

HB 2603

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WEST VIRGINIA LEGISLATURE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2013



**ENROLLED**

COMMITTEE SUBSTITUTE  
FOR

**House Bill No. 2603**

(Delegate(s) Morgan, Stephens, Staggers, Eldridge, Jones,  
Lynch, Paxton, Hartman, M. Smith, Barrett and Skinner)



Passed April 12, 2013

In effect from passage.

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**E N R O L L E D**

COMMITTEE SUBSTITUTE

for

**H. B. 2603**

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(BY DELEGATE(S) MORGAN, STEPHENS, STAGGERS,  
ELDRIDGE, JONES, LYNCH, PAXTON, HARTMAN,  
M. SMITH, BARRETT AND SKINNER)

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[Passed April 12, 2013; in effect from passage.]

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AN ACT to repeal §48-26-404, §48-26-405, §48-26-601, §48-26-602, §48-26-901, §48-26-902, §48-26-1003, §48-26-1005, §48-26-1006 and §48-26-1007 of the Code of West Virginia, 1931, as amended; to amend and reenact §48-26-202, §48-26-203, §48-26-204, §48-26-205, §48-26-206, §48-26-301, §48-26-401, §48-26-402, §48-26-403, §48-26-406, §48-26-603, §48-26-604, §48-26-701, §48-26-1001, §48-26-1002 and §48-26-1004 of said code; and to amend said code by adding thereto nine new sections, designated §48-26-207, §48-26-208, §48-26-209, §48-26-210, §48-26-211, §48-26-212, §48-26-213, §48-26-214 and §48-26-408, all relating to the Family Protection Services Board; revising definitions; adding definitions; revising qualifications for membership on the board; adding two new members to the board; clarifying that the

two ex officio members have voting privileges; prohibiting certain persons from serving on the board at the same time as certain other persons; providing for appointments for unexpired terms of board members; providing appointments for members who become disqualified; clarifying and expanding the board's powers and duties; requiring board to submit annual report to Governor and Joint Committee on Government and Finance; authorizing legislative rules; increasing the percentage of board funds that may be used for administrative functions; authorizing the board to develop formulas to direct funds to certain programs; prohibiting programs from falsely representing that they are licensed; authorizing the board to develop preliminary and full application forms; requiring board to respond in writing within certain time after receiving preliminary and full applications; providing for conditional, provisional and full licenses; allowing certain entities to provide support to programs in certain situations; authorizing the board to issue licenses for up to three years; updating provisions related to the closure of programs; authorizing the board to issue notices to cease and desist and seek injunctive relief in certain situations; setting forth procedures for hearings and appeals; clarifying the uses of the Domestic Violence Legal Services Fund; requiring programs to report annually to the board; updating confidentiality protections for programs participants; updating provisions related to monitored parenting and exchange programs; providing that judges and magistrates may order persons to participate in a monitored parenting and exchange program; and allowing monitored parenting and exchange programs to receive referrals.

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

That §48-26-404, §48-26-405, §48-26-601, §48-26-602, §48-26-901, §48-26-902, §48-26-1003, §48-26-1005, §48-26-1006 and §48-26-1007 of the Code of West Virginia, 1931, as amended, be repealed; that §48-26-202, §48-26-203, §48-26-204, §48-26-205, §48-26-206, §48-26-301, §48-26-401, §48-26-402, §48-26-403, §48-26-406, §48-26-603, §48-26-604, §48-26-701, §48-26-1001,

§48-26-1002 and §48-26-1004 of said code be amended and reenacted; and that said code be amended by adding thereto nine new sections, designated §48-26-207, §48-26-208, §48-26-209, §48-26-210, §48-26-211, §48-26-212, §48-26-213, §48-26-214 and §48-26-408, all to read as follows:

**ARTICLE 26. DOMESTIC VIOLENCE ACT.**

**PART II. DEFINITIONS.**

**§48-26-202. Advocacy defined.**

1       “Advocacy” means assisting victims and survivors of  
2 domestic violence, dating violence, sexual assault, stalking or  
3 human trafficking, and their children, in securing rights,  
4 remedies and services, by directly providing for, or referring to  
5 public and private agencies to provide for, safety planning;  
6 shelter; housing; legal services; outreach; counseling; case  
7 management; information and referral; training; employment;  
8 child care; health care; transportation; financial literacy  
9 education, financial planning and related economic  
10 empowerment services; parenting and other educational services;  
11 and other support services.

