

SB 2007

FILED

2007 SEP -6 AM 10: 21

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-EIGHTH LEGISLATURE**  
**SECOND EXTRAORDINARY SESSION, 2007**

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**ENROLLED**

**Senate Bill No. 2007**

(By SENATORS TOMBLIN, MR. PRESIDENT, AND CARUTH,  
By REQUEST OF THE EXECUTIVE)

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[Passed August 21, 2007; to take effect from passage.]

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AN ACT to repeal §5-26-1, §5-26-2, §5-26-2a, §5-26-2b, §5-26-3, §5-26-4, §5-26-5, §5-26-6 and §5-26-8 of the Code of West Virginia, 1931, as amended; to repeal §18-5-18d of said code; to amend and reenact §16-5K-2 and §16-5K-4 of said code; to amend and reenact §49-9-3 and §49-9-15 of said code; and to amend said code by adding thereto a new article, designated §49-6C-1 and §49-6C-2, all relating to repeal of the code provisions authorizing the Governor's Cabinet on Children and Families; transferring necessary powers and duties from said cabinet to the Bureau for Children and Families; transferring control of the Children's

Trust Fund from said cabinet to the Bureau for Children and Families in the Department of Health and Human Resources; and correcting code references.

*Be it enacted by the Legislature of West Virginia:*

That §5-26-1, §5-26-2, §5-26-2a, §5-26-2b, §5-26-3, §5-26-4, §5-26-5, §5-26-6 and §5-26-8 of the Code of West Virginia, 1931, as amended, be repealed; that §18-5-18d of said code be repealed; that §16-5K-2 and §16-5K-4 of said code be amended and reenacted; that §49-9-3 and §49-9-15 of said code be amended and reenacted; and that said code be amended by adding thereto a new article, designated §49-6C-1 and §49-6C-2, all to read as follows:

## **CHAPTER 16. PUBLIC HEALTH.**

### **ARTICLE 5K. EARLY INTERVENTION SERVICES FOR CHILDREN WITH DEVELOPMENTAL DELAYS.**

#### **§16-5K-2. Definitions.**

1 Unless the context clearly otherwise indicates, as  
2 used in this article:

3 (a) "Bureau" means the Bureau for Children and  
4 Families within the Department of Health and Human  
5 Resources.

6 (b) "Council" means the Governor's Early  
7 Intervention Interagency Coordinating Council.

8 (c) "Department" means the Department of Health  
9 and Human Resources.

10 (d) "Early intervention services" means

11 developmental services which:

12 (1) Are designed to meet the developmental needs of  
13 developmentally delayed infants and toddlers and the  
14 needs of the family related to enhancing the child's  
15 development;

16 (2) Are selected in collaboration with the parents;

17 (3) Are provided under public supervision in  
18 conformity with an individualized family service plan  
19 and at no cost to families;

20 (4) Meet the state's early intervention standards, as  
21 established by the Department of Health and Human  
22 Resources with the assistance of the Governor's Early  
23 Intervention Interagency Coordinating Council;

24 (5) Include assistive technology, audiology,  
25 audiology case management, family training,  
26 counseling and home visits, health services necessary  
27 to enable a child to benefit from other early  
28 intervention services, medical services only for  
29 diagnostic or evaluation purposes, nursing services,  
30 nutrition services, occupational therapy, physical  
31 therapy, psychological services, social work services,  
32 special instruction, speech-language pathology, vision  
33 and transportation; and

34 (6) Are provided by licensed or otherwise qualified  
35 personnel, including audiologists, family therapists,  
36 nurses, nutritionists, occupational therapists,  
37 orientation and mobility specialists, physical  
38 therapists, physicians, psychologists, social workers,  
39 special educators, speech-language pathologists and

40 paraprofessionals appropriately trained and  
41 supervised.

42 (e) "Infants and toddlers with developmental delay"  
43 means children from birth to thirty-six months of age  
44 who need early intervention services for any of the  
45 following reasons:

46 (1) They are experiencing developmental delays, as  
47 measured by appropriate methods and procedures, in  
48 one or more of the following areas: Cognitive,  
49 physical, including visual and hearing,  
50 communicative, adaptive, social, language and speech,  
51 or psycho-social development or self-help skills; or

52 (2) They have a diagnosed physical or mental  
53 condition that has a high probability of resulting in  
54 developmental delay; or

55 (3) They are at risk of having substantial  
56 developmental delays if early intervention services are  
57 not provided.

