WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2000

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
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.

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

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

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

(1) They have a physical or mental disability;

(2) They are emotionally disturbed;

(3) They are older children;

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

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

(6) They have any combination of these conditions.

The department shall provide assistance in the form of subsidies or other services to parents who are found and approved for adoption or legal guardianship of a child certified as eligible for subsidy by the department, but before the final decree of adoption or order of legal guardianship is entered, there must be a written agreement between the family entering
into the subsidized adoption or legal guardianship and the
department. Adoption or legal guardianship subsidies in
individual cases may commence with the adoption or legal
guardianship placement, and will vary with the needs of the
child as well as the availability of other resources to meet the
child’s needs. The subsidy may be for special services only, or
for money payments, and either for a limited period, or for a
long term, or for any combination of the foregoing. The specific
financial terms of the subsidy shall be included in the agree-
ment between the department and the adoptive parents or legal
guardians. The amount of the time-limited or long-term subsidy
may in no case exceed that which would be allowable from time
to time for such child under foster family care, or, in the case of
a special service, the reasonable fee for the service rendered. In
addition, the department shall provide either medicaid or other
health insurance coverage for any special needs child for whom
there is an adoption or legal guardianship assistance agreement
between the department and the adoptive parent or legal
guardian and who the department determines cannot be placed
with an adoptive parent or legal guardian without medical
assistance because the child has special needs for medical,
mental health or rehabilitative care.

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

In all other cases, after reasonable efforts have been made
without the use of subsidy and no appropriate adoptive family
or legal guardian has been found for the child, the department
shall certify the child as eligible for a subsidy in the event of
adoption or a legal guardianship.
If the child is the dependent of a voluntary licensed child-placing agency, that agency shall present to the department evidence of significant emotional ties between the child and his foster parents or evidence of inability to place the child for adoption. In no event shall the value of the services and assistance provided by the department under an agreement pursuant to this section exceed the value of assistance available to foster families in similar circumstances. All records regarding subsidized adoptions or legal guardianships shall be held in confidence, however, records regarding the payment of public funds for subsidized adoptions or legal guardianships shall be available for public inspection provided they do not directly or indirectly identify any child or persons receiving funds for such 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 day of , 2000.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/31/10
Time 3:45 PM