**§48-26-203. Batterer Intervention and Prevention Program defined.**

1       “Batterer intervention and prevention program”, previously  
2 referred to as a program of intervention for perpetrators, means  
3 a licensed educational program that provides classes to  
4 individuals who commit acts of domestic violence or abuse,  
5 offering nonviolent strategies and values that promote respect  
6 and equality in intimate partner relationships.

**§48-26-204. Board defined.**

1       “Board” means the Family Protection Services Board created  
2 pursuant to Chapter 53 of the Acts of the Legislature of 1989 and  
3 subsequently recodified by this article.

**§48-26-205. Closure defined.**

1       “Closure” means the temporary or permanent prohibition of  
2 specified services and the corresponding suspension of licensure  
3 of a program or program component that violates the standards  
4 established by the board or that threatens the health, well being  
5 or safety of its program participants or staff.

**§48-26-206. Department defined.**

1       “Department” means the Department of Health and Human  
2 Resources.

**§48-26-207. Domestic Violence Legal Services Fund defined.**

1       “Domestic Violence Legal Services Fund” means the special  
2 revenue account established by section six hundred three of this  
3 article for the purposes set forth in that section.

**§48-26-208. Domestic violence program defined.**

1       “Domestic violence program” means a licensed program of  
2 a locally controlled nonprofit organization, established primarily  
3 for the purpose of providing advocacy services, comprising both  
4 a shelter component and an outreach component, to victims of  
5 domestic violence, dating violence, sexual assault, stalking or  
6 human trafficking, and their children: *Provided*, That the board  
7 may temporarily or permanently close either the shelter  
8 component or the outreach component of a domestic violence  
9 program.

**§48-26-209. Family Protection Fund defined.**

1       “Family Protection Fund” means the special revenue account  
2 established by Chapter 74 of the Acts of the Legislature of 1981,  
3 held by the department, for the purpose of collecting marriage  
4 license fees pursuant to section ten, article one, chapter fifty-nine  
5 of this code, divorce surcharge fees pursuant to section

6 twenty-eight-a, article one, chapter fifty-nine of this code, fees  
7 for failure to present a premarital education course completion  
8 certificate pursuant to section ten, article one, chapter fifty-nine  
9 of this code and any other funding source, including any source  
10 created in another section of this code, and distributed to  
11 licensed domestic violence programs, in accordance with the  
12 formula designated by the board.

**§48-26-210. Intimate partner defined.**

1 “Intimate partner” means a current or former spouse, a  
2 person with whom one shares a child in common, a person with  
3 whom one is cohabiting or has cohabited, or a person with whom  
4 one is or has been in a relationship of a romantic or intimate  
5 nature.

**§48-26-211. Licenses defined.**

1 (a) “Conditional license” means a license issued for up to  
2 ninety days, to programs that have violations of safety or  
3 accountability standards that may threaten the health, well-being  
4 or safety of its program participants or staff, or the responsible  
5 operation of the program, or that have a history or pattern of  
6 noncompliance with established standards.

7 (b) “Provisional license” means a license issued for up to  
8 one hundred and eighty days, to programs that are not in  
9 compliance with nonlife threatening safety, programmatic,  
10 facility or administrative standards, that may be extended for an  
11 additional six months, if the board determines that the program  
12 is making active progress toward compliance.

13 (c) “Full license” means a license issued for up to the  
14 maximum licensure period of three years, to programs that are  
15 in compliance with the standards established by the board and  
16 have no violations of safety or accountability standards that may  
17 threaten the health, well-being or safety of its program  
18 participants or staff, or the responsible operation of the program.

**§48-26-212. Monitored parenting and exchange defined.**

1       (a) “Monitored parenting” means the contact between a  
2 parent without custodial responsibility, guardian or other adult  
3 and one or more children, in the presence of a third person who  
4 monitors the contact to promote the safety of the participants.

