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WEST VIRGINIA LEGISLATURE
STATE HOUSE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000

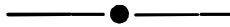


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COMMITTEE SUBSTITUTE
FOR

House Bill No. 4364

(By Delegates Givens, Douglas, Facemyer,
Fleischauer, Mezzatesta, Staton and Trump)



Passed March 10, 2000

In Effect Ninety Days from Passage

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H. B. 4364

(BY DELEGATES GIVENS, DOUGLAS, FACEMYER,
FLEISCHAUER, MEZZATESTA, STATON AND TRUMP)

[Passed March 10, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact section seventeen, article two, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to subsidized adoption and legal guardianship; and expanding authority of the department of health and human resources to subsidize legal guardianship of a child without regard to the status of the parents' rights.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. STATE RESPONSIBILITIES FOR THE PROTECTION AND CARE OF CHILDREN.

§49-2-17. Subsidized adoption and legal guardianship.

1 From funds appropriated to the department of health and
2 human resources, the secretary shall establish a system of
3 assistance for facilitating the adoption or legal guardianship of
4 children. An adoption subsidy shall be available for children
5 who are legally free for adoption and who are dependents of the
6 department or a child welfare agency licensed to place children
7 for adoption. A legal guardianship subsidy shall not require the
8 surrender or termination of parental rights. For either subsidy,
9 the children must be in special circumstances either because
10 they:

11 (a) Have established emotional ties with prospective
12 adoptive parents or prospective legal guardians while in their
13 care; or

14 (b) Are not likely to be adopted or become a ward of a legal
15 guardian by reason of one or more of the following conditions:

16 (1) They have a physical or mental disability;

17 (2) They are emotionally disturbed;

18 (3) They are older children;

19 (4) They are a part of a sibling group;

20 (5) They are a member of a racial or ethnic minority; or

21 (6) They have any combination of these conditions.

22 The department shall provide assistance in the form of
23 subsidies or other services to parents who are found and
24 approved for adoption or legal guardianship of a child certified
25 as eligible for subsidy by the department, but before the final
26 decree of adoption or order of legal guardianship is entered,
27 there must be a written agreement between the family entering

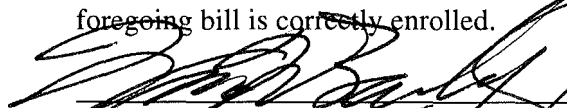
28 into the subsidized adoption or legal guardianship and the
29 department. Adoption or legal guardianship subsidies in
30 individual cases may commence with the adoption or legal
31 guardianship placement, and will vary with the needs of the
32 child as well as the availability of other resources to meet the
33 child's needs. The subsidy may be for special services only, or
34 for money payments, and either for a limited period, or for a
35 long term, or for any combination of the foregoing. The specific
36 financial terms of the subsidy shall be included in the agree-
37 ment between the department and the adoptive parents or legal
38 guardians. The amount of the time-limited or long-term subsidy
39 may in no case exceed that which would be allowable from time
40 to time for such child under foster family care, or, in the case of
41 a special service, the reasonable fee for the service rendered. In
42 addition, the department shall provide either medicaid or other
43 health insurance coverage for any special needs child for whom
44 there is an adoption or legal guardianship assistance agreement
45 between the department and the adoptive parent or legal
46 guardian and who the department determines cannot be placed
47 with an adoptive parent or legal guardian without medical
48 assistance because the child has special needs for medical,
49 mental health or rehabilitative care.

50 Whenever significant emotional ties have been established
51 between a child and his or her foster parents, and the foster
52 parents seek to adopt the child or to become legal guardians, the
53 child shall be certified as eligible for a subsidy conditioned
54 upon his or her adoption or his or her becoming a ward of a
55 legal guardian under applicable procedures by the foster
56 parents.

57 In all other cases, after reasonable efforts have been made
58 without the use of subsidy and no appropriate adoptive family
59 or legal guardian has been found for the child, the department
60 shall certify the child as eligible for a subsidy in the event of
61 adoption or a legal guardianship.

62 If the child is the dependent of a voluntary licensed child-
63 placing agency, that agency shall present to the department
64 evidence of significant emotional ties between the child and his
65 foster parents or evidence of inability to place the child for
66 adoption. In no event shall the value of the services and
67 assistance provided by the department under an agreement
68 pursuant to this section exceed the value of assistance available
69 to foster families in similar circumstances. All records regard-
70 ing subsidized adoptions or legal guardianships shall be held in
71 confidence, however, records regarding the payment of public
72 funds for subsidized adoptions or legal guardianships shall be
73 available for public inspection provided they do not directly or
74 indirectly identify any child or persons receiving funds for such
75 child.

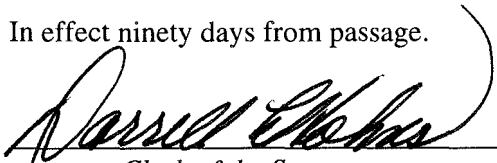
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee



Chairman House Committee

Originating in the House.

In effect ninety days from passage.

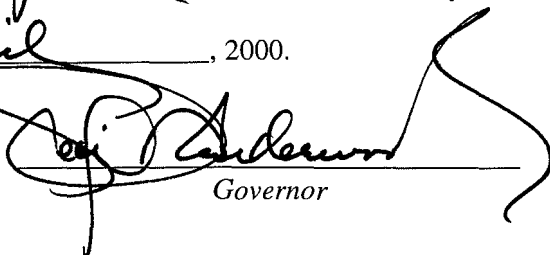

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 4th
day of April, 2000.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/10

Time 3:45 pm