

1 COMMITTEE SUBSTITUTE

2 for

3 **H. B. 4327**

4  
5 (By Delegates Hatfield, D. Poling, Brown  
6 and Staggers)

7 (Originating in the Committee on the Judiciary)

8 [February 20, 2012]

9  
10 A BILL 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; authorizing the Commissioner of the Bureau of Public  
14 Health to require testing; providing timing requirements for  
15 testing; and requiring the Commissioner to adopt procedural  
16 and legislative rules.

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

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

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

22 **§16-44-1. Legislative findings.**

23 The Legislature finds and declares that:

24 (1) Congenital heart defects are structural abnormalities of  
25 the heart that are present at birth; congenital heart defects range

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

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

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

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

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

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

10 **§16-44-2. Pulse oximetry screening required; definition; rules.**

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

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

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