

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000

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ENROLLED

House Bill No. 4365

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

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Passed March 9, 2000

In Effect Ninety Days from Passage

ENROLLED

H. B. 4365

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

[Passed March 9, 2000; 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, relating to releasing or disclosing state held records of a juvenile by a court of record after review.

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 to read as follows:

ARTICLE 7. GENERAL PROVISIONS.

§49-7-1. Confidentiality of records.

- 1 (a) Except as otherwise provided in this chapter or by order
- 2 of the court, all records and information concerning a child or
- 3 juvenile which are maintained by the division of juvenile
- 4 services, the department of health and human resources, a child
- 5 agency or facility, court or law-enforcement agency shall be

6 kept confidential and shall not be released or disclosed to
7 anyone, including any federal or state agency.

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

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

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

22 (4) Pursuant to an order of a court of record: *Provided*, That
23 the court shall review such record or records for relevancy and
24 materiality to the issues in the proceeding, and may issue an
25 order to limit the examination and use of the records or any part
26 thereof.

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

33 (1) Federal, state or local government entities, or any agent
34 of such entities, including law-enforcement agencies and

35 prosecuting attorneys, having a need for such information in
36 order to carry out its responsibilities under law to protect
37 children from abuse and neglect;

38 (2) The child fatality review team;

39 (3) Child abuse citizen review panels;

40 (4) Multidisciplinary investigative and treatment teams; or

41 (5) A grand jury, circuit court or family law master, upon
42 a finding that information in the records is necessary for the
43 determination of an issue before the grand jury, circuit court or
44 family law master.

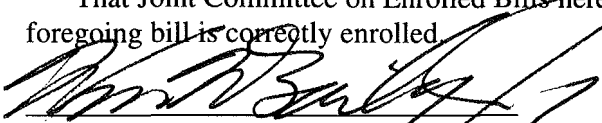
45 (d) In the event of a child fatality or near fatality due to
46 child abuse and neglect, information relating to such fatality or
47 near fatality shall be made public by the department of health
48 and human resources and to the entities described in subsection
49 (c) of this section, all under the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

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

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

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

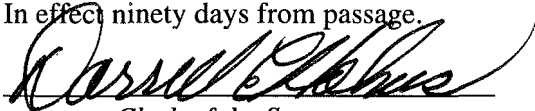
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

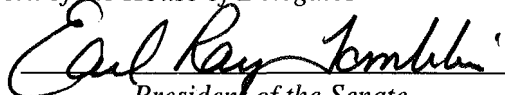

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

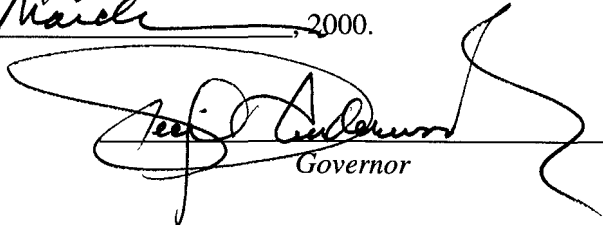

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 17th
day of March, 2000.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/15/00

Time 10:16 am