

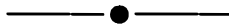
FILED

2005 APR 20 P 4: 07

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2005



ENROLLED

House Bill No. 2150

(By Delegates Amores, Mahan, Pino and Schadler)



Passed April 8, 2005

In Effect Ninety Days from Passage

FILED

2005 APR 20 P 4: 07

OFFICE WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

H. B. 2150

(BY DELEGATES AMORES, MAHAN, PINO AND SCHADLER)

[Passed April 8, 2005; in effect ninety days from passage.]

AN ACT to amend and reenact §49-6-1 of the Code of West Virginia, 1931, as amended, relating to expanding the possible venues where a child neglect or abuse petition may be filed.

Be it enacted by the Legislature of West Virginia:

That §49-6-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6. PROCEDURE IN CASES OF CHILD NEGLECT OR ABUSE.

§49-6-1. Petition to court when child believed neglected or abused; notice.

- 1 (a) If the department or a reputable person believes that a
- 2 child is neglected or abused, the department or the person may
- 3 present a petition setting forth the facts to the circuit court in
- 4 the county in which the child resides, or if the petition is being
- 5 brought by the Department, in the county in which the custodial
- 6 respondent or other named party abuser resides, or in which the
- 7 abuse or neglect occurred, or to the judge of the court in

8 vacation. Under no circumstance may a party file a petition in
9 more than one county based on the same set of facts. The
10 petition shall be verified by the oath of some credible person
11 having knowledge of the facts. The petition shall allege
12 specific conduct including time and place, how such conduct
13 comes within the statutory definition of neglect or abuse with
14 references thereto, any supportive services provided by the
15 department to remedy the alleged circumstances and the relief
16 sought. Upon filing of the petition, the court shall set a time and
17 place for a hearing and shall appoint counsel for the child.
18 When there is an order for temporary custody pursuant to
19 section three of this article, the hearing shall be held within
20 thirty days of the order, unless a continuance for a reasonable
21 time is granted to a date certain, for good cause shown.

22 (b) The petition and notice of the hearing shall be served
23 upon both parents and any other custodian, giving to the parents
24 or custodian at least ten days' notice. Notice shall also be given
25 to the department, any foster or preadoptive parent, and any
26 relative providing care for the child. In cases wherein personal
27 service within West Virginia cannot be obtained after due
28 diligence upon any parent or other custodian, a copy of the
29 petition and notice of the hearing shall be mailed to the person
30 by certified mail, addressee only, return receipt requested, to
31 the last known address of such person. If the person signs the
32 certificate, service shall be complete and the certificate shall be
33 filed as proof of the service with the clerk of the circuit court.
34 If service cannot be obtained by personal service or by certified
35 mail, notice shall be by publication as a Class II legal advertise-
36 ment in compliance with the provisions of article three, chapter
37 fifty-nine of this code. A notice of hearing shall specify the
38 time and place of the hearing, the right to counsel of the child
39 and parents or other custodians at every stage of the proceed-
40 ings and the fact that the proceedings can result in the perma-
41 nent termination of the parental rights. Failure to object to
42 defects in the petition and notice shall not be construed as a
43 waiver.

44 (c) At the time of the institution of any proceeding under
45 this article, the department shall provide supportive services in
46 an effort to remedy circumstances detrimental to a child.

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


Chairman Senate Committee

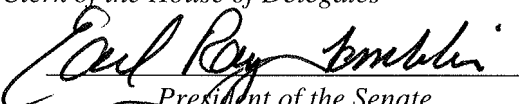

Chairman House Committee

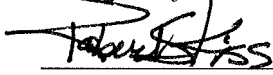
Originating in the House.

In effect ninety days 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 20th
day of April, 2005.


Governor

PRESENTED TO THE
GOVERNOR

APR 14 2005

Time 3:10 p.m.