

1 **ENROLLED**

2 **COMMITTEE SUBSTITUTE**

3 **for**

4 **H. B. 2603**

5 (By Delegates Morgan, Stephens, Staggers,
6 Eldridge, Jones, Lynch, Paxton, Hartman,
7 M. Smith, Barrett and Skinner)

8 [Passed April 12, 2013; in effect from passage.]

9
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11 AN ACT to repeal §48-26-404, §48-26-405, §48-26-601, §48-26-602,
12 §48-26-901, §48-26-902, §48-26-1003, §48-26-1005, §48-26-1006
13 and §48-26-1007 of the Code of West Virginia, 1931, as
14 amended; to amend and reenact §48-26-202, §48-26-203,
15 §48-26-204, §48-26-205, §48-26-206, §48-26-301, §48-26-401,
16 §48-26-402, §48-26-403, §48-26-406, §48-26-603, §48-26-604,
17 §48-26-701, §48-26-1001, §48-26-1002 and §48-26-1004 of said
18 code; and to amend said code by adding thereto nine new
19 sections, designated §48-26-207, §48-26-208, §48-26-209,
20 §48-26-210, §48-26-211, §48-26-212, §48-26-213, §48-26-214 and
21 §48-26-408, all relating to the Family Protection Services
22 Board; revising definitions; adding definitions; revising
23 qualifications for membership on the board; adding two new
24 members to the board; clarifying that the two ex officio
25 members have voting privileges; prohibiting certain persons
26 from serving on the board at the same time as certain other

1 persons; providing for appointments for unexpired terms of
2 board members; providing appointments for members who become
3 disqualified; clarifying and expanding the board's powers and
4 duties; requiring board to submit annual report to Governor
5 and Joint Committee on Government and Finance; authorizing
6 legislative rules; increasing the percentage of board funds
7 that may be used for administrative functions; authorizing the
8 board to develop formulas to direct funds to certain programs;
9 prohibiting programs from falsely representing that they are
10 licensed; authorizing the board to develop preliminary and
11 full application forms; requiring board to respond in writing
12 within certain time after receiving preliminary and full
13 applications; providing for conditional, provisional and full
14 licenses; allowing certain entities to provide support to
15 programs in certain situations; authorizing the board to issue
16 licenses for up to three years; updating provisions related to
17 the closure of programs; authorizing the board to issue
18 notices to cease and desist and seek injunctive relief in
19 certain situations; setting forth procedures for hearings and
20 appeals; clarifying the uses of the Domestic Violence Legal
21 Services Fund; requiring programs to report annually to the
22 board; updating confidentiality protections for programs
23 participants; updating provisions related to monitored
24 parenting and exchange programs; providing that judges and
25 magistrates may order persons to participate in a monitored
26 parenting and exchange program; and allowing monitored

1 parenting and exchange programs to receive referrals.

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

3 That §48-26-404, §48-26-405, §48-26-601, §48-26-602,
4 §48-26-901, §48-26-902, §48-26-1003, §48-26-1005, §48-26-1006 and
5 §48-26-1007 of the Code of West Virginia, 1931, as amended, be
6 repealed; that §48-26-202, §48-26-203, §48-26-204, §48-26-205,
7 §48-26-206, §48-26-301, §48-26-401, §48-26-402, §48-26-403,
8 §48-26-406, §48-26-603, §48-26-604, §48-26-701, §48-26-1001,
9 §48-26-1002 and §48-26-1004 of said code be amended and reenacted;
10 and that said code be amended by adding thereto nine new sections,
11 designated §48-26-207, §48-26-208, §48-26-209, §48-26-210,
12 §48-26-211, §48-26-212, §48-26-213, §48-26-214 and §48-26-407, all
13 to read as follows:

