

FILED

2004 APR -5 P 4: 23

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004

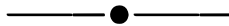


# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

**House Bill No. 4250**

(By Delegates Brown, Amores, Palumbo and Mahan)



Passed March 13, 2004

In Effect Ninety Days from Passage

FILED

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FOR

## H. B. 4250

(BY DELEGATES BROWN, AMORES, PALUMBO AND MAHAN)

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

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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.**

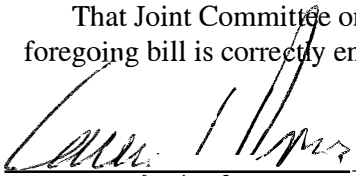
1       (a) A licensed psychologist or licensed psychiatrist who has  
2       been appointed by a court to conduct a child custody evaluation  
3       in a judicial proceeding shall be presumed to be acting in good  
4       faith if the evaluation has been conducted consistent with  
5       standards established by the American psychological associa-  
6       tion's guidelines for child custody evaluations in divorce  
7       proceedings.

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

13      (c) Any action filed against a licensed psychologist or  
14      licensed psychiatrist alleging tortious conduct related to  
15      evidence provided while acting as a court-appointed expert in  
16      a child custody matter shall contain a recitation of a specific  
17      allegation of breaches of American psychological association's  
18      guidelines for child custody evaluations in divorce proceedings.  
19      Failure to specifically plead such violations shall be cause for  
20      dismissal of the action

21      (d) Any licensed psychologist or licensed psychiatrist who  
22      is named in a civil action as a defendant because of his or her  
23      performance of a child custody evaluation while acting as a  
24      court-appointed expert and who prevails due to a finding that he  
25      or she acted consistently with the American psychological  
26      association's guidelines shall be entitled to reimbursement of  
27      all reasonable costs and attorneys fees expended.

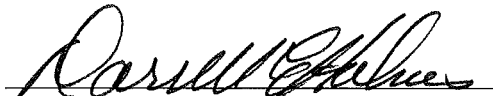
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

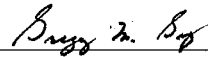
  
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Chairman Senate Committee

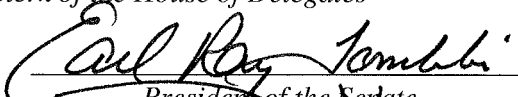
  
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Chairman House Committee

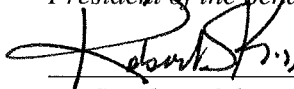
Originating in the House.

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 of the House of Delegates

The within is approved this the 5<sup>th</sup>  
day of April, 2004.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

DATE 3/31/04

BY 10:15