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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4649

(By Delegates Amores, Fleischauer,
Craig and Schadler)

Passed March 11, 2004

In Effect Ninety Days from Passage

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H. B. 4649

(BY DELEGATES AMORES, FLEISCHAUER,
CRAIG AND SCHADLER)

[Passed March 11, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §49-5D-2, §49-5D-3 and §49-5D-3a of the code of West Virginia, 1931, as amended, all relating to child welfare; providing for a child advocacy center participation in multidisciplinary investigative teams; providing for uniform comprehensive assessments of children; preference to instate placement; including in team, child, the juvenile's attorney, appropriate school official, court-appointed special advocate when available, and a representative from the licensed domestic violence program serving the county, when appropriate and available; requiring team preference of in-state placement; requiring court preference of instate placement; and requiring that reasons for out-of-state placement be in order.

Be it enacted by the Legislature of West Virginia:

That §49-5D-2, §49-5D-3 and §49-5D-3a of the code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 5D. MULTIDISCIPLINARY TEAMS.

§49-5D-2. Multidisciplinary investigative teams; establishment; procedures; coordination between agencies.

1 (a) The prosecuting attorney shall establish a
2 multidisciplinary investigative team in each county. The
3 multidisciplinary team shall be headed and directed by the
4 prosecuting attorney and shall include as permanent members
5 the prosecuting attorney or his or her designee, a local child
6 protective services caseworker from the department of health
7 and human resources, a local law-enforcement officer employed
8 by a law-enforcement agency in the county and, where appro-
9 priate to the particular case under consideration and available,
10 a child advocacy center representative, and a representative
11 from the licensed domestic violence program serving the
12 county. The department of health and human resources and any
13 local law-enforcement agency or agencies selected by the
14 prosecuting attorney shall appoint their representatives to the
15 team by submitting a written designation of the team to the
16 prosecuting attorney of each county within thirty days of the
17 prosecutor's request that the appointment be made. Within
18 fifteen days of the appointment, the prosecuting attorney shall
19 notify the chief judge of each circuit within which the county is
20 situated of the names of the representatives so appointed. Any
21 other person or any other appointee of an agency who may
22 contribute to the team's efforts to assist a minor child as may be
23 determined by the permanent members of the team may also be
24 appointed as a member of the team by the prosecutor with
25 notification to the chief judge.

26 (b) Any permanent member of the multidisciplinary
27 investigative team shall refer all cases of accidental death of

28 any child reported to their agency and all cases when a child
29 dies while in the custody of the state for investigation and
30 review by the team. The multidisciplinary investigative team
31 shall meet at regular intervals at least once every calendar
32 month.

33 (c) The investigative team shall be responsible for coordi-
34 nating or cooperating in the initial and ongoing investigation of
35 all civil and criminal allegations pertinent to cases involving
36 child sexual assault, child sexual abuse, child abuse and neglect,
37 and shall make a recommendation to the county prosecuting
38 attorney as to the initiation or commencement of a civil petition
39 and/or criminal prosecution.

40 (d) State, county and local agencies shall provide the
41 multidisciplinary investigative team with any information
42 requested in writing by the team as allowable by law or upon
43 receipt of a certified copy of the circuit court's order directing
44 said agencies to release information in its possession relating to
45 the child. The team shall assure that all information received
46 and developed in connection with the provisions of this article
47 remains confidential. For purposes of this section, the term
48 "confidential" shall be construed in accordance with the
49 provisions of section one, article seven of this chapter.

§49-5D-3. Multidisciplinary treatment planning process.

1 (a)(1) A multidisciplinary treatment planning process shall
2 be established within each county of the state, either separately
3 or in conjunction with a contiguous county by the secretary of
4 the department with advice and assistance from the prosecutor's
5 advisory council as set forth in section four, article four, chapter
6 seven of this code.