**§16-5K-4. Interagency coordinating council.**

1 (a) The Governor's Early Intervention Interagency  
2 Coordinating Council is continued. The council is  
3 composed of at least fifteen members appointed by the  
4 Governor with additional ex officio members  
5 representing specific agencies serving infants and  
6 toddlers with developmental delays.

7 (b) The membership of the council shall consist of  
8 the following:

9       (1) At least three parents of children, ages birth  
10 through six years of age, who have developmental  
11 delays;

12       (2) At least three persons representative of the  
13 public or private service providers;

14       (3) At least one member of the House of Delegates  
15 recommended by the Speaker of the House of  
16 Delegates and one member of the Senate  
17 recommended by the Senate President;

18       (4) At least one person from higher education  
19 involved in training individuals to provide services  
20 under this article; and

21       (5) A representative of each of the agencies involved  
22 in the provision of or payment for early intervention  
23 services to infants and toddlers with developmental  
24 delays and their families.

25       (c) The council shall meet at least quarterly and in  
26 such place as it considers necessary.

27       (d) The council is responsible for the following  
28 functions:

29       (1) To advise and assist the Department of Health  
30 and Human Resources in the development and  
31 implementation of early intervention policies;

32       (2) To assist the department in achieving the full  
33 participation of all relevant state agencies and  
34 programs;

35 (3) To collaborate with the Bureau for Children and  
36 Families in the coordination of early intervention  
37 services with other programs and services for children  
38 and families;

39 (4) To assist the department in the effective  
40 implementation of a statewide system of early  
41 intervention services;

42 (5) To assist the department in the resolution of  
43 disputes;

44 (6) To advise and assist the department in the  
45 preparation of grant applications; and

46 (7) To prepare and submit an annual report to the  
47 Governor, the Legislature and the United States  
48 Secretary of Education on the status of early  
49 intervention programs within the state.

## CHAPTER 49. CHILD WELFARE.

### ARTICLE 6C. CHILDREN'S TRUST FUND.

#### §49-6C-1. Continuation and transfer of control of trust fund.

1 (a) The Children's Fund, created for the sole purpose  
2 of awarding grants, loans and loan guarantees for  
3 child abuse and neglect prevention activities by  
4 enactment of chapter twenty-seven, Acts of the  
5 Legislature, one thousand nine hundred eighty-four,  
6 as last amended and reenacted by chapter one  
7 hundred fifty-nine, Acts of the Legislature, one  
8 thousand nine hundred ninety-nine, is hereby  
9 continued and renamed the West Virginia Children's  
10 Trust Fund: *Provided*, That upon the effective date of

11 the enactment of this section during the second  
12 extraordinary session of the Legislature in two  
13 thousand seven, the fund shall be administered by the  
14 Commissioner of the Bureau for Children and  
15 Families. Gifts, bequests or donations for this  
16 purpose, in addition to appropriations to the fund,  
17 shall be deposited in the State Treasury in a special  
18 revenue account under the control of the Secretary of  
19 the Department of Health and Human Resources or  
20 his or her designee.

21 (b) Each state taxpayer may voluntarily contribute a  
22 portion of the taxpayer's state income tax refund to  
23 the Children's Trust Fund by designating the  
24 contribution on the state personal income tax return  
25 form. The bureau shall approve the wording of the  
26 designation on the income tax return form. The State  
27 Tax Commissioner shall determine by the first day of  
28 July of each year the total amount designated  
29 pursuant to this subsection and shall report that  
30 amount to the State Treasurer, who shall credit that  
31 amount to the Children's Trust Fund.

32 (c) All interest accruing from investment of moneys  
33 in the Children's Trust Fund shall be credited to the  
34 fund. The Legislative Auditor shall conduct an audit  
35 of the fund before the first day of July, two thousand  
36 eight, and at least every three fiscal years thereafter.

37 (d) Grants, loans and loan guarantees may be  
38 awarded from the Children's Trust Fund by the  
39 Commissioner of the Bureau for Children and  
40 Families for child abuse and neglect prevention  
41 activities.



