven of this chapter.

§49-5D-7. Law enforcement; prosecution; interference with performance of duties.

No multidisciplinary team may take any action which, in the determination of the prosecuting attorney or his or her assistant, impairs the ability of the prosecuting attorney, his or her assistant, or any law-enforcement officer to perform his or her statutory duties.
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 28th day of March, 1996.

Governor
PRESENTED TO THE
GOVERNOR
Date 3.20.16
Time 4:15 pm