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

ENROLLED

Senate Bill No. 2007

(By Senators Tomblin, Mr. President, and Caruth,
By Request of the Executive)

[Passed August 21, 2007; to take effect from passage.]
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§5-26-2a, §5-26-2b, §5-26-3, §5-26-4, §5-26-5, §5-26-6 and §5-26-8 of the Code of West Virginia, 1931, as amended, be repealed; that §18-5-18d of said code be repealed; that §16-5K-2 and §16-5K-4 of said code be amended and reenacted; that §49-9-3 and §49-9-15 of said code be amended and reenacted; and that said code be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.


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

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

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

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

5 (d) "Early intervention services" means
developmental services which:

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

(2) Are selected in collaboration with the parents;

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

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

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

(6) Are provided by licensed or otherwise qualified personnel, including audiologists, family therapists, nurses, nutritionists, occupational therapists, orientation and mobility specialists, physical therapists, physicians, psychologists, social workers, special educators, speech-language pathologists and
paraprofessionals appropriately trained and supervised.

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

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

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

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

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

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

(b) The membership of the council shall consist of the following:
(1) At least three parents of children, ages birth through six years of age, who have developmental delays;

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

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

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

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

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

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

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

(2) To assist the department in achieving the full participation of all relevant state agencies and programs;
(3) To collaborate with the Bureau for Children and Families in the coordination of early intervention services with other programs and services for children and families;

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

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

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

(7) To prepare and submit an annual report to the Governor, the Legislature and the United States Secretary of Education on the status of early 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.

(a) The Children's Fund, created for the sole purpose of awarding grants, loans and loan guarantees for child abuse and neglect prevention activities by enactment of chapter twenty-seven, Acts of the Legislature, one thousand nine hundred eighty-four, as last amended and reenacted by chapter one hundred fifty-nine, Acts of the Legislature, one thousand nine hundred ninety-nine, is hereby continued and renamed the West Virginia Children's Trust Fund: Provided, That upon the effective date of
the enactment of this section during the second extraordinary session of the Legislature in two thousand seven, the fund shall be administered by the Commissioner of the Bureau for Children and Families. Gifts, bequests or donations for this purpose, in addition to appropriations to the fund, shall be deposited in the State Treasury in a special revenue account under the control of the Secretary of the Department of Health and Human Resources or his or her designee.

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

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

(d) Grants, loans and loan guarantees may be awarded from the Children's Trust Fund by the Commissioner of the Bureau for Children and Families for child abuse and neglect prevention activities.
(e) Upon the effective date of the enactment of this section, all employees, records, responsibilities, obligations, assets and property, of whatever kind and character, of the Governor's Cabinet on Children and Families are hereby transferred to the Bureau for Children and Families within the Department of Health and Human Resources, including, but not limited to, all rights and obligations held by the Governor's Cabinet on Children and Families under any grants, loans or loan guarantees previously awarded from the Children's Trust Fund.

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

§49-6C-2. Family resource networks.

(a) "Family resource network" means a local community organization charged with service coordination, needs and resource assessment,
planning, community mobilization and evaluation, and which has been recognized by the cabinet as having met the following criteria:

(1) Agreeing to a single governing entity;

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

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

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

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

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

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

ARTICLE 9. MISSING CHILDREN INFORMATION ACT.

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

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

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

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

(c) The clearinghouse shall:

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

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

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

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

(5) Provide a statewide toll-free telephone line for the reporting of missing children and for receiving information on missing children;
(6) Disseminate to custodians, law-enforcement agencies, the state Department of Education, the Bureau for Children and Families and the general public information that explains how to prevent child abduction and what to do if a child becomes missing;

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

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

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

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

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

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

(a) The Clearinghouse Advisory Council is continued as a body corporate and politic, constituting a public corporation and government instrumentality. The council shall consist of eleven members, who are knowledgeable about and interested in issues relating to missing or exploited children, as follows:
(1) Six members to be appointed by the Governor, with the advice and consent of the Senate, with not more than four belonging to the same political party, three being from different congressional districts of the state and, as nearly as possible, providing broad state geographical distribution of members of the council, and at least one representing a nonprofit organization involved with preventing the abduction, runaway or exploitation of children or locating missing children;

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

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

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

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

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

(b) The Governor shall appoint the six council members for staggered terms. The terms of the members first taking office on or after the effective date of this legislation shall expire as designated by the Governor. Each subsequent appointment shall be for a full three-year term. Any appointed member whose term is expired shall serve until a successor has been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the
unexpired term. A member is eligible for only one successive reappointment. A vacancy shall be filled by the Governor in the same manner as the original appointment was made.

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

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

(e) The employee of the West Virginia State Police who is primarily responsible for the clearinghouse established by section three of this article shall serve as the executive director of the council. He or she shall receive no additional compensation for service as the executive director of the council but shall be reimbursed for any reasonable and necessary expenses actually incurred in the performance of his or her duties as executive director in a manner consistent
with the guidelines of the Travel Management Office of the Department of Administration.

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

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

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

(i) The council shall prepare and publish an annual report of its activities and accomplishments and submit it to the Governor and to the Joint Committee on Government and Finance on or before the fifteenth 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 6th Day of September, 2007.

Governor
PRESENTED TO THE GOVERNOR

Date 8/27/07
Time 11:20 AM