42 (e) Upon the effective date of the enactment of this  
43 section, all employees, records, responsibilities,  
44 obligations, assets and property, of whatever kind and  
45 character, of the Governor's Cabinet on Children and  
46 Families are hereby transferred to the Bureau for  
47 Children and Families within the Department of  
48 Health and Human Resources, including, but not  
49 limited to, all rights and obligations held by the  
50 Governor's Cabinet on Children and Families under  
51 any grants, loans or loan guarantees previously  
52 awarded from the Children's Trust Fund.

53 (f) All orders, determinations, rules, permits, grants,  
54 contracts, certificates, licenses, waivers, bonds,  
55 authorizations and privileges which have been issued,  
56 made, granted or allowed to become effective by the  
57 Governor, by any state department or agency or  
58 official thereof, or by a court of competent  
59 jurisdiction, in the performance of functions which  
60 have been transferred to the Bureau for Children and  
61 Families within the Department of Health and Human  
62 Resources, and were in effect on the date the transfer  
63 occurred continue in effect, for the benefit of the  
64 department, according to their terms until modified,  
65 terminated, superseded, set aside or revoked in  
66 accordance with the law by the Governor, the  
67 Secretary of the Department of Health and Human  
68 Resources or other authorized official, a court of  
69 competent jurisdiction or by operation of law.

**§49-6C-2. Family resource networks.**

1 (a) "Family resource network" means a local  
2 community organization charged with service  
3 coordination, needs and resource assessment,

4 planning, community mobilization and evaluation,  
5 and which has been recognized by the cabinet as  
6 having met the following criteria:

7 (1) Agreeing to a single governing entity;

8 (2) Agreeing to engage in activities to improve  
9 service systems for children and families within the  
10 community;

11 (3) Addressing a geographic area of a county or two  
12 or more contiguous counties;

13 (4) Having nonproviders, which include family  
14 representatives and other members who are not  
15 employees of publicly funded agencies, as the majority  
16 of the members of the governing body, and having  
17 family representatives as the majority of the  
18 nonproviders;

19 (5) Having representatives of local service agencies,  
20 including, but not limited to, the public health  
21 department, the behavioral health center, the local  
22 health and human resources agency and the county  
23 school district, on the governing body;

24 (6) Accepting principles consistent with the  
25 cabinet's mission as part of its philosophy.

26 (b) A family resource network may not provide  
27 direct services, which means to provide programs or  
28 services directly to children and families.

#### **ARTICLE 9. MISSING CHILDREN INFORMATION ACT.**

##### **§49-9-3. Clearinghouse function.**

1 (a) The Missing Children Information Clearinghouse  
2 is established under the West Virginia State Police.  
3 The State Police:

4 (1) Shall provide for the administration of the  
5 clearinghouse; and

6 (2) May promulgate rules in accordance with the  
7 provisions of article three, chapter twenty-nine-a of  
8 this code to carry out the provisions of this article.

9 (b) The clearinghouse is a central repository of  
10 information on missing children and shall be used by  
11 all law-enforcement agencies in this state.

12 (c) The clearinghouse shall:

13 (1) Establish a system of intrastate communication  
14 of information relating to missing children;

15 (2) Provide a centralized file for the exchange of  
16 information on missing children and unidentified  
17 bodies of children within the state;

18 (3) Communicate with the National Crime  
19 Information Center for the exchange of information  
20 on missing children suspected of interstate travel;

21 (4) Collect, process, maintain and disseminate  
22 accurate and complete information on missing  
23 children;

24 (5) Provide a statewide toll-free telephone line for  
25 the reporting of missing children and for receiving  
26 information on missing children;

27     (6) Disseminate to custodians, law-enforcement  
28 agencies, the state Department of Education, the  
29 Bureau for Children and Families and the general  
30 public information that explains how to prevent child  
31 abduction and what to do if a child becomes missing;

32     (7) Compile statistics relating to the incidence of  
33 missing children within the state;

34     (8) Provide training materials and technical  
35 assistance to law-enforcement agencies and social  
36 services agencies pertaining to missing children; and

37     (9) Establish a media protocol for disseminating  
38 information pertaining to missing children.

39     (d) The clearinghouse shall print and distribute  
40 posters, flyers and other forms of information  
41 containing descriptions of missing children.

42     (e) The State Police may accept public or private  
43 grants, gifts and donations to assist in carrying out the  
44 provisions of this article.