5       (b) “Monitored exchange” means the observation of  
6 movement of a child or children from the custodial responsibility  
7 of one parent or guardian to the custodial responsibility of the  
8 other parent or other adult without allowing contact between the  
9 adults.

10       (c) “Monitored parenting and exchange program” means a  
11 licensed program offered by a locally controlled nonprofit  
12 organization for purposes of providing a neutral, safe and  
13 child-friendly environment to allow the child or children access  
14 to a parent or other adult without allowing contact between the  
15 adults.

**§48-26-213. Outreach defined.**

1       “Outreach” means a licensed domestic violence program’s  
2 community-based activities that increase awareness and  
3 availability of services, in every county within the program’s  
4 regional service area, to victims and survivors of domestic  
5 violence, dating violence, sexual assault, stalking or human  
6 trafficking, and their children.

**§48-26-214. Shelter defined.**

1       “Shelter” means residential services offered by a licensed  
2 domestic violence program on a temporary basis, to persons who  
3 are victims of domestic violence, dating violence, sexual assault,  
4 stalking or human trafficking, and their children.

**PART III. FAMILY PROTECTION SERVICES BOARD.**

**§48-26-301. Family protection services board continued; terms.**

1 (a) The family protection services board, is continued.

2 (b) Membership of the board is comprised of seven persons.  
3 The Governor, with the advice and consent of the Senate, shall  
4 appoint five members of the board who meet the following  
5 qualifications:

6 (1) One member must be a director of a licensed domestic  
7 violence program;

8 (2) One member must be a representative of the West  
9 Virginia Coalition Against Domestic Violence;

10 (3) One member must be a representative of a batterer  
11 intervention and prevention program licensed by the board;

12 (4) One member must be a representative of the West  
13 Virginia Supreme Court of Appeals who is familiar with  
14 monitored parenting and exchange program services; and

15 (5) One member must be a citizen who is a resident of this  
16 state and who is not employed by, under contract with or a  
17 volunteer for a program licensed by the board, and who is  
18 knowledgeable about services for victims and survivors of  
19 domestic violence;

20 (c) The secretary of the Department of Health and Human  
21 Resources, or his or her designee, and the chair of the  
22 Governor's Committee on Crime, Delinquency and Correction,  
23 or his or her designee shall serve as ex officio voting members.

24 (d) The terms of the five members appointed by the  
25 Governor are for three years, staggered in accordance with prior  
26 enactments of this act.



27 (e) No person who is employed by, under contract with or  
28 volunteers for an organization that is licensed to operate any  
29 program under the provisions of this article may serve on the  
30 board at the same time as another person who is employed by,  
31 under contract with or volunteers for that organization.

32 (f) If a member resigns or is unable to complete his or her  
33 term or ceases to be qualified, the Governor shall appoint within  
34 ninety days a person who meets the qualifications of this section  
35 to serve the remainder of the unexpired term.

**PART IV. DUTIES OF FAMILY  
PROTECTION SERVICES BOARD.**

**§48-26-401. Powers and duties of board.**

1 (a) The board shall:

2 (1) Propose rules for legislative approval, in accordance with  
3 the provisions of article three, chapter twenty-nine-a of this code,  
4 to implement the provisions of this article and any applicable  
5 federal guidelines;

6 (2) Receive and consider applications for licensure of  
7 domestic violence programs, batterer intervention and prevention  
8 programs and monitored parenting and exchange programs;

9 (3) Assess the need for domestic violence programs, batterer  
10 intervention and prevention programs and monitored parenting  
11 and exchange programs, including licensure preapplication and  
12 application processes;

13 (4) Conduct licensure renewal reviews of domestic violence  
14 programs, batterer intervention and prevention programs and  
15 monitored parenting and exchange programs, that will ensure the  
16 safety, well-being and health of the programs' participants and  
17 staff;

18 (5) For each fiscal year, expend from the Family Protection  
19 Fund a sum not to exceed fifteen percent for the costs of  
20 administering the provisions of this article, and direct the  
21 Department of Health and Human Resources to distribute one  
22 half of the remaining funds equally and the other half of the  
23 remaining funds in accordance with a formula determined by the  
24 board, to licensed domestic violence programs;

25 (6) Submit an annual report on the status of programs  
26 licensed under the provisions of this article to the Governor and  
27 the Joint Committee on Government and Finance;

28 (7) Conduct hearings as necessary under this article; and

29 (8) Collect data about licensed programs for use in the  
30 annual report of the board.

