

SB 600

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LEGISLATIVE SERVICES DIVISION  
STATE OF WEST VIRGINIA

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999



## ENROLLED

*Committee Substitute For*  
SENATE BILL NO. 600

(By Senator PLUMMER)



PASSED MARCH 11, 1999

In Effect NINETY DAYS FROM Passage

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OFFICE OF THE CLERK  
SECRETARY OF STATE

## ENROLLED

COMMITTEE SUBSTITUTE

FOR

### Senate Bill No. 600

(SENATOR PLYMALE, *original sponsor*)

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[Passed March 11, 1999; in effect ninety days from passage.]

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AN ACT to amend and reenact section five, article one, chapter forty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to recognizing the right of a child born out of wedlock to inherit from his or her mother and father; means of establishing paternity; and exempting situations where the child has been adopted by another male or where the putative father has expressly disinherited the child.

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

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

**ARTICLE 1. DESCENT.**

**§42-1-5. From whom children born out of wedlock inherit.**

1 (a) Children born out of wedlock shall be capable of  
2 inheriting and transmitting inheritance on the part of their  
3 mother and father.

4 (b) Prior to the death of the father, paternity shall be  
5 established by:

6 (1) Acknowledgment that he is the child's father;

7 (2) Adjudication on the merits pursuant to the provisions  
8 of section four, article six, chapter forty-eight-a of this  
9 code; or

10 (3) By order of a court of competent jurisdiction issued  
11 in another state.

12 (c) After the death of the father, paternity shall be  
13 established if, after a hearing on the merits, the court shall  
14 find, by clear and convincing evidence that the man is the  
15 father of the child. The civil action shall be filed in the  
16 circuit court of the county where the administration of the  
17 decedent's estate has been filed or could be filed:

18 (1) Within six months of the date of the final order of the  
19 county commission admitting the decedent's will to  
20 probate or commencing intestate administration of the  
21 estate; or

22 (2) If none of the above apply, within six months from  
23 the date of decedent's death.

24 (d) Any putative child who at the time of the decedent's  
25 death is under the age of eighteen years, a convict or a  
26 mentally incapacitated person may file such civil action  
27 within six months after he or she becomes of age or the  
28 disability ceases.

29 (e) The provisions of this section do not apply where the  
30 putative child has been lawfully adopted by another man  
31 and stands to inherit property or assets through his  
32 adopted father.

33 (f) The provisions of this section do not apply where the  
34 father or putative father has expressly disinherited the  
35 child in a provision of his will.

*[Handwritten signature]*

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



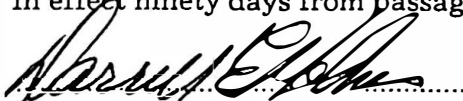
Chairman Senate Committee



Chairman House Committee

Originating in the Senate.

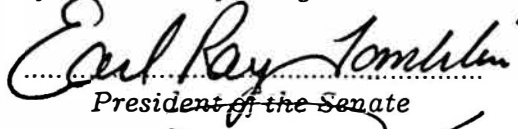
In effect ninety days from passage.



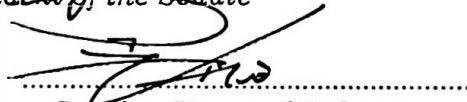
Clerk of the Senate



Clerk of the House of Delegates

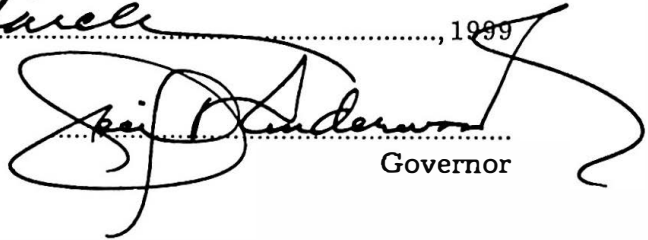


President of the Senate



Speaker House of Delegates

The within approval this the 25th  
Day of March, 1999



Governor

PRESENTED TO THE

GOVERNOR

Date 3/23/99

Time 10:47am