14 That §48-26-404, §48-26-405, §48-26-601, §48-26-602,
15 §48-26-901, §48-26-902, §48-26-1003, §48-26-1005, §48-26-1006 and
16 §48-26-1007 of the Code of West Virginia, 1931, as amended, be
17 repealed; that §48-26-202, §48-26-203, §48-26-204, §48-26-205,
18 §48-26-206, §48-26-301, §48-26-401, §48-26-402, §48-26-403,
19 §48-26-406, §48-26-603, §48-26-604, §48-26-701, §48-26-1001,
20 §48-26-1002 and §48-26-1004 of said code be amended and reenacted;
21 and that said code be amended by adding thereto nine new sections,
22 designated §48-26-207, §48-26-208, §48-26-209, §48-26-210,
23 §48-26-211, §48-26-212, §48-26-213, §48-26-214 and §48-26-408, all
24 to read as follows:

25 **ARTICLE 26. DOMESTIC VIOLENCE ACT.**

26 PART II. DEFINITIONS.

1 **§48-26-202. Advocacy defined.**

2 "Advocacy" means assisting victims and survivors of domestic
3 violence, dating violence, sexual assault, stalking or human
4 trafficking, and their children, in securing rights, remedies and
5 services, by directly providing for, or referring to public and
6 private agencies to provide for, safety planning; shelter; housing;
7 legal services; outreach; counseling; case management; information
8 and referral; training; employment; child care; health care;
9 transportation; financial literacy education, financial planning
10 and related economic empowerment services; parenting and other
11 educational services; and other support services.

12 **§48-26-203. Batterer Intervention and Prevention Program defined.**

13 "Batterer intervention and prevention program", previously
14 referred to as a program of intervention for perpetrators, means a
15 licensed educational program that provides classes to individuals
16 who commit acts of domestic violence or abuse, offering nonviolent
17 strategies and values that promote respect and equality in intimate
18 partner relationships.

19 **§48-26-204. Board defined.**

20 "Board" means the Family Protection Services Board created
21 pursuant to Chapter 53 of the Acts of the Legislature of 1989 and
22 subsequently recodified by this article.

23 **§48-26-205. Closure defined.**

24 "Closure" means the temporary or permanent prohibition of
25 specified services and the corresponding suspension of licensure of

1 a program or program component that violates the standards
2 established by the board or that threatens the health, well being
3 or safety of its program participants or staff.

4 **§48-26-206. Department defined.**

5 "Department" means the Department of Health and Human
6 Resources.

7 **§48-26-207. Domestic Violence Legal Services Fund defined.**

8 "Domestic Violence Legal Services Fund" means the special
9 revenue account established by section six hundred three of this
10 article for the purposes set forth in that section.

11 **§48-26-208. Domestic violence program defined.**

12 "Domestic violence program" means a licensed program of a
13 locally controlled nonprofit organization, established primarily
14 for the purpose of providing advocacy services, comprising both a
15 shelter component and an outreach component, to victims of domestic
16 violence, dating violence, sexual assault, stalking or human
17 trafficking, and their children: *Provided*, That the board may
18 temporarily or permanently close either the shelter component or
19 the outreach component of a domestic violence program.

20 **§48-26-209. Family Protection Fund defined.**

21 "Family Protection Fund" means the special revenue account
22 established by Chapter 74 of the Acts of the Legislature of 1981,
23 held by the department, for the purpose of collecting marriage
24 license fees pursuant to section ten, article one, chapter
25 fifty-nine of this code, divorce surcharge fees pursuant to section

1 twenty-eight-a, article one, chapter fifty-nine of this code, fees
2 for failure to present a premarital education course completion
3 certificate pursuant to section ten, article one, chapter
4 fifty-nine of this code and any other funding source, including any
5 source created in another section of this code, and distributed to
6 licensed domestic violence programs, in accordance with the formula
7 designated by the board.

8 **§48-26-210. Intimate partner defined.**

9 "Intimate partner" means a current or former spouse, a person
10 with whom one shares a child in common, a person with whom one is
11 cohabiting or has cohabited, or a person with whom one is or has
12 been in a relationship of a romantic or intimate nature.

