

FILED

2010 MAR 24 PM 4: 53

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SEVENTY-NINTH LEGISLATURE

REGULAR SESSION, 2010

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 51

(SENATORS WELLS, D. FACEMIRE
AND CHAFIN, *original sponsors*)

[Passed March 13, 2010; in effect ninety days from passage.]

SB 51

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Senate Bill No. 51

(SENATORS WELLS, D. FACEMIRE AND CHAFIN, *original sponsors*)

[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §48-9-205 of the Code of West Virginia, 1931, as amended, relating to requiring a permanent parenting plan to contain a provision concerning the custody of a child if either parent, as a member of the National Guard, a reserve component or an active duty component, is mobilized, deployed or called to active duty.

Be it enacted by the Legislature of West Virginia:

That §48-9-205 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND
DECISION- MAKING RESPONSIBILITY OF CHILDREN.**

§48-9-205. Permanent parenting plan.

- 1 (a) A party seeking a judicial allocation of custodial
- 2 responsibility or decision-making responsibility under this
- 3 article shall file a proposed parenting plan with the court.

4 Parties may file a joint plan. A proposed plan shall be
5 verified and shall state, to the extent known or reasonably
6 discoverable by the filing party or parties:

7 (1) The name, address and length of residence of any
8 adults with whom the child has lived for one year or more,
9 or in the case of a child less than one year old, any adults
10 with whom the child has lived since the child's birth;

11 (2) The name and address of each of the child's parents
12 and any other individuals with standing to participate in
13 the action under section one hundred three of this article;

14 (3) A description of the allocation of care taking and
15 other parenting responsibilities performed by each person
16 named in subdivisions (1) and (2) of this subsection during
17 the twenty-four months preceding the filing of an action
18 under this article;

19 (4) A description of the work and child-care schedules of
20 any person seeking an allocation of custodial responsibil-
21 ity, and any expected changes to these schedules in the
22 near future;

23 (5) A description of the child's school and extracurricu-
24 lar activities;

25 (6) A description of any of the limiting factors as de-
26 scribed in section two hundred nine of this article that are
27 present, including any restraining orders against either
28 parent to prevent domestic or family violence, by case
29 number and jurisdiction;

30 (7) Required financial information; and

31 (8) A description of the known areas of agreement and
32 disagreement with any other parenting plan submitted in
33 the case.

34 The court shall maintain the confidentiality of any
35 information required to be filed under this section when

36 the person giving that information has a reasonable fear of
37 domestic abuse and disclosure of the information would
38 increase that fear.

39 (b) The court shall develop a process to identify cases in
40 which there is credible information that child abuse or
41 neglect, as defined in section three, article one, chapter
42 forty-nine of this code, or domestic violence as defined in
43 section two hundred two, article twenty-seven of this
44 chapter has occurred. The process shall include assistance
45 for possible victims of domestic abuse in complying with
46 subdivision (6), subsection (a) of this section, and referral
47 to appropriateresources for safe shelter, counseling, safety
48 planning, information regarding the potential impact of
49 domestic abuse on children and information regarding
50 civil and criminal remedies for domestic abuse. The
51 process shall also include a system for ensuring that
52 jointly submitted parenting plans that are filed in cases in
53 which there is credible information that child abuse or
54 domestic abuse has occurred receive the court review that
55 is mandated by subsection (b), section two hundred one of
56 this article.

57 (c) Upon motion of a party and after consideration of the
58 evidence, the court shall order a parenting plan consistent
59 with the provisions of sections two hundred six, two
60 hundred seven, two hundred eight and two hundred nine
61 of this article, containing:

62 (1) A provision for the child's living arrangements and
63 each parent's custodial responsibility, which shall include
64 either:

65 (A) A custodial schedule that designates in which par-
66 ent's home each minor child will reside on given days of
67 the year; or

68 (B) A formula or method for determining such a schedule
69 in sufficient detail that, if necessary, the schedule can be
70 enforced in subsequent proceedings by the court;

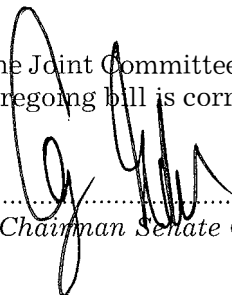
71 (2) An allocation of decision-making responsibility as to
72 significant matters reasonably likely to arise with respect
73 to the child;

74 (3) A provision consistent with section two hundred two
75 of this article for resolution of disputes that arise under
76 the plan, and remedies for violations of the plan; and

77 (4) A plan for the custody of the child should one or both
78 of the parents as a member of the National Guard, a
79 reserve component or an active duty component be
80 mobilized, deployed or called to active duty.

81 (d) A parenting plan may, at the court's discretion,
82 contain provisions that address matters that are expected
83 to arise in the event of a party's relocation, or provide for
84 future modifications in the parenting plan if specified
85 contingencies occur.

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



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Chairman Senate Committee



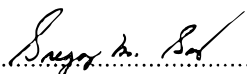
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Chairman House Committee

Originated in the Senate.

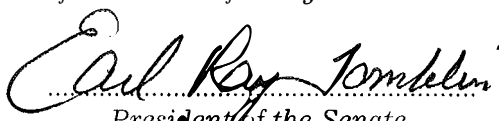
In effect ninety days from passage.



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Clerk of the Senate



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Clerk of the House of Delegates



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President of the Senate



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Speaker House of Delegates

The within *is approved* this the *24th*
March
Day of, 2010.



.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 23 2010

Time 11:40am