

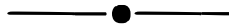
FILED

2001 APR 11 P 5: 06

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 2410**

(By Delegates Wills, Givens and Schadler)



Passed April 2, 2001

In Effect Ninety Days from Passage

FILED

2001 APR 11 P 5:06

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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COMMITTEE SUBSTITUTE

FOR

H. B. 2410

(BY DELEGATES WILLS, GIVENS AND SCHADLER)

[Passed April 2, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact section five, article five-d, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the child fatality review team; providing required members of the team; defining the purposes of the team; restricting the authority of the team; providing that certain records and findings of the team are confidential; and providing that members of the team are not subject to subpoena.

Be it enacted by the Legislature of West Virginia:

That section five, article five-d, 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 5D. MULTIDISCIPLINARY TEAMS.

FILED

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SECRETARY OF STATE
WEST VIRGINIA

§49-5D-5. Child fatality review team.

1 (a) The child fatality review team is hereby established
2 under the office of the chief medical examiner. The child
3 fatality review team is a multidisciplinary team created to
4 review the deaths of children under the age of eighteen years as
5 provided for in this section.

6 (b) The child fatality review team is to consist of the
7 following members, appointed by the governor, to serve three-
8 year terms:

9 (1) The chief medical examiner, who is to serve as the
10 chairperson of the child fatality review team;

11 (2) Two prosecuting attorneys or their designees;

12 (3) The state superintendent of the West Virginia state
13 police or his or her designee;

14 (4) One law-enforcement official other than a member of
15 the West Virginia state police;

16 (5) One child protective services worker currently em-
17 ployed in investigating reports of child abuse or neglect;

18 (6) One physician, specializing in the practice of pediatric
19 medicine or family medicine;

20 (7) One physician, specializing in the practice of pediatric
21 critical care medicine;

22 (8) One social worker who may be employed in the area of
23 public health;

24 (9) The director of the office of maternal and child health
25 of the department of health and human resources or his or her
26 designee;

27 (10) One representative of the sudden infant death syn-
28 drome program of the office of maternal and child health;

29 (11) The director of the division of children's mental health
30 services of the office of behavioral health services or his or her
31 designee;

32 (12) The director of the office of social services of the
33 department of health and human resources or his or her
34 designee;

35 (13) The superintendent of the department of education or
36 his or her designee;

37 (14) The director of the division of juvenile services or his
38 or her designee; and

39 (15) The president of the West Virginia association of
40 school nurses or his or her designee.

41 (c) Members of the child fatality review team shall, unless
42 sooner removed, continue to serve until their respective terms
43 expire and until their successors have been appointed and have
44 qualified.

45 (d) Each appointment of a prosecuting attorney, whether for
46 a full term or to fill a vacancy, is to be made by the governor
47 from among three nominees selected by the West Virginia
48 prosecuting attorneys institute. Each appointment of a law-
49 enforcement officer, whether for a full term or to fill a vacancy,
50 is to be made by the governor from among three nominees
51 selected by the state fraternal order of police or the West
52 Virginia deputy sheriff's association. Each appointment of a
53 child protective services worker and a social worker, whether
54 for a full term or to fill a vacancy, is to be made by the governor
55 from among three nominees selected by the West Virginia
56 social work licensing board. Each appointment of a physician,

57 whether for a full term or to fill a vacancy, is to be made by the
58 governor from among three nominees selected by the West
59 Virginia state medical association or the West Virginia acad-
60 emy of pediatrics. When an appointment is for a full term, the
61 nomination is to be submitted to the governor not later than
62 eight months prior to the date on which the appointment is to
63 become effective. In the case of an appointment to fill a
64 vacancy, the nominations are to be submitted to the governor
65 within thirty days after the request for the nomination has been
66 made by the governor to the chairperson or president of the
67 organization. When an association fails to submit to the
68 governor nominations for the appointment in accordance with
69 the requirements of this section, the governor may make the
70 appointment without nominations.

71 (e) Each member of the child fatality review team shall
72 serve without additional compensation and may not be reim-
73 bursed for any expenses incurred in the discharge of his or her
74 duties under the provisions of this article.

75 (f) The child fatality review team shall, pursuant to the
76 provisions of chapter twenty-nine-a, promulgate rules applica-
77 ble to the following:

78 (1) The standard procedures for the establishment, forma-
79 tion and conduct of the child fatality review team; and

80 (2) Recommend protocols for the review of child fatalities
81 where other than natural causes are suspected.