13 **§48-26-211. Licenses defined.**

14 (a) "Conditional license" means a license issued for up to
15 ninety days, to programs that have violations of safety or
16 accountability standards that may threaten the health, well-being
17 or safety of its program participants or staff, or the responsible
18 operation of the program, or that have a history or pattern of
19 noncompliance with established standards.

20 (b) "Provisional license" means a license issued for up to
21 one hundred and eighty days, to programs that are not in compliance
22 with nonlife threatening safety, programmatic, facility or
23 administrative standards, that may be extended for an additional
24 six months, if the board determines that the program is making
25 active progress toward compliance.

26 (c) "Full license" means a license issued for up to the

1 maximum licensure period of three years, to programs that are in
2 compliance with the standards established by the board and have no
3 violations of safety or accountability standards that may threaten
4 the health, well-being or safety of its program participants or
5 staff, or the responsible operation of the program.

6 **§48-26-212. Monitored parenting and exchange defined.**

7 (a) "Monitored parenting" means the contact between a parent
8 without custodial responsibility, guardian or other adult and one
9 or more children, in the presence of a third person who monitors
10 the contact to promote the safety of the participants.

11 (b) "Monitored exchange" means the observation of movement of
12 a child or children from the custodial responsibility of one parent
13 or guardian to the custodial responsibility of the other parent or
14 other adult without allowing contact between the adults.

15 (c) "Monitored parenting and exchange program" means a
16 licensed program offered by a locally controlled nonprofit
17 organization for purposes of providing a neutral, safe and
18 child-friendly environment to allow the child or children access to
19 a parent or other adult without allowing contact between the
20 adults.

21 **§48-26-213. Outreach defined.**

22 "Outreach" means a licensed domestic violence program's
23 community-based activities that increase awareness and availability
24 of services, in every county within the program's regional service
25 area, to victims and survivors of domestic violence, dating
26 violence, sexual assault, stalking or human trafficking, and their

1 children.

2 **§48-26-214. Shelter defined.**

3 "Shelter" means residential services offered by a licensed
4 domestic violence program on a temporary basis, to persons who are
5 victims of domestic violence, dating violence, sexual assault,
6 stalking or human trafficking, and their children.

7 PART III. FAMILY PROTECTION SERVICES BOARD.

8 **§48-26-301. Family protection services board continued; terms.**

9 (a) The family protection services board, is continued.

10 (b) Membership of the board is comprised of seven persons.
11 The Governor, with the advice and consent of the Senate, shall
12 appoint five members of the board who meet the following
13 qualifications:

14 (1) One member must be a director of a licensed domestic
15 violence program;

16 (2) One member must be a representative of the West Virginia
17 Coalition Against Domestic Violence;

18 (3) One member must be a representative of a batterer
19 intervention and prevention program licensed by the board;

20 (4) One member must be a representative of the West Virginia
21 Supreme Court of Appeals who is familiar with monitored parenting
22 and exchange program services; and

23 (5) One member must be a citizen who is a resident of this
24 state and who is not employed by, under contract with or a
25 volunteer for a program licensed by the board, and who is

1 knowledgeable about services for victims and survivors of domestic
2 violence;

3 (c) The secretary of the Department of Health and Human
4 Resources, or his or her designee, and the chair of the Governor's
5 Committee on Crime, Delinquency and Correction, or his or her
6 designee shall serve as ex officio voting members.

7 (d) The terms of the five members appointed by the Governor
8 are for three years, staggered in accordance with prior enactments
9 of this act.

10 (e) No person who is employed by, under contract with or
11 volunteers for an organization that is licensed to operate any
12 program under the provisions of this article may serve on the board
13 at the same time as another person who is employed by, under
14 contract with or volunteers for that organization.

15 (f) If a member resigns or is unable to complete his or
16 her term or ceases to be qualified, the Governor shall appoint
17 within ninety days a person who meets the qualifications of this
18 section to serve the remainder of the unexpired term.