7 (2) Treatment teams shall assess, plan and implement a
8 comprehensive, individualized service plan for children who are

9 victims of abuse or neglect and their families when a judicial
10 proceeding has been initiated involving the child or children for
11 juveniles and their families involved in status offense or
12 delinquency proceedings when, in a status offense proceeding,
13 the court refers the juvenile for services pursuant to sections
14 eleven and eleven-a, article five of this chapter and when, in a
15 delinquency proceeding, the court is considering placing the
16 juvenile in the department's custody or placing the juvenile
17 out-of-home at the department's expense pursuant to the
18 provisions of section thirteen of said article. In any such status
19 offense or delinquency case, the juvenile probation officer shall
20 notify the local office of the department of health and human
21 resources and the division of juvenile services at least five
22 working days before the court proceeding in order to allow the
23 multidisciplinary treatment team to convene and develop a
24 comprehensive individualized service plan for the child:
25 *Provided*, That such notice is not required in cases where the
26 child is already in state custody or there exist exigent circum-
27 stances which justify taking the child immediately into custody
28 without a judicial proceeding. In developing an individualized
29 service plan for a child, the team shall utilize a uniform
30 comprehensive assessment of the child. The department shall
31 adopt a standard uniform comprehensive assessment instrument
32 or protocol to be used by treatment teams.

33 (3) Prior to disposition, in each case in which a treatment
34 planning team has been convened, the team shall advise the
35 court as to the types of services the team has determined are
36 needed and the type of placement, if any, which will best serve
37 the needs of the child. If the team determines that an out-of-
38 home placement will best serve the needs of the child, the team
39 shall first consider placement at facilities or programs located
40 within the state. The team may only recommend placement in
41 an out-of-state facility if it concludes, after considering the best
42 interests and overall needs of the child, that there are no

43 available and suitable in-state facilities which can satisfactorily
44 meet the specific needs of the child.

45 (b) Each treatment team shall be convened and directed by
46 the child's or family's case manager. The treatment team shall
47 consist of the child's custodial parent or parents, guardian or
48 guardians, other immediate family members, the attorney or
49 attorneys representing the child, the parent or parents of the
50 child, the child's attorney, the guardian ad litem, if any, the
51 prosecuting attorney or his or her designee and where appropri-
52 ate to the particular case under consideration and available, a
53 court-appointed special advocate, an appropriate school official
54 and any other person or an agency representative who may
55 assist in providing recommendations for the particular needs of
56 the child and family. The child may participate in
57 multidisciplinary treatment team meetings if such is deemed
58 appropriate by the multidisciplinary treatment team. For
59 purposes of delinquency proceedings, the juvenile probation
60 officer shall be a member of the treatment team.

61 (c) The treatment team shall coordinate its activities and
62 membership with local family resource networks and coordi-
63 nate with other local and regional child and family service
64 planning committees to assure the efficient planning and
65 delivery of child and family services on a local and regional
66 level.

67 (d) State, county and local agencies shall provide the
68 multidisciplinary treatment teams with any information
69 requested in writing by the team as allowable by law or upon
70 receipt of a certified copy of the circuit court's order directing
71 said agencies to release information in its possession relating to
72 the child. The team shall assure that all information received
73 and developed in connection with the provisions of this article
74 remain confidential. For purposes of this section, the term

75 “confidential” shall be construed in accordance with the
76 provisions of section one, article seven of this chapter.

§49-5D-3a. Recommendation of team to the court; hearing requirement; required findings.

1 (a) In any case in which a multidisciplinary treatment team
2 develops an individualized service plan for a child pursuant to
3 the provisions of section three of this article, the court shall
4 review the proposed service plan to determine if implementa-
5 tion of the plan is in the child’s best interests. If the
6 multidisciplinary team cannot agree on a plan or if the court
7 determines not to adopt the team’s recommendations, it shall,
8 upon motion or sua sponte, schedule and hold within ten days
9 of such determination, and prior to the entry of an order placing
10 the child in the custody of the department or in an out-of-home
11 setting, a hearing to consider evidence from the team as to its
12 rationale for the proposed service plan. If, after a hearing held
13 pursuant to the provisions of this section, the court does not
14 adopt the teams’s recommended service plan, it shall make
15 specific written findings as to why the team’s recommended
16 service plan was not adopted.

17 (b) In any case in which the court decides to order the child
18 placed in an out-of-state facility or program it shall set forth in
19 the order directing the placement the reasons why the child was
20 not placed in an in-state facility or program.

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 25th
day of March, 2004.

Governor

PRESENTED TO THE
GOVERNOR

DATE 3/19/04
TIME 3:00 pm