**§49-9-15.     Clearinghouse Advisory Council; members,  
                  appointments and expenses; appointment,  
                  duties and compensation of director.**

1     (a) The Clearinghouse Advisory Council is continued  
2 as a body corporate and politic, constituting a public  
3 corporation and government instrumentality. The  
4 council shall consist of eleven members, who are  
5 knowledgeable about and interested in issues relating  
6 to missing or exploited children, as follows:

7       (1) Six members to be appointed by the Governor,  
8       with the advice and consent of the Senate, with not  
9       more than four belonging to the same political party,  
10       three being from different congressional districts of  
11       the state and, as nearly as possible, providing broad  
12       state geographical distribution of members of the  
13       council, and at least one representing a nonprofit  
14       organization involved with preventing the abduction,  
15       runaway or exploitation of children or locating  
16       missing children;

17       (2) The Secretary of the Department of Health and  
18       Human Resources or his or her designee;

19       (3) The Superintendent of the West Virginia State  
20       Police or his or her designee;

21       (4) The State Superintendent of Schools or his or her  
22       designee;

23       (5) The Director of the Criminal Justice and  
24       Highway Safety Division or his or her designee; and

25       (6) The Commissioner of the Bureau for Children  
26       and Families or his or her designee.

27       (b) The Governor shall appoint the six council  
28       members for staggered terms. The terms of the  
29       members first taking office on or after the effective  
30       date of this legislation shall expire as designated by  
31       the Governor. Each subsequent appointment shall be  
32       for a full three-year term. Any appointed member  
33       whose term is expired shall serve until a successor has  
34       been duly appointed and qualified. Any person  
35       appointed to fill a vacancy shall serve only for the

36 unexpired term. A member is eligible for only one  
37 successive reappointment. A vacancy shall be filled  
38 by the Governor in the same manner as the original  
39 appointment was made.

40 (c) Members of the council are not entitled to  
41 compensation for services performed as members but  
42 are entitled to reimbursement for all reasonable and  
43 necessary expenses actually incurred in the  
44 performance of their duties in a manner consistent  
45 with the guidelines of the Travel Management Office  
46 of the Department of Administration.

47 (d) A majority of serving members constitutes a  
48 quorum for the purpose of conducting business. The  
49 chair of the council shall be designated by the  
50 Governor from among the appointed council members  
51 who represent nonprofit organizations involved with  
52 preventing the abduction, runaway or exploitation of  
53 children or locating missing children. The term of the  
54 chair shall run concurrently with his or her term of  
55 office as a member of the council. The council shall  
56 conduct all meetings in accordance with the open  
57 governmental meetings law pursuant to article nine-a,  
58 chapter six of this code.

59 (e) The employee of the West Virginia State Police  
60 who is primarily responsible for the clearinghouse  
61 established by section three of this article shall serve  
62 as the executive director of the council. He or she  
63 shall receive no additional compensation for service as  
64 the executive director of the council but shall be  
65 reimbursed for any reasonable and necessary expenses  
66 actually incurred in the performance of his or her  
67 duties as executive director in a manner consistent

68 with the guidelines of the Travel Management Office  
69 of the Department of Administration.

70 (f) The expenses of council members and the  
71 executive director shall be reimbursed from funds  
72 provided by foundation grants, in-kind contributions  
73 or funds obtained pursuant to subsection (b), section  
74 seventeen of this article.

75 (g) The executive director shall provide or obtain  
76 information necessary to support the administrative  
77 work of the council and, to that end, may contract  
78 with one or more nonprofit organizations or state  
79 agencies for research and administrative support.

80 (h) The executive director of the council shall be  
81 available to the Governor and to the Speaker of the  
82 House of Delegates and the President of the Senate to  
83 analyze and comment upon proposed legislation and  
84 rules which relate to or materially affect missing or  
85 exploited children.

86 (i) The council shall prepare and publish an annual  
87 report of its activities and accomplishments and  
88 submit it to the Governor and to the Joint Committee  
89 on Government and Finance on or before the fifteenth  
90 day of December of each year.

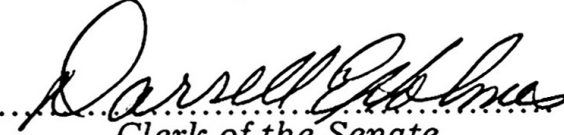
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
.....  
Chairman Senate Committee

  
.....  
Chairman House Committee

Originated in the Senate.

In effect 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 6 Day of September ..... 2007.

  
.....  
Governor



PRESENTED TO THE  
GOVERNOR

Date 8/27/07

Time 11:20am