82 (g) The child fatality review team shall:

83 (1) Review all deaths of children under the age of eighteen
84 years who are residents of this state in order to identify trends,
85 patterns and risk factors;

86 (2) Provide statistical analysis regarding the causes of child
87 fatalities in West Virginia;

88 (3) Promote public awareness of the incidence and causes
89 of child fatalities, including recommendations for their reduc-
90 tion; and

91 (4) Provide training for state agencies and local
92 multidisciplinary teams.

93 (h) The child fatality review team shall submit an annual
94 report to the governor and to the Legislature concerning its
95 activities and the incidents of child fatalities within the state.
96 The report is due annually on the first day of December. The
97 report is to include statistics setting forth the number of child
98 fatalities, identifiable trends in child fatalities in the state,
99 including possible causes, if any, and recommendations to
100 reduce the number of preventable child fatalities in the state.
101 The report is to also include the number of children whose
102 deaths have been determined to have been unexpected or
103 unexplained.

104 (i) A local multidisciplinary investigative team created
105 pursuant to the provisions of section two of this article shall
106 review all cases referred to it pursuant to the provisions of that
107 section: *Provided*, That a local multidisciplinary investigative
108 team may refer any or all cases for review of deaths to the child
109 fatality review team. The local multidisciplinary investigative
110 team shall provide all information to the child fatality review
111 team necessary for the child fatality review team to create and
112 submit any report required by this section.

113 (j) The child fatality review team, in the exercise of its
114 duties as defined in this section, may not:

115 (1) Call witnesses or take testimony from individuals
116 involved in the investigation of a child fatality;

117 (2) Contact a family member of the deceased child, except
118 if a member of the team is involved in the investigation of the

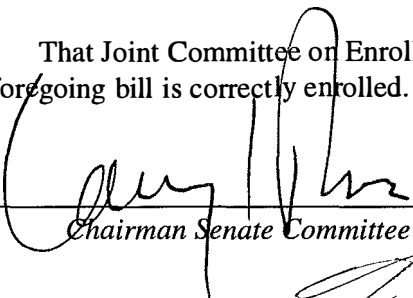
119 death and must contact a family member in the course of
120 performing his or her duties outside of the team; or

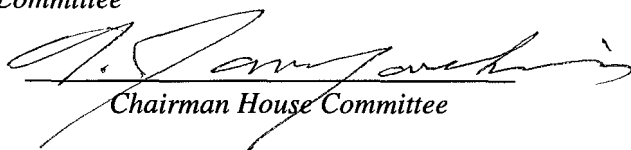
121 (3) Enforce any public health standard or criminal law or
122 otherwise participate in any legal proceeding, except if a
123 member of the team is involved in the investigation of the death
124 or resulting prosecution and must participate in a legal proceed-
125 ing in the course of performing in his or her duties outside of
126 the team.

127 (k) Proceedings, records and opinions of the child fatality
128 review team are confidential, in accordance with section one,
129 article seven, chapter forty-nine of this code, and are not subject
130 to discovery, subpoena or introduction into evidence in any
131 civil or criminal proceeding. Nothing in this subsection is to be
132 construed to limit or restrict the right to discover or use in any
133 civil or criminal proceeding anything that is available from
134 another source and entirely independent of the proceedings of
135 the child fatality review team.

136 (l) Members of the child fatality review team may not be
137 questioned in any civil or criminal proceeding regarding
138 information presented in or opinions formed as a result of a
139 meeting of the team. Nothing in this subsection may be
140 construed to prevent a member of the child fatality review team
141 from testifying to information obtained independently of the
142 team or which is public information.

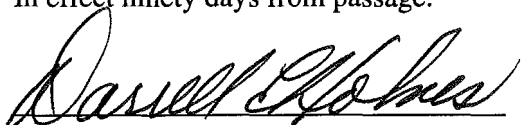
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

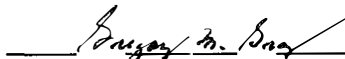

Chairman Senate Committee

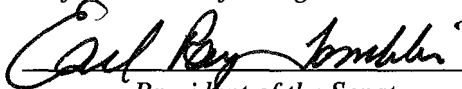

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

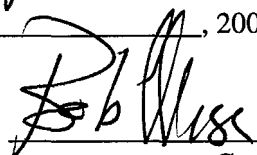

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 11th
day of April, 2001.


Governor

PRESENTED TO THE

GOVERNOR

Date 4/9/01

Time 2:20 pm