

SB 498

FILED

2010 MAR 31 PM 4:50

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

ENROLLED

REVISED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 498

(SENATORS KESSLER AND CHAFIN, *original sponsors*)

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

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CIVIL RIGHTS DIVISION
SECRETARY OF STATE

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Senate Bill No. 498

(SENATORS KESSLER AND CHAFIN, *original sponsors*)

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

AN ACT to amend and reenact §9-6-1 of the Code of West Virginia, 1931, as amended, relating to amending the civil definition of “neglect” by making it congruent with the definition of “criminal neglect”; replacing the term “mentally retarded” with “individuals with an intellectual disability”; and providing a definition for “caregiver”.

Be it enacted by the Legislature of West Virginia:

That §9-6-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6. SOCIAL SERVICES FOR ADULTS.

§9-6-1. Definitions.

1 As used in this article:

- 2 (1) “Adult protective services agency” means any public
3 or nonprofit private agency, corporation, board or organi-
4 zation furnishing protective services to adults;

5 (2) "Abuse" means the infliction or threat to inflict
6 physical pain or injury on or the imprisonment of any
7 incapacitated adult or facility resident;

8 (3) "Neglect" means:

9 (A) The unreasonable failure by a caregiver to provide
10 the care necessary to assure the physical safety or health
11 of an incapacitated adult; or

12 (B) The unlawful expenditure or willful dissipation of
13 the funds or other assets owned or paid to or for the
14 benefit of an incapacitated adult or resident;

15 (4) "Incapacitated adult" means any person who by
16 reason of physical, mental or other infirmity is unable to
17 independently carry on the daily activities of life necessary
18 to sustaining life and reasonable health;

19 (5) "Emergency" or "emergency situation" means a
20 situation or set of circumstances which presents a substan-
21 tial and immediate risk of death or serious injury to an
22 incapacitated adult;

23 (6) "Legal representative" means a person lawfully
24 invested with the power and charged with the duty of
25 taking care of another person or with managing the
26 property and rights of another person, including, but not
27 limited to, a guardian, conservator, medical power of
28 attorney representative, trustee or other duly appointed
29 person;

30 (7) "Nursing home" or "facility" means any institution,
31 residence, intermediate care facility for individuals with
32 an intellectual disability, care home or any other adult
33 residential facility, or any part or unit thereof, that is
34 subject to the provisions of articles five-c, five-d, five-e or
35 five-h, chapter sixteen of this code;

36 (8) "Regional long-term care ombudsman" means any
37 paid staff of a designated regional long-term care ombuds-

38 man program who has obtained appropriate certification
39 from the Bureau for Senior Services and meets the qualifi-
40 cations set forth in section seven, article five-1, chapter
41 sixteen of this code;

42 (9) "Facility resident" means an individual living in a
43 nursing home or other facility, as that term is defined in
44 subdivision (7) of this section;

45 (10) "Responsible family member" means a member of
46 a resident's family who has undertaken primary responsi-
47 bility for the care of the resident and who has established
48 a working relationship with the nursing home or other
49 facility in which the resident resides. For purposes of this
50 article, a responsible family member may include someone
51 other than the resident's legal representative;

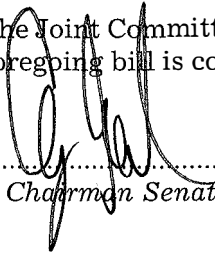
52 (11) "State Long-term Care Ombudsman" means an
53 individual who meets the qualifications of section five,
54 article five-1, chapter sixteen of this code and who is
55 employed by the State Bureau for Senior Services to
56 implement the State Long-term Care Ombudsman Pro-
57 gram;

58 (12) "Secretary" means the Secretary of the Department
59 of Health and Human Resources.

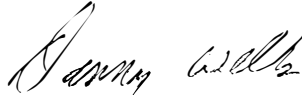
60 (13) "Caregiver" means a person or entity who cares for
61 or shares in the responsibility for the care of an incapaci-
62 tated adult on a full-time or temporary basis, regardless of
63 whether such person or entity has been designated as a
64 guardian or custodian of the incapacitated adult by any
65 contract, agreement or legal procedures. Caregiver
66 includes health care providers, family members, and any
67 person who otherwise voluntarily accepts a supervisory
68 role towards an incapacitated adult.

Enr. Rev. Com. Sub. for S. B. No. 498] 4

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



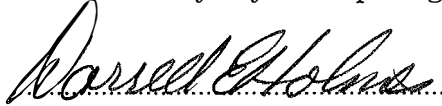
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Chairman Senate Committee



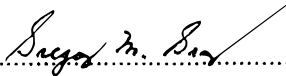
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Chairman House Committee

Originated in the Senate.

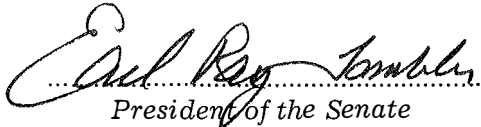
In effect ninety days from passage.



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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 House of Delegates

The within *is approved* this the *31st*
Day of *May*, 2010.



.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 29 2010

Time 3:40pm