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2014 MAR -7 P 6:06

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2014



**ENROLLED**

**House Bill No. 4504**

(By Delegates Perry, Morgan,  
Campbell and Ellem)



Passed February 27, 2014

In effect ninety days from passage.

HB4504

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E N R O L L E D

## H. B. 4504

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(BY DELEGATES PERRY, MORGAN, CAMPBELL AND ELLEM)

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AN ACT to amend and reenact §49-7-1 of the Code of West Virginia, 1931, as amended, relating to allowing the Division of Juvenile Services to share juvenile records under certain circumstances with another state if that state has a reciprocal agreement with this state: specifying the circumstances when information may be shared; authorizing the Division of Juvenile Services to enter into agreements with other states; and authorizing rule-making authority.

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

That §49-7-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

### ARTICLE 7. GENERAL PROVISIONS.

#### §49-7-1. Confidentiality of records.

- 1 (a) Except as otherwise provided in this chapter or by order
- 2 of the court, all records and information concerning a child or

8000 [3- juvenile which are maintained by the Division of Juvenile  
4 Services, the Department of Health and Human Resources, a  
5 child agency or facility, court or law-enforcement agency shall  
6 be kept confidential and shall not be released or disclosed to  
7 anyone, including any federal or state agency.

8 (b) Notwithstanding the provisions of subsection (a) of this  
9 section or any other provision of this code to the contrary,  
10 records concerning a child or juvenile, except adoption records  
11 and records disclosing the identity of a person making a  
12 complaint of child abuse or neglect shall be made available:

13 (1) Where otherwise authorized by this chapter;

14 (2) To:

15 (A) The child;

16 (B) A parent whose parental rights have not been terminated;  
17 or

18 (C) The attorney of the child or parent;

19 (3) With the written consent of the child or of someone  
20 authorized to act on the child's behalf; or

21 (4) Pursuant to an order of a court of record: *Provided*, That  
22 the court shall review such record or records for relevancy and  
23 materiality to the issues in the proceeding and safety, and may  
24 issue an order to limit the examination and use of the records or  
25 any part thereof.

26 (c) In addition to those persons or entities to whom  
27 information may be disclosed under subsection (b) of this  
28 section, information related to child abuse or neglect  
29 proceedings, except information relating to the identity of the  
30 person reporting or making a complaint of child abuse or  
31 neglect, shall be made available, upon request, to:

32 (1) Federal, state or local government entities, or any agent  
33 of such entities, including law-enforcement agencies and  
34 prosecuting attorneys, having a need for such information in  
35 order to carry out its responsibilities under law to protect  
36 children from abuse and neglect;

37 (2) The child fatality review team;

38 (3) Child abuse citizen review panels;

39 (4) Multidisciplinary investigative and treatment teams; or

40 (5) A grand jury, circuit court or family court, upon a finding  
41 that information in the records is necessary for the determination  
42 of an issue before the grand jury, circuit court or family court.

43 (d) In the event of a child fatality or near fatality due to child  
44 abuse and neglect, information relating to such fatality or near  
45 fatality shall be made public by the Department of Health and  
46 Human Resources and to the entities described in subsection (c)  
47 of this section, all under the circumstances described in that  
48 subsection: *Provided*, That information released by the  
49 Department of Health and Human Resources pursuant to this  
50 subsection shall not include the identity of a person reporting or  
51 making a complaint of child abuse or neglect. For purposes of  
52 this subsection, "near fatality" means any medical condition of  
53 the child which is certified by the attending physician to be life  
54 threatening.

55 (e) Except in juvenile proceedings which are transferred to  
56 criminal proceedings, law-enforcement records and files  
57 concerning a child or juvenile shall be kept separate from the  
58 records and files of adults and not included within the court files.  
59 Law-enforcement records and files concerning a child or  
60 juvenile shall only be open to inspection pursuant to the  
61 provisions of sections seventeen and eighteen, article five of this  
62 chapter.

63 (f) Any person who willfully violates the provisions of this  
64 section is guilty of a misdemeanor and, upon conviction thereof,  
65 shall be fined not more than \$1,000, or confined in the county or  
66 regional jail for not more than six months, or be both fined and  
67 confined. A person convicted of violating the provisions of this  
68 section shall also be liable for damages in the amount of \$300 or  
69 actual damages, whichever is greater.

70 (g) Notwithstanding the provisions of this section, or any  
71 other provision of this code to the contrary, the name and  
72 identity of any juvenile adjudicated or convicted of a violent or  
73 felonious crime shall be made available to the public.

74 (h)(1) Notwithstanding the provisions of this section, or any  
75 other provision of this code to the contrary, the Division of  
76 Juvenile Services may provide access to and the confidential use  
77 of a treatment plan, court records or other records of a juvenile  
78 to an agency in another state which:

79 (A) Performs the same functions in that state that are  
80 performed by the Division of Juvenile Services in this state;

81 (B) Has a reciprocal agreement with this state; and

82 (C) Has legal custody of the juvenile.

83 (2) A record which is shared under this subsection may only  
84 provide information which is relevant to the supervision, care,  
85 custody and treatment of the juvenile.

86 (3) The Division of Juvenile Services is authorized to enter  
87 into reciprocal agreements with other states and to propose rules  
88 for legislative approval in accordance with the provisions of  
89 article three, chapter twenty-nine-a of this code to implement the  
90 provisions of this subsection.

91 (4) Other than the authorization explicitly given in this  
92 subsection, this subsection may not be construed to enlarge or

93 restrict access to juvenile records as provided elsewhere in this  
94 code.

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

*Jimmy With*

Chairman, House Committee

*[Signature]*

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

*Bryon M. Sear*

Clerk of the House of Delegates

*Joseph M. Minard*

Clerk of the Senate

*[Signature]*

Speaker of the House of Delegates

*[Signature]*

President of the Senate

The within is approved this the 7th day of March, 2014.

*Carl Ray Tomelini*  
Governor

**PRESENTED TO THE GOVERNOR**

MAR 06 2014

Time 9:28 am