31 (b) The board may:

32 (1) Advise the Secretary of the Department of Health and  
33 Human Resources and the Chair of the Governor's Committee  
34 on Crime, Delinquency and Correction on matters of concern  
35 relative to their responsibilities under this article;

36 (2) Delegate to the Secretary of the Department of Health  
37 and Human Resources such powers and duties of the board as the  
38 board considers appropriate to delegate, including, but not  
39 limited to, the authority to approve, disapprove, revoke or  
40 suspend licenses;

41 (3) Advise administrators of state or federal funds of  
42 licensure violations and closures of programs; and

43 (4) Exercise all other powers necessary to implement the  
44 provisions of this article.

**§48-26-402. Requirements, qualifications and terms of licensure;  
collaboration to assist programs.**

1 (a) No domestic violence program, batterer intervention and  
2 prevention program or monitored parenting and exchange

3 program may represent that it is licensed unless it is licensed by  
4 the board pursuant to the provisions of this article and the  
5 legislative rules promulgated pursuant to this article.

6 (b) The board shall establish preliminary application and full  
7 application forms for the initial licensing of domestic violence  
8 programs, batterer intervention and prevention programs and  
9 monitored parenting and exchange programs.

10 (1) To meet basic eligibility requirements an applicant for  
11 licensure must complete a preliminary application form to  
12 demonstrate local need for the proposed service, method of  
13 governance and accountability, administrative and programmatic  
14 design, and fiscal efficiency. The board shall respond in writing  
15 within sixty days of receipt of the preliminary application;

16 (2) If the board approves the preliminary application, the  
17 applicant may complete a full application form;

18 (3) The board shall determine whether all documentation set  
19 forth on the licensure checklist has been submitted, and may  
20 request supplemental or clarifying information or  
21 documentation; and

22 (4) The board shall grant or deny a license within sixty days  
23 of the receipt of the completed full application form and all  
24 supplemental or clarifying information or documentation  
25 requested by the board.

26 (c) Licenses may be granted or renewed for periods not to  
27 exceed three years: *Provided*, That the board may conduct  
28 licensure reviews at any time during the licensure period, and  
29 may downgrade, suspend or revoke a license in accordance with  
30 the provisions of this article.

31 (d) The license granted by the board shall be prominently  
32 displayed by the licensees.

33 (e) The board may grant a provisional license for up to one  
34 hundred and eighty days, to a program that is not in compliance  
35 with non-life threatening safety, programmatic, facility or  
36 administrative standards. A provisional license may be extended  
37 for up to an additional one hundred and eighty days, if the board,  
38 in its sole discretion, determines that the program is making  
39 active progress toward compliance.

40 (f) The board may grant a conditional license for up to ninety  
41 days to a program that has violations of safety or accountability  
42 standards that may threaten the health, well-being or safety of its  
43 participants or staff, or the responsible operation of the program,  
44 or that have a history or pattern of noncompliance with  
45 established standards. If a program does not correct the  
46 violations within the conditional license period, the board may  
47 institute closure proceedings.

48 (g) The Department of Health and Human Resources, the  
49 Division of Justice and Community Services, the Family  
50 Protection Services Board, the WV Coalition Against Domestic  
51 Violence, the West Virginia Supreme Court of Appeals and the  
52 Division of Corrections may, collectively or in any combination  
53 as appropriate to the program, collaborate to provide technical  
54 assistance to prevent and resolve deficiencies in a program's  
55 ability to meet the standards to operate and maintain licensure.

