

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2014



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 155

(SENATOR SNYDER, *ORIGINAL SPONSOR*)

[PASSED MARCH 8, 2014; IN EFFECT FROM PASSAGE.]

SB/SS

FILED

2014 APR - 1 P 4: 25

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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Senate Bill No. 155

(SENATOR SNYDER, *original sponsor*)

[Passed March 8, 2014; in effect from passage.]

AN ACT to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Health and Human Resources; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication administration by unlicensed personnel; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to child care centers' licensing; authorizing the Department of

Health and Human Resources to promulgate a legislative rule relating to clinical laboratory technician and technologist licensure and certification; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to AIDS-related medical testing and confidentiality; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the Cancer Registry; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the Medical Examiner's rule for postmortem inquiries; authorizing the Health Care Authority to promulgate a legislative rule relating to the West Virginia Health Information Network; authorizing the Bureau for Child Support Enforcement to promulgate a legislative rule relating to the bureau; repealing the Bureau for Child Support Enforcement's legislative rule relating to obtaining support from federal and state tax refunds; repealing the Bureau for Child Support Enforcement's legislative rule relating to interstate income withholding; authorizing the Bureau for Child Support Enforcement to promulgate a legislative rule relating to support enforcement activities undertaken by the bureau; and authorizing the Bureau for Child Support Enforcement to promulgate a legislative rule relating to the distribution of support payments.

Be it enacted by the Legislature of West Virginia:

That article 5, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

§64-5-1. Department of Health and Human Resources.

1 (a) The legislative rule filed in the State Register on July
2 29, 2013, authorized under the authority of section eleven,
3 article five-o, chapter sixteen of this code, modified by the
4 Department of Health and Human Resources to meet the
5 objections of the Legislative Rule-Making Review

6 Committee and refiled in the State Register on November 8,
7 2013, relating to the Department of Health and Human
8 Resources (medication administration by unlicensed
9 personnel, 64 CSR 60), is authorized with the following
10 amendment:

11 On page four, paragraph 2.13.a.4 after the word
12 “appliances” by changing the semicolon to a period striking
13 out the word “and”.

14 (b) The legislative rule filed in the State Register on July
15 29, 2013, authorized under the authority of section four,
16 article two-b, chapter forty-nine of this code, modified by the
17 Department of Health and Human Resources to meet the
18 objections of the Legislative Rule-Making Review
19 Committee and refiled in the State Register on December 3,
20 2013, relating to the Department of Health and Human
21 Resources (child care centers’ licensing, 78 CSR 1), is
22 authorized, with the following amendment:

23 On page nine, subdivision 4.2.b, by removing the word
24 “thirty”, the left parenthesis, the number “30” and the right
25 parenthesis, and inserting in lieu thereof, the word “ninety”,
26 the left parenthesis, the number “90” and the right
27 parenthesis;

28 On page forty, subparagraph 13.3.a.3, line two, after the
29 word, “served” by striking out the semi-colon and the
30 following underlined words “provided that the center shall
31 not use tables with built-in multiple bucket-type seats after
32 June 30, 2015”;

33 On page forty, by striking subdivision 13.3.b in its
34 entirety, and in lieu thereof, inserting a new subdivision
35 13.3.b to read as follows:

36 **“13.3.b. Jumpers, and infant walkers are prohibited.”**

37 **On page forty, after subdivision 13.3.b, by inserting a**
38 **new subdivision 13.3.c to read as follows:**

39 **“13.3.c. Play pens and play yards, if used, must be**
40 **manufactured after February 28, 2013, properly disinfected**
41 **after each use and not used for multiple children at the same**
42 **time.”;**

43 **On page forty-three, subparagraph 13.4.i.5, line three,**
44 **after the word “worn” by striking out the comma, and the**
45 **following words, “but the use of a blanket is prohibited in the**
46 **crib” and by un-striking and restoring the following words,**
47 **“or a thin blanket used for a covering. If a blanket is used, it**
48 **shall be tucked around the mattress of the crib and only cover**
49 **the child high as his or her chest”;**

50 **And,**

51 **On page forty-eight, by striking out in its entirety**
52 **subdivision 14.3.d and inserting in lieu thereof a new**
53 **subdivision 14.3.d to read as follows:**

54 **“14.3.d. Restrictive equipment. Infant equipment that**
55 **restricts movement such as swings, play pens, play yards,**
56 **stationary activity centers (exersaurces), infant seats, etc., if**
57 **used, shall only be used for short periods of time not to**
58 **exceed fifteen (15) minutes in a four (4) hour period.”.**

§64-5-2. Bureau for Public Health.

