

RECEIVED
98 APR -8 AM 8:40
OFFICE OF THE CLERK
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

Com. Sub. for House Bill No. 2135

(By Delegates Amores, Hunt, Thompson,
Seacrist, Tillis, Faircloth and Thomas)



Passed March 14, 1998

In Effect Ninety Days from Passage

RECEIVED

98 APR -8 AM 8 42

OFFICE OF THE CLERK
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2135

(BY DELEGATES AMORES, HUNT, THOMPSON,
SEACRIST, TILLIS, FAIRCLOTH AND THOMAS)

[Passed March 14, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article seven, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to confidentiality of juvenile records.

Be it enacted by the Legislature of West Virginia:

That section one, article seven, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

§49-7-1. Confidentiality of records.

- 1 (a) Except as otherwise provided in this chapter, all
- 2 records and information concerning a child or juvenile
- 3 which are maintained by the state department, as defined
- 4 in section four, article one of this chapter, a child agency
- 5 or facility, court ^{or} law-enforcement agency shall be kept
- 6 confidential and shall not be released or disclosed to
- 7 anyone, including any federal or state agency.

de
5/12/98

8 (b) Notwithstanding the provisions of subsection (a) of
9 this section or any other provision of this code to the
10 contrary, records concerning a child or juvenile, except
11 adoption records, juvenile court records and records
12 disclosing the identity of a person making a complaint of
13 child abuse or neglect shall be made available:

14 (1) Where otherwise authorized by this chapter;

15 (2) To

16 (A) The child;

17 (B) A parent whose parental rights have not been
18 terminated; or

19 (C) The attorney of the child or parent;

20 (3) With the written consent of the child or of
21 someone authorized to act on the child's behalf; or

22 (4) Pursuant to a subpoena or order of a court of
23 record; however, a subpoena for such records may be
24 quashed by a court for good cause.

25 (c) In addition to those persons or entities to whom
26 information may be disclosed under subsection (b) of this
27 section, information related to child abuse or neglect
28 proceedings, except information relating to the identity of
29 the person reporting or making a complaint of child abuse
30 or neglect, shall be made available, upon request, to:

31 (1) Federal, state or local government entities, or any
32 agent of such entities, including law enforcement agencies
33 and prosecuting attorneys, having a need for such
34 information in order to carry out its responsibilities under
35 law to protect children from abuse and neglect;

36 (2) The child fatality review team;

37 (3) Child abuse citizen review panels;

38 (4) Multidisciplinary investigative and treatment
39 teams; or

40 (5) A grand jury, circuit court or family law master,
41 upon a finding that information in the records is necessary

42 for the determination of an issue before the grand jury,
43 circuit court or family law master.

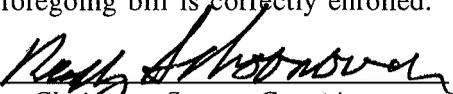
44 (d) In the event of a child fatality or near fatality due
45 to child abuse and neglect, information relating to such
46 fatality or near fatality, shall be made public by the
47 department of health and human resources and to the
48 entities described in subsection (c) of this section, all
49 under the circumstances described in that subsection:
50 *Provided*, That information released by the department of
51 health and human resources pursuant to this subsection
52 shall not include the identity of a person reporting or
53 making a complaint of child abuse or neglect. For
54 purposes of this subsection, "near fatality" means any
55 medical condition of the child which is certified by the
56 attending physician to be life-threatening.

57 (e) Except in juvenile proceedings which are
58 transferred to criminal proceedings, law-enforcement
59 records and files concerning a child or juvenile shall be
60 kept separate from the records and files of adults and
61 not included within the court files. Law-enforcement
62 records and files concerning a child or juvenile shall only
63 be open to inspection pursuant to the provisions of
64 sections seventeen and eighteen, article five of this chapter.

65 (f) Any person who willfully violates the provisions of
66 this section is guilty of a misdemeanor and, upon
67 conviction thereof, shall be fined not more than one
68 thousand dollars, or confined in the county or regional jail
69 for not more than six months, or be both fined and
70 confined. A person convicted of violating the provisions
71 of this section shall also be liable for damages in the
72 amount of three hundred dollars or actual damages,
73 whichever is greater.

74 (g) Notwithstanding the provisions of this section, or
75 any other provision of this code to the contrary, the name
76 and identity of any juvenile adjudicated or convicted of a
77 violent or felonious crime shall be made available to the
78 public.

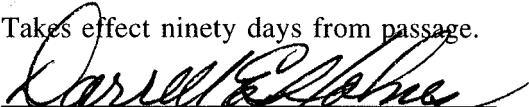
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

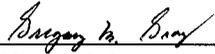

Chairman Senate Committee

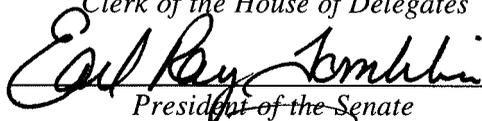

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

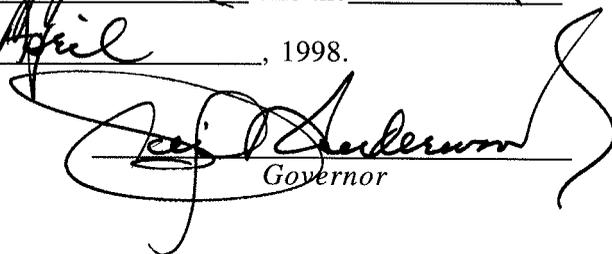

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 7th
day of April, 1998.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/98

Time 2:57 pm