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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2001

ENROLLED

Committee Substitute for
SENATE BILL NO. 24

(By Senator Hunter, et al **)**

PASSED April 13, 2001

In Effect 90 days from Passage

FILED

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 24

(SENATORS HUNTER, MINEAR, REDD, KESSLER,
MITCHELL AND ROWE, *original sponsors*)

[Passed April 13, 2001; in effect ninety days from passage.]

AN ACT to amend article twenty-six, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto seven new sections, designated sections one thousand one, one thousand two, one thousand three, one thousand four, one thousand five, one thousand six, and one thousand seven, all relating to establishing children's centers for the monitoring of custodial responsibility; providing exclusions; requiring promulgation of rules; setting standards for centers; requiring certification; requiring contracts for use of centers; authorizing evaluations of centers; authorizing suspension or revocation of certifications; permitting representations upon certification; prohibiting false representation of certification and providing penalties; and allowing courts to order use of centers and to require payment of fees.

Be it enacted by the Legislature of West Virginia:

That article twenty-six, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto seven new sections, designated sections one thousand one, one thousand two, one thousand three, one thousand four, one thousand five, one thousand six and one thousand seven, all to read as follows:

ARTICLE 26. DOMESTIC VIOLENCE ACT.

**PART 10. CHILDREN'S CENTERS FOR THE MONITORING OF
CUSTODIAL RESPONSIBILITY.**

§48-26-1001. Legislative findings.

1 The Legislature finds that increasing numbers of
2 children are living with one parent and that many of these
3 children have been exposed to violence in the home. The
4 Legislature further finds that it is sometimes in the best
5 interests of children that the exercise of custodial respon-
6 sibility, including the exchange of children, be monitored
7 in order to observe and record the exercise of custodial
8 responsibility and to discourage or prevent inappropriate
9 conduct. For these reasons, the Legislature declares that
10 a program be implemented to foster safe and neutral
11 centers to monitor custodial responsibility, including the
12 exchange of children, through the certification of chil-
13 dren's centers for the monitoring of custodial responsibil-
14 ity.

§48-26-1002. Exclusions.

1 The provisions of this part do not apply to therapeutic
2 visitation exchanges or any activity conducted by the state
3 or others in abuse and neglect proceedings pursuant to
4 articles six and six-a, chapter forty-nine of this code in
5 which assessment, evaluation, formulation of a treatment
6 plan, case management, counseling, therapy or similar
7 activities occur.

§48-26-1003. Rules.

1 (a) The board shall propose rules in accordance with the
2 provisions of article three, chapter twenty-nine-a of this
3 code to implement the provisions of this part. The board
4 shall consult with judges, magistrates, law-enforcement
5 officers, licensed batterers intervention programs, the
6 family law committee of the West Virginia state bar,
7 licensed domestic violence programs, trade organizations
8 of licensed domestic violence programs and other individ-
9 uals and organizations it considers appropriate.

10 (b) At a minimum, the rules are to include:

11 (1) Requirements for the physical facilities in which
12 centers operate, including accommodations for persons
13 with disabilities;

14 (2) Requirements for the qualification and training of
15 individuals monitoring custodial responsibility, including
16 the exchange of children;

17 (3) Requirements for qualifications and training of
18 persons authorized to evaluate centers for compliance with
19 the requirements of this part and rules promulgated
20 pursuant to this section;

21 (4) The period of certification; and

22 (5) Allowable fees for use of the centers.

§48-26-1004. Contract by persons using center.

1 Every center shall require that the parents or other
2 caretakers sign a written contract prior to using the center
3 and that the use of the services provided by the center can
4 be terminated by the center for violation of the contract.

**§48-26-1005. Certification of children's centers for the monitor-
ing of custodial responsibility; revocation or
suspension of certification.**

1 (a) The board shall accept applications for certification
2 and grant or deny the applications in an expeditious
3 manner.

4 (b) The board may direct an evaluation to be made of a
5 center that has applied for certification or has been
6 certified to determine the center's ability to monitor
7 custodial responsibility, including the exchange of chil-
8 dren, and the center's compliance with the provisions of
9 this article, rules promulgated pursuant to this article and
10 other law. The evaluation may be done by the appointed
11 members of the board, by designees of the board or by peer
12 evaluation by persons employed at other certified centers.

13 (c) The board may suspend or revoke certification of a
14 center if the board finds that the center has ceased to
15 comply with the provisions of this article, rules promul-
16 gated pursuant to this article or other law.

§48-26-1006. Representations regarding certification; misrepresentations; penalties.

1 (a) Centers that have been certified may represent that
2 they are certified for monitored custodial responsibility,
3 including the exchange of children.

4 (b) No person may represent to the public that a center
5 is certified unless the center has been certified in accor-
6 dance with the provisions of this article. Any person
7 violating the provisions of this subsection is guilty of a
8 misdemeanor and, upon conviction thereof, shall be fined
9 no more than five hundred dollars.

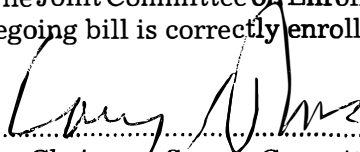
§48-26-1007. Court orders; use of centers without court order.

1 (a) Judges and magistrates may, as a condition of
2 custody, order persons to apply to a certified center for the
3 monitoring of custodial responsibility, including the
4 exchange of children, and to comply with the terms and
5 conditions of those services. A certified center may not be
6 required to perform duties which are beyond the center's
7 capacity or scope of services.

8 (b) Judges and magistrates may require a person to pay
9 a reasonable amount based on ability to pay and other
10 relevant criteria for any fee charged by a center.

11 (c) Certified centers may monitor custodial responsibil-
12 ity or provide other services to persons who are not
13 ordered to seek the services of the center when the adult
14 parties agree to the use of the center.

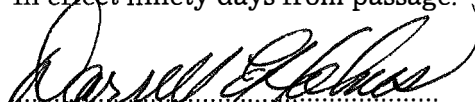
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

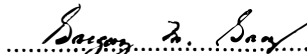

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Chairman Senate Committee

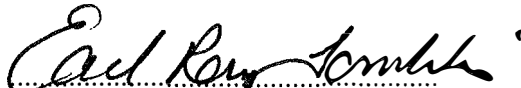

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Chairman House Committee


Originated in the Senate

In effect ninety days from passage.


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Clerk of the Senate



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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved this the 1st

Day of May, 2001.


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Governor

PRESENTED TO THE
GOVERNOR

Date 8/27/01

Time 4:15p