1 **(a) The legislative rule filed in the State Register on July**
2 **24, 2013, authorized under the authority of section four,**
3 **article one, chapter sixteen of this code, modified by the**
4 **Department of Health and Human Resources to meet the**

5 objections of the Legislative Rule-Making Review
6 Committee and refiled in the State Register on November 5,
7 2013, relating to the Department of Health and Human
8 Resources (clinical laboratory technician and technologist
9 licensure and certification, 64 CSR 57), is authorized.

10 (b) The legislative rule filed in the State Register on July
11 25, 2013, authorized under the authority of section four,
12 article one, chapter sixteen of this code, modified by the
13 Department of Health and Human Resources to meet the
14 objections of the Legislative Rule-Making Review
15 Committee and refiled in the State Register on December 9,
16 2013, relating to the Department of Health and Human
17 Resources (AIDS-related medical testing and confidentiality,
18 64 CSR 64), is authorized with the following amendments:

19 On page two, subdivision 4.1.e, by inserting the
20 following after the period, "The cost of the test not be passed
21 through to the patient by a public health department."

22 On page six, paragraph 4.3.b.1., by striking out the words
23 "an oral" and inserting in lieu thereof the word "a";

24 On page six, by striking out all of subparagraph
25 4.3.b.1.A. and inserting in lieu thereof the following:

26 4.3.b.1.A. The court shall require the defendant or
27 juvenile respondent to submit to the testing not later than
28 forty-eight hours after the issuance of the order described in
29 paragraph 4.3.b.1 of this subsection, unless good cause for
30 delay is shown upon a request for a hearing: *Provided*, That
31 no such delay shall cause the HIV-related testing to be
32 administered later than forty-eight hours after the filing of
33 any indictment or information regarding an adult defendant
34 or the filing of a petition regarding a juvenile respondent.

35 4.3.b.1.B. The prosecuting attorney may, upon the request
36 of the victim or the victim's parent or legal guardian, and
37 with notice to the defendant or juvenile respondent, apply to
38 the court for an order directing that an appropriate human
39 immunodeficiency virus (HIV) test or other STD test be
40 performed on a defendant charged with or a juvenile subject
41 to a petition involving the offenses of prostitution, sexual
42 abuse, sexual assault or incest.

43 On page six, by striking out all of part 4.3.b.1.A.1.;

44 On page six, by striking out all of paragraph 4.3.b.2.;

45 And renumbering the remaining paragraphs;

46 On page six, by striking out all of paragraph 4.3.b.6. and
47 inserting in lieu thereof the following:

48 4.3.b.5. The costs of testing may be charged to the
49 defendant or juvenile respondent, or to that person's medical
50 insurance provider, unless determined unable to pay by the
51 court having jurisdiction over the matter. If the defendant or
52 juvenile is unable to pay, the cost of laboratory testing for
53 HIV testing may be borne by the bureau or the local health
54 department.

55 4.3.b.5.A. The commissioner designates and authorizes
56 all health care providers operating in regional jails,
57 correctional or juvenile facilities to administer HIV tests,
58 either by taking blood or oral specimens, and transmitting
59 those specimens to the Office of Laboratory Services in
60 accordance with instructions set forth at:
61 <http://www.wvdhhr.org/labservices/labc/HIV/index.cfm>.