56 (h) If the board obtains information that a person or persons  
57 has engaged in, is engaging in or is about to engage in an act that  
58 constitutes or will constitute a violation of the provisions of this  
59 article or the legislative rules promulgated pursuant to this  
60 article, it may issue a notice to the person or persons to cease and  
61 desist the act, or apply to the circuit court for an order enjoining  
62 the act. Upon a showing that the person has engaged, is engaging  
63 or is about to engage in such an act, the court may order an  
64 injunction, restraining order or other order as the court considers  
65 appropriate.

**§48-26-403. Legislative rules.**

1 (a) The board shall propose rules for legislative approval in  
2 accordance with the provisions of article three, chapter  
3 twenty-nine-a of this code to effectuate the provisions of this  
4 article.

5 (b) The rules shall include, at a minimum:

6 (1) Operating procedures of the board;

7 (2) Minimum standards, including, but not limited to,  
8 governance, administration, safety, referral process, intake,  
9 services, financial accountability, staffing, personnel policies,  
10 communication, program participant records, service plans,  
11 confidentiality, program evaluation, facility requirements,  
12 reports, restrictions, and other requirements in this article, for  
13 licensure of:

14 (A) Domestic violence programs, including requirements for  
15 both shelter and outreach components;

16 (B) Community-based, local government and Division of  
17 Corrections batterer intervention and prevention programs; and

18 (C) Monitored parenting and exchange programs; and

19 (3) A licensure checklist to determine the ability of  
20 applicants and licensees to meet licensure standards, to  
21 determine eligibility for a full license, provisional license,  
22 conditional license or no license.

23 (c) The rules in effect as of the effective date of the  
24 reenactment of this section will remain in effect until modified,  
25 amended or repealed provided that they are not inconsistent with  
26 this article.

**§48-26-406. Closure of programs.**

1 (a) The board may close any program that violates the  
2 standards established under this article or that threatens the

3 health, well-being or safety of its participants or staff: *Provided*,  
4 That if a shelter is closed, the governing body of the program, in  
5 conjunction with the board, shall establish a plan to place the  
6 participants in other shelters or alternative housing.

7 (b) In order to close a domestic violence program or one of  
8 its components, a batterer intervention and prevention program  
9 or a monitored parenting and exchange program, the board must  
10 vote unanimously in the affirmative.

11 (c) If either the shelter component or the outreach  
12 component of a domestic violence program is closed, the  
13 remaining component of the program may continue to be  
14 licensed and to receive funds.

**§48-26-408. Hearing procedures; judicial review.**

1 (a) When a license for a program is downgraded or  
2 discontinued through permanent or temporary closure, the  
3 program's governing body is entitled to a hearing before the  
4 board.

5 (b) Hearings shall be held in accordance with the provisions  
6 of article five, chapter twenty-nine-a of this code.

7 (c) The board may conduct the hearing or elect to have a  
8 hearing examiner or an administrative law judge conduct the  
9 hearing. If the hearing is conducted by a hearing examiner or an  
10 administrative law judge:

11 (1) The hearing examiner or administrative law judge shall  
12 be licensed to practice law in this state and shall conform to the  
13 Code of Conduct for Administrative Law Judges as set forth by  
14 the Ethics Commission in legislative rule;

15 (2) At the conclusion of a hearing, the hearing examiner or  
16 administrative law judge shall prepare a proposed written order  
17 containing recommended findings of fact and conclusions of law

18 and may include recommended sanctions, including closure, if  
19 the board so directs;

20 (3) The board may accept, reject, modify or amend the  
21 recommendations of the hearing examiner or administrative law  
22 judge; and

23 (4) If the board rejects, modifies or amends the  
24 recommendations, the board shall state in the order a reasoned,  
25 articulate justification based on the record for the rejection,  
26 modification or amendment.

27 (d) Pursuant to the provisions of section one, article five,  
28 chapter twenty-nine-a of this code, informal disposition may also  
29 be made by the board by stipulation, agreed settlement, consent  
30 order or default. Further, the board may suspend its decision and  
31 place a license on conditional or provisional status.