19 PART IV. DUTIES OF FAMILY PROTECTION SERVICES BOARD.

20 **§48-26-401. Powers and duties of board.**

21

22 (a) The board shall:

23 (1) Propose rules for legislative approval, in accordance
24 with the provisions of article three, chapter twenty-nine-a of this
25 code, to implement the provisions of this article and any
26 applicable federal guidelines;

1 (2) Receive and consider applications for licensure of
2 domestic violence programs, batterer intervention and prevention
3 programs and monitored parenting and exchange programs;

4 (3) Assess the need for domestic violence programs, batterer
5 intervention and prevention programs and monitored parenting and
6 exchange programs, including licensure preapplication and
7 application processes;

8 (4) Conduct licensure renewal reviews of domestic violence
9 programs, batterer intervention and prevention programs and
10 monitored parenting and exchange programs, that will ensure the
11 safety, well-being and health of the programs' participants and
12 staff;

13 (5) For each fiscal year, expend from the Family Protection
14 Fund a sum not to exceed fifteen percent for the costs of
15 administering the provisions of this article, and direct the
16 Department of Health and Human Resources to distribute one half of
17 the remaining funds equally and the other half of the remaining
18 funds in accordance with a formula determined by the board, to
19 licensed domestic violence programs;

20 (6) Submit an annual report on the status of programs licensed
21 under the provisions of this article to the Governor and the Joint
22 Committee on Government and Finance;

23 (7) Conduct hearings as necessary under this article; and

24 (8) Collect data about licensed programs for use in the annual
25 report of the board.

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(b) The board may:

(1) Advise the Secretary of the Department of Health and Human Resources and the Chair of the Governor's Committee on Crime, Delinquency and Correction on matters of concern relative to their responsibilities under this article;

(2) Delegate to the Secretary of the Department of Health and Human Resources such powers and duties of the board as the board considers appropriate to delegate, including, but not limited to, the authority to approve, disapprove, revoke or suspend licenses;

(3) Advise administrators of state or federal funds of licensure violations and closures of programs; and

(4) Exercise all other powers necessary to implement the provisions of this article.

§48-26-402. Requirements, qualifications and terms of licensure; collaboration to assist programs.

(a) No domestic violence program, batterer intervention and prevention program or monitored parenting and exchange program may represent that it is licensed unless it is licensed by the board pursuant to the provisions of this article and the legislative rules promulgated pursuant to this article.

(b) The board shall establish preliminary application and full

1 application forms for the initial licensing of domestic violence
2 programs, batterer intervention and prevention programs and
3 monitored parenting and exchange programs.

4 (1) To meet basic eligibility requirements an applicant for
5 licensure must complete a preliminary application form to
6 demonstrate local need for the proposed service, method of
7 governance and accountability, administrative and programmatic
8 design, and fiscal efficiency. The board shall respond in writing
9 within sixty days of receipt of the preliminary application;

10 (2) If the board approves the preliminary application, the
11 applicant may complete a full application form;

12 (3) The board shall determine whether all documentation set
13 forth on the licensure checklist has been submitted, and may
14 request supplemental or clarifying information or documentation;
15 and

16 (4) The board shall grant or deny a license within sixty days
17 of the receipt of the completed full application form and all
18 supplemental or clarifying information or documentation requested
19 by the board.

20 (c) Licenses may be granted or renewed for periods not to
21 exceed three years: *Provided*, That the board may conduct licensure
22 reviews at any time during the licensure period, and may downgrade,
23 suspend or revoke a license in accordance with the provisions of
24 this article.

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26 (d) The license granted by the board shall be prominently

1 displayed by the licensees.

2 (e) The board may grant a provisional license for up to one
3 hundred and eighty days, to a program that is not in compliance
4 with non-life threatening safety, programmatic, facility or
5 administrative standards. A provisional license may be extended
6 for up to an additional one hundred and eighty days, if the board,
7 in its sole discretion, determines that the program is making
8 active progress toward compliance.