62 4.3.b.5.B. Laboratory testing done on specimens sent to
63 the Office of Laboratory Services by health care providers for

64 regional jails, correctional or juvenile facilities shall be
65 performed at no cost to the jails, facilities or health care
66 providers.;

67 And,

68 On page seven, by striking out all of subdivision 4.3.d.
69 and inserting in lieu thereof a new subdivision, designated
70 subdivision 4.3.d., to read as follows:

71 4.3.d. A person convicted or a juvenile adjudicated of the
72 offenses described in this subsection may be required to
73 undergo HIV-related testing and counseling immediately
74 upon conviction or adjudication: *Provided*, That if the person
75 convicted or adjudicated has been tested in accordance with
76 the provisions of subdivision 4.3.b. of this subsection, that
77 person need not be retested.

78 (c) The legislative rule filed in the State Register on July
79 24, 2013, authorized under the authority of section two-a,
80 article five-a, chapter sixteen of this code, modified by the
81 Department of Health and Human Resources to meet the
82 objections of the Legislative Rule-Making Review
83 Committee and refiled in the State Register on October 7,
84 2013, relating to the Department of Health and Human
85 Resources (Cancer Registry, 64 CSR 68), is authorized.

86 (d) The legislative rule filed in the State Register on July
87 24, 2013, authorized under the authority of section three,
88 article twelve, chapter sixty-one of this code, modified by the
89 Department of Health and Human Resources to meet the
90 objections of the Legislative Rule-Making Review
91 Committee and refiled in the State Register on November 5,
92 2013, relating to the Department of Health and Human
93 Resources (Medical Examiner rule for postmortem inquiries,
94 64 CSR 84), is authorized.

§64-5-3. Health Care Authority.

1 The legislative rule filed in the State Register on July 26,
2 2013, authorized under the authority of section seven, article
3 twenty-nine-g, chapter sixteen of this code, modified by the
4 Health Care Authority to meet the objections of the
5 Legislative Rule-Making Review Committee and refiled in
6 the State Register on September 4, 2013, relating to the
7 Health Care Authority (West Virginia Health Information
8 Network, 65 CSR 28), is authorized.

§64-5-4. Bureau for Child Support Enforcement.

1 (a) The legislative rule filed in the State Register on July
2 29, 2013, authorized under the authority of section one
3 hundred five, article eighteen, chapter forty-eight of this
4 code, modified by the Bureau for Child Support Enforcement
5 to meet the objections of the Legislative Rule-Making
6 Review Committee and refiled in the State Register on
7 December 18, 2013, relating to the Bureau for Child Support
8 Enforcement (the Bureau for Child Support Enforcement, 97
9 CSR 1), is authorized.

10 (b) The legislative rule filed in the State Register on July
11 29, 2013, authorized under the authority of section one
12 hundred five, article eighteen, chapter forty-eight of this
13 code, relating to the Bureau for Child Support Enforcement
14 (obtaining support from federal and state tax refunds, 97 CSR
15 3), is repealed.

16 (c) The legislative rule filed in the State Register on July
17 29, 2013, authorized under the authority of section one
18 hundred five, article eighteen, chapter forty-eight of this
19 code, relating to the Bureau for Child Support Enforcement
20 (interstate income withholding, 97 CSR 4), is repealed.

21 (d) The legislative rule filed in the State Register on July
22 29, 2013, authorized under the authority of section one
23 hundred five, article eighteen, chapter forty-eight of this
24 code, modified by the Bureau for Child Support Enforcement
25 to meet the objections of the Legislative Rule-Making
26 Review Committee and refiled in the State Register on
27 December 18, 2013, relating to the Bureau for Child Support
28 Enforcement (support enforcement activities undertaken by
29 the Bureau for Child Support Enforcement, 97 CSR 6), is
30 authorized.

31 (e) The legislative rule filed in the State Register on July
32 29, 2013, authorized under the authority of section one
33 hundred five, article eighteen, chapter forty-eight of this
34 code, modified by the Bureau for Child Support Enforcement
35 to meet the objections of the Legislative Rule-Making
36 Review Committee and refiled in the State Register on
37 December 18, 2013, relating to the Bureau for Child Support
38 Enforcement (distribution of support payments, 97 CSR 7),
39 is authorized.

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

[Handwritten Signature]
.....
Member ~~Chairman~~ Senate Committee

[Handwritten Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker of the House of Delegates

The within *is approved* this
the *1st* Day of *April*, 2014.

[Handwritten Signature]
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 27 2014

Time 3:00 pm