32 (e) A licensee adversely affected by a decision of the board  
33 entered after a hearing may seek an appeal to the Circuit Court,  
34 in accordance with the provisions of section four, article five,  
35 chapter twenty-nine-a of this code, and may appeal a decision of  
36 the Circuit Court to the West Virginia Supreme Court of  
37 Appeals, in accordance with the provisions of article six, chapter  
38 twenty-nine-a of this code.

#### PART VI. FUNDING.

##### **§48-26-603. Domestic Violence Legal Services Fund.**

1 (a) There is continued in the State Treasury a special revenue  
2 account, designated as the "Domestic Violence Legal Services  
3 Fund," that shall be an appropriated fund for receipt of grants,  
4 gifts, fees, or federal or state funds designated for legal services  
5 for domestic violence victims. Expenditures from the fund shall  
6 be limited to attorneys employed or contracted by licensed  
7 domestic violence programs, or employed or contracted by West

8 Virginia's federally designated legal services program, its  
9 successor organization or other nonprofit organization as  
10 determined by the department, that establish a collaborative  
11 relationship with a licensed domestic violence program, to  
12 provide civil legal services to victims of domestic violence.

13 (b) Any court of this state may order a nonprevailing party  
14 to pay an amount equivalent to the reasonable attorney's fee to  
15 which the prevailing litigant would be entitled into the Domestic  
16 Violence Legal Services Fund, established in subsection (a) of  
17 this section, if the following circumstances occur:

18 (1) A prevailing litigant is entitled by statute or common law  
19 to a reasonable attorney's fee, and

20 (2) The prevailing litigant's legal counsel informs the court  
21 that no fee will be requested.

**§48-26-604. Annual reports of licensed programs.**

1 (a) All programs licensed pursuant to this article shall report  
2 specific information annually as required by the board.

3 (b) No information contained in a report may identify any  
4 person served by the program or enable any person to determine  
5 the identity of any such person.

**PART VII. CONFIDENTIALITY.**

**§48-26-701. Confidentiality.**

1 (a) No program licensed pursuant to this article may  
2 disclose, reveal or release or be compelled to disclose, reveal or  
3 release, any written records or personal or personally identifying  
4 information about a program participant created or maintained  
5 in providing services, regardless of whether the information has  
6 been encoded, encrypted, hashed, or otherwise protected,  
7 pursuant to this article except:



8 (1) Upon written consent, or upon oral consent in emergency  
9 situations defined by legislative rule, of the person seeking or  
10 who has sought services from the program;

11 (2) In any proceeding brought under sections four and five,  
12 article six, chapter nine of this code or article six, chapter  
13 forty-nine of this code;

14 (3) As mandated by article six-a, chapter forty-nine and  
15 article six, chapter nine of this code;

16 (4) Pursuant to an order of any court based upon a finding  
17 that said information is sufficiently relevant to a proceeding  
18 before the court to outweigh the importance of maintaining the  
19 confidentiality established by this section;

20 (5) To protect against a clear and substantial danger of  
21 imminent injury by a person receiving services to himself or  
22 herself or another; or

23 (6) As authorized by the releases signed by batterer  
24 intervention and prevention program participants pursuant to the  
25 provisions of subsection (b) of this section.

26 (b) Batterer intervention and prevention program participants  
27 shall authorize the release of information by signing the  
28 following releases:

29 (1) Allowing the provider to inform the victim or alleged  
30 victim and the victim's advocates that the batterer is  
31 participating in a batterer intervention and prevention program  
32 with the provider and to provide information to the victim or  
33 alleged victim and her or his advocates, if necessary, for the  
34 victim's or alleged victim's safety;

35 (2) Allowing prior and current service providers to provide  
36 information about the batterer to the provider;

37 (3) Allowing the provider, for good cause, to provide  
38 information about the batterer to relevant legal entities, including  
39 courts, parole officers, probation officers, child protective  
40 services, adult protective services, law enforcement, licensed  
41 domestic violence programs, or other referral agencies;

42 (4) Allowing the provider to report to the court, if the  
43 participation was court ordered, and to the victim or alleged  
44 victim, if she or he requests and provides a method of  
45 notification, and to his or her advocate, any assault, failure to  
46 comply with program requirements, failure to attend the  
47 program, threat of harm by the batterer, reason for termination  
48 and recommendations for changes in the court order; and

49 (5) Allowing the provider to report to the victim or alleged  
50 victim, or his or her advocate, without the participant's  
51 authorization, all perceived threats of harm, the participant's  
52 failure to attend and reason for termination.

