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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



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COMMITTEE SUBSTITUTE
FOR
House Bill No. 4300

(By Delegates Houston, Hatfield, Rowe,
Susman, Johnson and Marshall)



Passed March 11, 2000

In Effect Ninety Days from passage

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FOR

H. B. 4300

(BY DELEGATES HOUSTON, HATFIELD, ROWE,
SUSMAN, JOHNSON AND MARSHALL)

[Passed March 11, 2000; in effect ninety days from passage.]

AN ACT to amend chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article six-e, relating to the voluntary delivery of infants to hospitals or health care facilities by persons who do not express an intent to return for the child; requiring hospitals to take possession of the infants and report the possession to the child protective services division of the department of health and human resources; requiring hospital or health care facility to respect anonymity; requiring department to take possession of child immediately upon notification; requiring department to cause petition to be brought in conjunction with assistance of county prosecutor; providing affirmative defense to certain child neglect crime; and providing that the department may place child for adoption.

Be it enacted by the Legislature of West Virginia:

That chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article six-e, to read as follows:

ARTICLE 6E. EMERGENCY POSSESSION OF CERTAIN ABANDONED CHILDREN.

§49-6E-1. Accepting possession of certain abandoned children.

1 A hospital or health care facility operating in this state,
2 shall, without a court order, take possession of a child if the
3 child is voluntarily delivered to the hospital or health care
4 facility by the child's parent within thirty days of the child's
5 birth and the parent did not express an intent to return for the
6 child. A hospital or health care facility that takes possession of
7 a child under this section shall perform any act necessary to
8 protect the physical health or safety of the child. In accepting
9 possession of the child, the hospital or health care facility may
10 not require the person to identify themselves, but shall other-
11 wise respect the person's desire to remain anonymous.

§49-6E-2. Notification of possession of abandoned child.

1 (a) Not later than the close of the first business day after the
2 date on which a hospital or health care facility takes possession
3 of a child under section one of this article, the hospital or health
4 care facility shall notify the child protective services division of
5 the department of health and human resources that it has taken
6 possession of the child and shall provide to the department of
7 health and human resources division of child protective services
8 any information provided by the parent delivering the child.
9 The hospital or health care facility shall refer any inquiries
10 about the child to the department of health and human resources
11 protective services division.

12 (b) The department of health and human resources shall
13 assume the care, control and custody of the child as of the time
14 of delivery of the child to the hospital or health care facility,
15 and may contract with private child care agency for the care and
16 placement of the child after the child leaves the hospital or
17 health care facility.

§49-6E-3. Filing petition after accepting possession of abandoned child.

1 A child of whom the department of health and human
2 resources assumes care, control and custody under the provi-
3 sions of this article shall be deemed an abandoned child and be
4 treated in all respects as a child taken into custody under the
5 provisions of section nine, article six of this chapter. Upon
6 taking custody of a child under the provisions of this article, the
7 department with the cooperation of the county prosecuting
8 attorney shall cause a petition to be presented pursuant to the
9 provisions of section three, article six of this chapter. Thereaf-
10 ter, the department shall proceed in compliance with the
11 provisions of article six of this chapter.

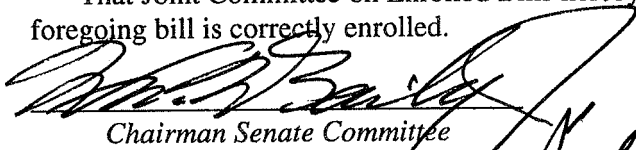
§49-6E-4. Affirmative defense for certain prosecutions.

1 It is an affirmative defense to prosecution under subsection
2 (a), section four, article eight-d, chapter sixty-one of this code
3 if a parent charged under that section delivered the child, for
4 whom the parent is charged, within thirty days of the child's
5 birth.

§49-6E-5. Placement of child for adoption.

1 The child shall be eligible for adoption as an abandoned
2 child under article four, chapter forty-eight of the code.

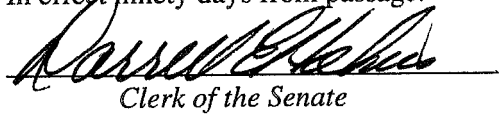
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

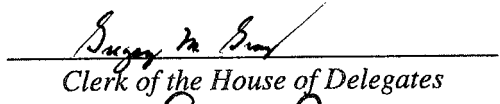

Chairman Senate Committee

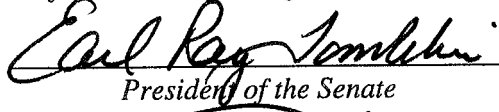

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

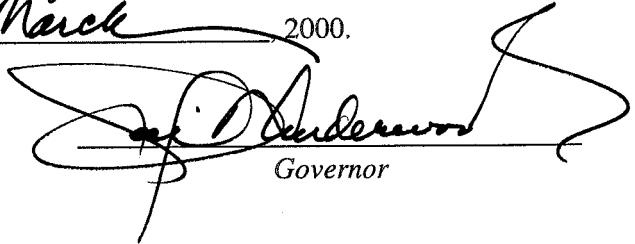

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 2/5th
day of March 2000.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/18/00

Time 12:45pm