9 (f) The board may grant a conditional license for up to ninety
10 days to a program that has violations of safety or accountability
11 standards that may threaten the health, well-being or safety of its
12 participants or staff, or the responsible operation of the program,
13 or that have a history or pattern of noncompliance with established
14 standards. If a program does not correct the violations within the
15 conditional license period, the board may institute closure
16 proceedings.

17 (g) The Department of Health and Human Resources, the Division
18 of Justice and Community Services, the Family Protection Services
19 Board, the WV Coalition Against Domestic Violence, the West
20 Virginia Supreme Court of Appeals and the Division of Corrections
21 may, collectively or in any combination as appropriate to the
22 program, collaborate to provide technical assistance to prevent and
23 resolve deficiencies in a program's ability to meet the standards
24 to operate and maintain licensure.

25 (h) If the board obtains information that a person or persons
26 has engaged in, is engaging in or is about to engage in an act that

1 constitutes or will constitute a violation of the provisions of
2 this article or the legislative rules promulgated pursuant to this
3 article, it may issue a notice to the person or persons to cease
4 and desist the act, or apply to the circuit court for an order
5 enjoining the act. Upon a showing that the person has engaged, is
6 engaging or is about to engage in such an act, the court may order
7 an injunction, restraining order or other order as the court
8 considers appropriate.

9 **§48-26-403. Legislative rules.**

10 (a) The board shall propose rules for legislative approval in
11 accordance with the provisions of article three, chapter
12 twenty-nine-a of this code to effectuate the provisions of this
13 article.

14 (b) The rules shall include, at a minimum:

15 (1) Operating procedures of the board;

16 (2) Minimum standards, including, but not limited to,
17 governance, administration, safety, referral process, intake,
18 services, financial accountability, staffing, personnel policies,
19 communication, program participant records, service plans,
20 confidentiality, program evaluation, facility requirements,
21 reports, restrictions, and other requirements in this article, for
22 licensure of:

23 (A) Domestic violence programs, including requirements for
24 both shelter and outreach components;

25 (B) Community-based, local government and Division of
26 Corrections batterer intervention and prevention programs; and

1 (C) Monitored parenting and exchange programs; and

2 (3) A licensure checklist to determine the ability of
3 applicants and licensees to meet licensure standards, to determine
4 eligibility for a full license, provisional license, conditional
5 license or no license.

6 (c) The rules in effect as of the effective date of the
7 reenactment of this section will remain in effect until modified,
8 amended or repealed provided that they are not inconsistent with
9 this article.

10 **§48-26-406. Closure of programs.**

11 (a) The board may close any program that violates the
12 standards established under this article or that threatens the
13 health, well-being or safety of its participants or staff:
14 *Provided*, That if a shelter is closed, the governing body of the
15 program, in conjunction with the board, shall establish a plan to
16 place the participants in other shelters or alternative housing.

17

18 (b) In order to close a domestic violence program or one of
19 its components, a batterer intervention and prevention program or
20 a monitored parenting and exchange program, the board must vote
21 unanimously in the affirmative.

22 (c) If either the shelter component or the outreach component
23 of a domestic violence program is closed, the remaining component
24 of the program may continue to be licensed and to receive funds.

25 **§48-26-408. Hearing procedures; judicial review.**

26 (a) When a license for a program is downgraded or discontinued

1 through permanent or temporary closure, the program's governing
2 body is entitled to a hearing before the board.

3 (b) Hearings shall be held in accordance with the provisions
4 of article five, chapter twenty-nine-a of this code.

5 (c) The board may conduct the hearing or elect to have a
6 hearing examiner or an administrative law judge conduct the
7 hearing. If the hearing is conducted by a hearing examiner or an
8 administrative law judge:

9 (1) The hearing examiner or administrative law judge shall be
10 licensed to practice law in this state and shall conform to the
11 Code of Conduct for Administrative Law Judges as set forth by the
12 Ethics Commission in legislative rule;

13 (2) At the conclusion of a hearing, the hearing examiner or
14 administrative law judge shall prepare a proposed written order
15 containing recommended findings of fact and conclusions of law and
16 may include recommended sanctions, including closure, if the board
17 so directs;

18 (3) The board may accept, reject, modify or amend the
19 recommendations of the hearing examiner or administrative law
20 judge; and

21 (4) If the board rejects, modifies or amends the
22 recommendations, the board shall state in the order a reasoned,
23 articulate justification based on the record for the rejection,
24 modification or amendment.

