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.]
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.

(a) The legislative rule filed in the State Register on July 29, 2013, authorized under the authority of section eleven, article five-o, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review
Committee and refiled in the State Register on November 8, 2013, relating to the Department of Health and Human Resources (medication administration by unlicensed personnel, 64 CSR 60), is authorized with the following amendment:

On page four, paragraph 2.13.a.4 after the word "appliances" by changing the semicolon to a period striking out the word "and".

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

On page nine, subdivision 4.2.b, by removing the word "thirty", the left parenthesis, the number "30" and the right parenthesis, and inserting in lieu thereof, the word "ninety", the left parenthesis, the number "90" and the right parenthesis;

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

On page forty, by striking subdivision 13.3.b in its entirety, and in lieu thereof, inserting a new subdivision 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.S, 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 (exersaucers), 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."


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

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

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

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

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

4.3.b.1.A. The court shall require the defendant or juvenile respondent to submit to the testing not later than forty-eight hours after the issuance of the order described in paragraph 4.3.b.1 of this subsection, unless good cause for delay is shown upon a request for a hearing: Provided, That no such delay shall cause the HIV-related testing to be administered later than forty-eight hours after the filing of any indictment or information regarding an adult defendant or the filing of a petition regarding a juvenile respondent.
4.3.b.1.B. The prosecuting attorney may, upon the request of the victim or the victim’s parent or legal guardian, and with notice to the defendant or juvenile respondent, apply to the court for an order directing that an appropriate human immunodeficiency virus (HIV) test or other STD test be performed on a defendant charged with or a juvenile subject to a petition involving the offenses of prostitution, sexual abuse, sexual assault or incest.

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

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

And renumbering the remaining paragraphs;

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

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

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

4.3.b.5.B. Laboratory testing done on specimens sent to the Office of Laboratory Services by health care providers for
regional jails, correctional or juvenile facilities shall be performed at no cost to the jails, facilities or health care providers.);

And,

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

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

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

(d) The legislative rule filed in the State Register on July 24, 2013, authorized under the authority of section three, article twelve, chapter sixty-one of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 5, 2013, relating to the Department of Health and Human Resources (Medical Examiner rule for postmortem inquiries, 64 CSR 84), is authorized.
§64-5-3. Health Care Authority.

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


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

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

(c) The legislative rule filed in the State Register on July 29, 2013, authorized under the authority of section one hundred five, article eighteen, chapter forty-eight of this code, relating to the Bureau for Child Support Enforcement (interstate income withholding, 97 CSR 4), is repealed.
(d) The legislative rule filed in the State Register on July 29, 2013, authorized under the authority of section one hundred five, article eighteen, chapter forty-eight of this code, modified by the Bureau for Child Support Enforcement to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 18, 2013, relating to the Bureau for Child Support Enforcement (support enforcement activities undertaken by the Bureau for Child Support Enforcement, 97 CSR 6), is authorized.

(e) The legislative rule filed in the State Register on July 29, 2013, authorized under the authority of section one hundred five, article eighteen, chapter forty-eight of this code, modified by the Bureau for Child Support Enforcement to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 18, 2013, relating to the Bureau for Child Support Enforcement (distribution of support payments, 97 CSR 7), is authorized.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 15th Day of April, 2014.

Governor