

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

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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.

1 (a) The state child fatality review team is hereby estab-
2 lished under the office of medical examinations which
3 shall be a multidisciplinary team created to review the
4 deaths of children under the age of eighteen years as pro-
5 vided for in this section. It shall include among its mem-
6 bership the following, appointed by the governor, to serve
7 three year terms:

8 (1) The state medical examiner, who shall serve as the
9 chairperson of the state child fatality review team;

- 10 (2) One prosecuting attorney or his or her designee;
- 11 (3) The state superintendent of the West Virginia state
12 police or his or her designee;
- 13 (4) One law-enforcement official other than a member
14 of the West Virginia state police;
- 15 (5) One child protective services worker currently
16 employed in investigating reports of child abuse or ne-
17 glect;
- 18 (6) One health care provider, specializing in the prac-
19 tice of pediatric medicine or family medicine; and
- 20 (7) One social worker who may be employed in the
21 area of public health;

22 Members of the state child fatality review team shall,
23 unless sooner removed, continue to serve until their re-
24 spective terms expire and until their successors have been
25 appointed and have qualified. Each appointment of a
26 prosecuting attorney, whether for a full term or to fill a
27 vacancy, shall be made by the governor from among three
28 nominees therefor selected by the West Virginia prosecut-
29 ing attorneys institute. Each appointment of a law enforce-
30 ment officer, whether for a full term or to fill a vacancy,
31 shall be made by the governor from among three nomi-
32 nees therefor selected by the state fraternal order of po-
33 lice. Each appointment of a child protective services
34 worker and a social worker, whether for a full term or to
35 fill a vacancy, shall be made by the governor from among
36 three nominees therefor selected by the West Virginia
37 social work licensing board. Each appointment of a phy-
38 sician, whether for a full term or to fill a vacancy, shall be
39 made by the governor from among three nominees there-
40 for selected by the West Virginia state medical association.
41 When an appointment for a full term, the nomination shall
42 be submitted to the governor not later than eight months
43 prior to the date on which the appointment shall become
44 effective. In the case of an appointment to fill a vacancy,
45 such nominations shall be submitted to the governor with-
46 in thirty days after the request for the nomination has
47 been made by the governor to the chairperson or presi-
48 dent of the organization. When an association fails to

49 submit to the governor nominations for the appointment
50 in accordance with the requirements of this section, the
51 governor may make the appointment without nomina-
52 tions.

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

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

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

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

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

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

82 (d) The local multidisciplinary team created pursuant
83 to the provisions of section two of this article shall review
84 all cases referred to the team pursuant to the provisions of
85 that section: *Provided*, That a local team may refer any or
86 all cases for review of deaths to the state multidisciplinary
87 team. Further, the local multidisciplinary team shall pro-

88 vide all information to the state child fatality review team
89 necessary for the state child fatality review team to create
90 and submit any report required by this section.

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

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

1 State, county and local agencies shall provide the
2 multi-disciplinary teams with any information requested in
3 writing by the team as allowable by law or upon receipt of
4 a certified copy of the circuit court's order directing said
5 agencies to release information in its possession relating to
6 the child. The team shall assure that all information re-
7 ceived and developed in connection with the provisions of
8 this article remain confidential. For purposes of this sec-
9 tion, the term "confidential" shall be construed in accor-
10 dance with the provisions of section one, article seven of
11 this chapter.

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

1 No multidisciplinary team may take any action which,
2 in the determination of the prosecuting attorney or his or
3 her assistant, impairs the ability of the prosecuting attor-
4 ney, his or her assistant, or any law-enforcement officer to
5 perform his or her statutory duties.

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

Phyllis Schooner
Chairman Senate Committee

Randy Seaman
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Carroll B. White
Clerk of the Senate

Burgoyne M. Gray
Clerk of the House of Delegates

Carl Roy Innis
President of the Senate

Paul Robeson
Speaker of the House of Delegates

The within is approved this the 28th
day of March, 1996.

Winston Caperton
Governor

PRESENTED TO THE

GOVERNOR

Date 3/26/16

Time 4:15 pm