25 (d) Pursuant to the provisions of section one, article five,
26 chapter twenty-nine-a of this code, informal disposition may also

1 be made by the board by stipulation, agreed settlement, consent
2 order or default. Further, the board may suspend its decision and
3 place a license on conditional or provisional status.

4 (e) A licensee adversely affected by a decision of the board
5 entered after a hearing may seek an appeal to the Circuit Court, in
6 accordance with the provisions of section four, article five,
7 chapter twenty-nine-a of this code, and may appeal a decision of
8 the Circuit Court to the West Virginia Supreme Court of Appeals, in
9 accordance with the provisions of article six, chapter
10 twenty-nine-a of this code.

11 PART VI. FUNDING.

12 **§48-26-603. Domestic Violence Legal Services Fund.**

13 (a) There is continued in the State Treasury a special revenue
14 account, designated as the "Domestic Violence Legal Services Fund,"
15 that shall be an appropriated fund for receipt of grants, gifts,
16 fees, or federal or state funds designated for legal services for
17 domestic violence victims. Expenditures from the fund shall be
18 limited to attorneys employed or contracted by licensed domestic
19 violence programs, or employed or contracted by West Virginia's
20 federally designated legal services program, its successor
21 organization or other nonprofit organization as determined by the
22 department, that establish a collaborative relationship with a
23 licensed domestic violence program, to provide civil legal services
24 to victims of domestic violence.

25 (b) Any court of this state may order a nonprevailing party to
26 pay an amount equivalent to the reasonable attorney's fee to which

1 the prevailing litigant would be entitled into the Domestic
2 Violence Legal Services Fund, established in subsection (a) of this
3 section, if the following circumstances occur:

4 (1) A prevailing litigant is entitled by statute or common law
5 to a reasonable attorney's fee, and

6 (2) The prevailing litigant's legal counsel informs the court
7 that no fee will be requested.

8 **§48-26-604. Annual reports of licensed programs.**

9 (a) All programs licensed pursuant to this article shall
10 report specific information annually as required by the board.

11 (b) No information contained in a report may identify any
12 person served by the program or enable any person to determine the
13 identity of any such person.

14 PART VII. CONFIDENTIALITY.

15 **§48-26-701. Confidentiality.**

16 (a) No program licensed pursuant to this article may disclose,
17 reveal or release or be compelled to disclose, reveal or release,
18 any written records or personal or personally identifying
19 information about a program participant created or maintained in
20 providing services, regardless of whether the information has been
21 encoded, encrypted, hashed, or otherwise protected, pursuant to
22 this article except:

23 (1) Upon written consent, or upon oral consent in emergency
24 situations defined by legislative rule, of the person seeking or
25 who has sought services from the program;

1 (2) In any proceeding brought under sections four and five,
2 article six, chapter nine of this code or article six, chapter
3 forty-nine of this code;

4 (3) As mandated by article six-a, chapter forty-nine and
5 article six, chapter nine of this code;

6 (4) Pursuant to an order of any court based upon a finding
7 that said information is sufficiently relevant to a proceeding
8 before the court to outweigh the importance of maintaining the
9 confidentiality established by this section;

10 (5) To protect against a clear and substantial danger of
11 imminent injury by a person receiving services to himself or
12 herself or another; or

13 (6) As authorized by the releases signed by batterer
14 intervention and prevention program participants pursuant to the
15 provisions of subsection (b) of this section.

