WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2004

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4250

(By Delegates Brown, Amores, Palumbo and Mahan)

Passed March 13, 2004

In Effect Ninety Days from Passage
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FOR

H. B. 4250

(BY DELEGATES BROWN, AMORES, PALUMBO AND MAHAN)

[Passed March 13, 2004; in effect ninety days from passage.]

AN ACT to amend the code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-21, relating to legal actions against psychologists and psychiatrists appointed by a court to provide expert testimony for child custody evaluations; providing standard for good faith; barring of anonymous administrative complaints; providing method for assigning costs of proceedings; and awarding of attorneys fees.

Be it enacted by the Legislature of West Virginia:

That the code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §55-7-21, to read as follows:

ARTICLE 7. ACTIONS FOR INJURIES.
§55-7-21. Creating presumption of good faith for court appointed licensed psychologists and psychiatrists conducting a child custody evaluation; method for assigning court and legal fees.

(a) A licensed psychologist or licensed psychiatrist who has been appointed by a court to conduct a child custody evaluation in a judicial proceeding shall be presumed to be acting in good faith if the evaluation has been conducted consistent with standards established by the American Psychological Association’s guidelines for child custody evaluations in divorce proceedings.

(b) No complaint to a licensing or accrediting entity against a court appointed licensed psychologist or psychiatrist relating to a child custody evaluation shall be considered if it is filed anonymously and does not include the full name, address and telephone number of the complainant.

(c) Any action filed against a licensed psychologist or licensed psychiatrist alleging tortious conduct related to evidence provided while acting as a court-appointed expert in a child custody matter shall contain a recitation of a specific allegation of breaches of American Psychological Association’s guidelines for child custody evaluations in divorce proceedings. Failure to specifically plead such violations shall be cause for dismissal of the action.

(d) Any licensed psychologist or licensed psychiatrist who is named in a civil action as a defendant because of his or her performance of a child custody evaluation while acting as a court-appointed expert and who prevails due to a finding that he or she acted consistently with the American Psychological Association’s guidelines shall be entitled to reimbursement of all reasonable costs and attorneys fees expended.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Greg Butcher

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

Earl Ray Tomblin

President of the Senate

Speaker of the House of Delegates

The within is approved this the 5th day of April, 2004.

Governor