53 (c) Monitored parenting and exchange programs may  
54 disclose to one parent or guardian, without the permission of the  
55 other parent or guardian, any perceived threat of harm or  
56 violation of the court order or violation of the monitored  
57 parenting and exchange program rules by the other parent or  
58 guardian.

59 (d) No monitored parenting and exchange program may  
60 release information about the child without consent of the parent  
61 with custodial responsibility or guardian.

62 (e) In addition to the provisions set forth in this section, the  
63 release of a victim's personally-identifying information is  
64 subject to the provisions of 42 U.S.C. § 13925(b)(2).

65 (f) No consent or authorization for the transmission or  
66 disclosure of confidential information is effective unless it is  
67 signed by the program participant whose information is being

68 disclosed. Every person signing an authorization shall be given  
69 a copy.

70 (g) A victim of domestic violence, dating violence, sexual  
71 assault, or stalking shall not be required to provide consent to  
72 release his or her personally identifying information as a  
73 condition of eligibility for the services, nor may any  
74 personally-identifying information be shared in order to comply  
75 with federal or state reporting, evaluation, or data collection  
76 requirements: *Provided*, That nothing in this section prohibits a  
77 program from reporting suspected abuse or neglect, as defined  
78 by law, when the program is mandated by law to report  
79 suspected abuse or neglect.

PART X . MONITORED PARENTING  
AND EXCHANGE PROGRAMS.

**§48-26-1001. Court orders; use of monitored parenting and  
exchange programs without court order.**

1 (a) Judges and magistrates may order persons to apply to a  
2 licensed monitored parenting and exchange program for  
3 monitored parenting or monitored exchange of children:  
4 *Provided*, That a licensed monitored parenting and exchange  
5 program may not be required to perform duties that are beyond  
6 the program's capacity or scope of services.

7 (b) Judges and magistrates may require a person to pay a  
8 reasonable amount based on ability to pay and other relevant  
9 criteria for any fee charged by a monitored parenting and  
10 exchange program.

11 (c) Licensed monitored parenting and exchange programs  
12 may receive referrals from judges, magistrates, child protective  
13 services, attorneys and other agencies, for services under the  
14 terms and conditions of those services as set forth in rules  
15 promulgated by the board.

16 (d) Licensed monitored parenting and exchange programs  
17 may serve self-referrals when the adult parties agree to the use  
18 of the program.

**§48-26-1002. Exclusions.**

1 The provisions of this part do not apply to therapeutic or  
2 supervised visitation or exchanges or any activity conducted by  
3 the state or others in abuse and neglect proceedings pursuant to  
4 articles six and six-a, chapter forty-nine of this code in which  
5 assessment, evaluation, formulation of a treatment plan, case  
6 management, counseling, therapy or similar activities occur.

**§48-26-1004. Contract by persons using program.**

1 Every program shall require that the parent, guardian or  
2 other adult sign a written contract prior to using the program and  
3 that the use of the services provided by the program can be  
4 terminated by the program for violation of the contract.

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



Chairman, House Committee



Member Chairman, Senate Committee

Originating in the House.

In effect from passage.



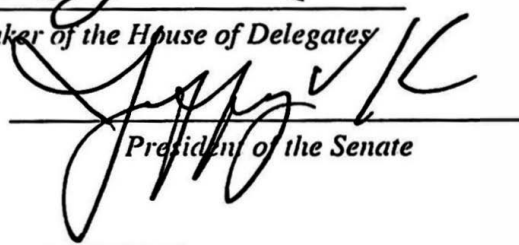
Clerk of the House of Delegates



Clerk of the Senate



Speaker of the House of Delegates



President of the Senate

The within is approved this the 1st  
day of May, 2013.



Governor

**PRESENTED TO THE GOVERNOR**

**APR 25 2013**

**Time** 11:40 am