16 (b) Batterer intervention and prevention program participants
17 shall authorize the release of information by signing the following
18 releases:

19 (1) Allowing the provider to inform the victim or alleged
20 victim and the victim's advocates that the batterer is
21 participating in a batterer intervention and prevention program
22 with the provider and to provide information to the victim or
23 alleged victim and her or his advocates, if necessary, for the
24 victim's or alleged victim's safety;

25 (2) Allowing prior and current service providers to provide
26 information about the batterer to the provider;

1 (3) Allowing the provider, for good cause, to provide
2 information about the batterer to relevant legal entities,
3 including courts, parole officers, probation officers, child
4 protective services, adult protective services, law enforcement,
5 licensed domestic violence programs, or other referral agencies;

6 (4) Allowing the provider to report to the court, if the
7 participation was court ordered, and to the victim or alleged
8 victim, if she or he requests and provides a method of
9 notification, and to his or her advocate, any assault, failure to
10 comply with program requirements, failure to attend the program,
11 threat of harm by the batterer, reason for termination and
12 recommendations for changes in the court order; and

13 (5) Allowing the provider to report to the victim or alleged
14 victim, or his or her advocate, without the participant's
15 authorization, all perceived threats of harm, the participant's
16 failure to attend and reason for termination.

17 (c) Monitored parenting and exchange programs may disclose to
18 one parent or guardian, without the permission of the other parent
19 or guardian, any perceived threat of harm or violation of the court
20 order or violation of the monitored parenting and exchange program
21 rules by the other parent or guardian.

22 (d) No monitored parenting and exchange program may release
23 information about the child without consent of the parent with
24 custodial responsibility or guardian.

25 (e) In addition to the provisions set forth in this section,
26 the release of a victim's personally identifying information is

1 subject to the provisions of 42 U.S.C. § 13925(b)(2).

2 (f) No consent or authorization for the transmission or
3 disclosure of confidential information is effective unless it is
4 signed by the program participant whose information is being
5 disclosed. Every person signing an authorization shall be given a
6 copy.

7 (g) A victim of domestic violence, dating violence, sexual
8 assault, or stalking shall not be required to provide consent to
9 release his or her personally identifying information as a
10 condition of eligibility for the services, nor may any
11 personally-identifying information be shared in order to comply
12 with federal or state reporting, evaluation, or data collection
13 requirements: *Provided*, That nothing in this section prohibits a
14 program from reporting suspected abuse or neglect, as defined by
15 law, when the program is mandated by law to report suspected abuse
16 or neglect.

17 PART X . MONITORED PARENTING AND EXCHANGE PROGRAMS.

18 **§48-26-1001. Court orders; use of monitored parenting and**
19 **exchange programs without court order.**

20 (a) Judges and magistrates may order persons to apply to a
21 licensed monitored parenting and exchange program for monitored
22 parenting or monitored exchange of children: *Provided*, That a
23 licensed monitored parenting and exchange program may not be
24 required to perform duties that are beyond the program's capacity
25 or scope of services.

1 (b) Judges and magistrates may require a person to pay a
2 reasonable amount based on ability to pay and other relevant
3 criteria for any fee charged by a monitored parenting and exchange
4 program.

5 (c) Licensed monitored parenting and exchange programs may
6 receive referrals from judges, magistrates, child protective
7 services, attorneys and other agencies, for services under the
8 terms and conditions of those services as set forth in rules
9 promulgated by the board.

10 (d) Licensed monitored parenting and exchange programs may
11 serve self-referrals when the adult parties agree to the use of the
12 program.

13 **§48-26-1002. Exclusions.**

14 The provisions of this part do not apply to therapeutic or
15 supervised visitation or exchanges or any activity conducted by the
16 state or others in abuse and neglect proceedings pursuant to
17 articles six and six-a, chapter forty-nine of this code in which
18 assessment, evaluation, formulation of a treatment plan, case
19 management, counseling, therapy or similar activities occur.

20 **§48-26-1004. Contract by persons using program.**

21 Every program shall require that the parent, guardian or other
22 adult sign a written contract prior to using the program and that
23 the use of the services provided by the program can be terminated
24 by the program for violation of the contract.

