

HB 4531

FILED

2010 APR -1 PM 4: 25

OFFICE OF THE CLERK
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 4531**

(By Delegates Brown, Miley, Hatfield, Guthrie,
Lawrence, Poore and Caputo)



Passed March 13, 2010

In Effect Ninety Days From Passage

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H. B. 4531

(BY DELEGATES BROWN, MILEY, HATFIELD, GUTHRIE,
LAWRENCE, POORE AND CAPUTO)

[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §25-1-16 of the Code of West Virginia, 1931, as amended; to further amend said code by adding thereto a new section, designated §31-20-30a; and to amend and reenact §49-5E-6 of said code, all relating to the proper care of inmates in state institutions or facilities; authorizing the transfer of inmates with mental health needs; authorizing the transfer of inmates for medical reasons under appropriate supervision; providing criteria, standards and limitations relating to the proper treatment of pregnant inmates; authorizing restraint of pregnant inmates when necessary; and providing criteria, standards and limitations relating to the proper treatment of pregnant juveniles in the custody of the Division of Juvenile Services.

Be it enacted by the Legislature of West Virginia:

That §25-1-16 of the Code of West Virginia, 1931, as amended be amended and reenacted; that said code be amended by adding

thereto a new section, designated §31-20-30a; and that §49-5E-6 of said code be amended and reenacted, all to read as follows:

CHAPTER 25. DIVISION OF CORRECTIONS.

ARTICLE 1. ORGANIZATION, INSTITUTIONS AND CORRECTIONS MANAGEMENT.

§25-1-16. Transfer of inmates of state institutions or facilities.

1 The State Commissioner of Corrections shall have authority
2 to cause the transfer of any inmate from any correctional facility
3 to any other state or federal institution or facility which is
4 better equipped for the care or treatment of such inmate, or
5 for other good cause or reason.

6 Whenever an inmate committed to the custody of
7 corrections becomes mentally ill and his or her needs cannot
8 be properly met within the correctional facility, the
9 commissioner shall proceed in accordance with section thirty-
10 one, article five, chapter twenty-eight of this code.

11 Whenever an inmate committed to the custody of
12 corrections needs medical attention, other than mental health
13 care, not available at said prison, the warden or administrator
14 of said correctional facility shall immediately notify the
15 Commissioner of Corrections who, after proper investigation,
16 shall cause the transfer of said inmate to a facility properly
17 equipped to render the medical attention necessary. Such
18 inmate, while receiving treatment in said hospital, shall be
19 under an appropriate level of supervision at all times and
20 shall forthwith be returned to his or her correctional facility
21 upon release from said facility.

22 In providing or arranging for the necessary medical and
23 other care and treatment of a pregnant inmate, the warden or

24 administrator of the correctional facility shall take reasonable
25 measures to assure that pregnant inmates will not be restrained
26 after reaching the second trimester of pregnancy until the end
27 of the pregnancy: *Provided*, That if the inmate, based upon
28 her classification, discipline history, or other factors deemed
29 relevant by the warden or administrator poses a threat of
30 escape, or to the safety of herself, the public, staff or the
31 fetus, the inmate may be restrained in a manner reasonably
32 necessary: *Provided, however*, That prior to directing the
33 application of restraints and where there is no threat to the
34 safety of the inmate, the public, staff or the fetus, the warden,
35 administrator or designee shall consult with an appropriate
36 health care professional to assure that the manner of restraint
37 will not pose an unreasonable risk of harm to the inmate or
38 the fetus.

CHAPTER 31. CORPORATIONS.

ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY.

§31-20-30a. Mechanical restraints during pregnancy.

