

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 for

4 **H. B. 4327**

5
6 (By Delegates Hatfield, D. Poling, Brown
7 and Staggers)

8 [Passed March 10, 2012; in effect ninety days from passage.]

9
10 AN ACT to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §16-44-1 and
12 §16-44-2, all relating to requiring pulse oximetry testing for
13 newborns; setting forth legislative findings; authorizing the
14 Commissioner of the Bureau of Public Health to require
15 testing; providing timing requirements for testing; and
16 requiring the commissioner to adopt procedural and legislative
17 rules.

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

19 That the Code of West Virginia, 1931, as amended, be amended
20 by adding thereto a new article, designated §16-44-1 and §16-44-2,
21 all to read as follows:

22 **ARTICLE 44. THE PULSE OXIMETRY NEWBORN TESTING ACT.**

23 **§16-44-1. Legislative findings.**

24 The Legislature finds and declares that:

25 (1) Congenital heart defects are structural abnormalities of

1 the heart that are present at birth; congenital heart defects range
2 in severity from simple problems such as holes between chambers of
3 the heart, to severe malformations, such as the complete absence of
4 one or more chambers or valves; some critical congenital heart
5 defects can cause severe and life-threatening symptoms which
6 require intervention within the first days of life;

7 (2) According to the United States Secretary of Health and
8 Human Services' Advisory Committee on Heritable Disorders in
9 Newborns and Children, congenital heart disease affects
10 approximately seven to nine of every thousand live births in the
11 United States and Europe; the federal Centers for Disease Control
12 and Prevention states that congenital heart defects are the leading
13 cause of infant death due to birth defects;

14 (3) Current methods for detecting congenital heart defects
15 generally include prenatal ultrasound screening and repeated
16 clinical examinations; while prenatal ultrasound screenings can
17 detect some major congenital heart defects, these screenings,
18 alone, identify less than half of all congenital heart defect
19 cases, and critical congenital heart defect cases are often missed
20 during routine clinical exams performed prior to a newborn's
21 discharge from a birthing facility;

22 (4) Pulse oximetry is a noninvasive test that estimates the
23 percentage of hemoglobin in blood that is saturated with oxygen;
24 when performed on a newborn when the baby is twenty-four to forty-
25 eight hours of age, or as late as possible if the baby is to be
26 discharged from the hospital before he or she is twenty-four hours

1 of age, pulse oximetry screening is often more effective at
2 detecting critical, life-threatening congenital heart defects which
3 otherwise go undetected by current screening methods; newborns with
4 abnormal pulse oximetry results require immediate confirmatory
5 testing and intervention; and

6 (5) Many newborn lives could potentially be saved by earlier
7 detection and treatment of congenital heart defects if birthing
8 facilities in the state were required to perform this simple,
9 noninvasive newborn screening in conjunction with current
10 congenital heart defect screening methods.

11 **§16-44-2. Pulse oximetry screening required; definition; rules.**

12 (a) The Commissioner of the Bureau for Public Health shall
13 require each birthing facility licensed by the Department of Health
14 and Human Resources to perform a pulse oximetry screening on every
15 newborn in its care, when the baby is twenty-four to forty-eight
16 hours of age, or as late as possible if the baby is to be
17 discharged from the hospital before he or she is twenty-four hours
18 of age.

19 (b) As used in this article, "birthing facility" means an
20 inpatient or ambulatory health care facility licensed by the
21 Department of Health and Human Resources that provides birthing and
22 newborn care services.

23 (c) The commissioner shall adopt procedural rules and propose
24 legislative rules for legislative approval, in accordance with the
25 provisions of article three, chapter twenty-nine-a of this code,
26 that are necessary to carry out the purposes of this article.