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
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 children are living with one parent and that many of these children have been exposed to violence in the home. The Legislature further finds that it is sometimes in the best interests of children that the exercise of custodial responsibility, including the exchange of children, be monitored in order to observe and record the exercise of custodial responsibility and to discourage or prevent inappropriate conduct. For these reasons, the Legislature declares that a program be implemented to foster safe and neutral centers to monitor custodial responsibility, including the exchange of children, through the certification of children's centers for the monitoring of custodial responsibility.

§48-26-1002. Exclusions.

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

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

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

1. Requirements for the physical facilities in which centers operate, including accommodations for persons with disabilities;
2. Requirements for the qualification and training of individuals monitoring custodial responsibility, including the exchange of children;
3. Requirements for qualifications and training of persons authorized to evaluate centers for compliance with the requirements of this part and rules promulgated pursuant to this section;
4. The period of certification; and
5. Allowable fees for use of the centers.


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

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

(a) The board shall accept applications for certification and grant or deny the applications in an expeditious manner.
(b) The board may direct an evaluation to be made of a center that has applied for certification or has been certified to determine the center’s ability to monitor custodial responsibility, including the exchange of children, and the center’s compliance with the provisions of this article, rules promulgated pursuant to this article and other law. The evaluation may be done by the appointed members of the board, by designees of the board or by peer evaluation by persons employed at other certified centers.

(c) The board may suspend or revoke certification of a center if the board finds that the center has ceased to comply with the provisions of this article, rules promulgated pursuant to this article or other law.

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

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

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

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

(a) Judges and magistrates may, as a condition of custody, order persons to apply to a certified center for the monitoring of custodial responsibility, including the exchange of children, and to comply with the terms and conditions of those services. A certified center may not be required to perform duties which are beyond the center’s capacity or scope of services.
(b) Judges and magistrates may require a person to pay a reasonable amount based on ability to pay and other relevant criteria for any fee charged by a center.

(c) Certified centers may monitor custodial responsibility or provide other services to persons who are not ordered to seek the services of the center when the adult parties agree to the use of the center.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 1st day of May, 2001.

Governor