1 In providing or arranging for the necessary medical and
2 other care and treatment of inmates committed to the
3 Regional Jail Authority's custody, the authority shall assure
4 that pregnant inmates will not be restrained after reaching the
5 second trimester of pregnancy until the end of the pregnancy:
6 *Provided*, That if the inmate, based upon her classification,
7 discipline history, or other factors deemed relevant by the
8 authority poses a threat of escape, or to the safety of herself,
9 the public, staff or the fetus, the inmate may be restrained in
10 a manner reasonably necessary. *Provided, however*, That
11 prior to directing the application of restraints and where there
12 is no threat to the safety of the inmate, the public, staff or the

13 fetus, the director or designee shall consult with an appropriate
14 health care professional to assure that the manner of restraint
15 will not pose an unreasonable risk of harm to the inmate or
16 the fetus.

CHAPTER 49. CHILD WELFARE.

ARTICLE 5E. DIVISION OF JUVENILE SERVICES.

§49-5E-6. Medical and other treatment of juveniles in custody of the division; coordination of care and claims processing and administration by the department; authorization of certain cooperative agreements.

1 (a) Notwithstanding any other provision of law to the
2 contrary, the director, or his or her designee, is hereby
3 authorized to consent to the medical or other treatment of any
4 juvenile in the legal or physical custody of the director or the
5 division.

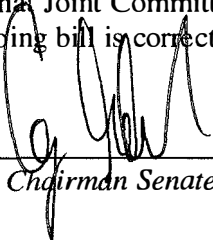
6 (b) In providing or arranging for the necessary medical
7 and other care and treatment of juveniles committed to the
8 division's custody, the director shall utilize service providers
9 who provide the same or similar services to juveniles under
10 existing contracts with the Department of Health and Human
11 Resources. In order to obtain the most advantageous
12 reimbursement rates, to capitalize on an economy of scale
13 and to avoid duplicative systems and procedures, the
14 department shall administer and process all claims for
15 medical or other treatment of juveniles committed to the
16 division's custody.

17 (c) In providing or arranging for the necessary medical
18 other care and treatment of juveniles committed to the
19 division's custody, the director shall assure that pregnant
20 inmates will not be restrained after reaching the second

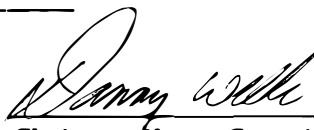
21 trimester of pregnancy until the end of the pregnancy:
22 *Provided*, That if the inmate, based upon her classification,
23 discipline history or other factors deemed relevant by the
24 director poses a threat of escape, or to the safety of herself,
25 the public, staff, or the unborn child, the inmate may be
26 restrained in a manner reasonably necessary: *Provided*,
27 *however*, That prior to directing the application of restraints
28 and where there is no threat to the safety of the inmate, the
29 public, staff or the fetus, the director or designee shall consult
30 with an appropriate health care professional to assure that the
31 manner of restraint will not pose an unreasonable risk of
32 harm to the inmate or the fetus.

33 (d) For purposes of implementing the mandates of this
34 section, the director is hereby authorized and directed to enter
35 into any necessary agreements with the Department of Health
36 and Human Resources. Any such agreement shall specify, at
37 a minimum, for the direct and incidental costs associated with
38 such care and treatment to be paid by the Division of Juvenile
39 Services.

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



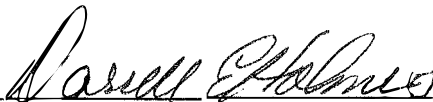
Chairman Senate Committee



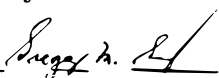
Chairman House Committee

Originating in the House.

In effect ninety days from passage.




Clerk of the Senate



Clerk of the House of Delegates



President of the Senate

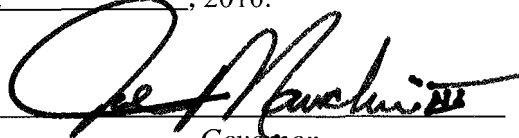


Speaker of the House of Delegates

OFFICE OF THE CLERK OF THE SENATE
SECRETARY OF STATE

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The within is approved this the 1st day of April, 2010.



Governor

PRESENTED TO
GOVERNOR

MAR 8 1 2010

Time 3:50