

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 155**

5 (SENATOR SNYDER, *original sponsor*)

6 _____
7 [Passed March 8, 2014; in effect from passage.]
8 _____

9
10
11 AN ACT to amend and reenact article 5, chapter 64 of the Code of
12 West Virginia, 1931, as amended, relating generally to the
13 promulgation of administrative rules by the Department of
14 Health and Human Resources; legislative mandate or
15 authorization for the promulgation of certain legislative
16 rules by various executive or administrative agencies of the
17 state; authorizing certain of the agencies to promulgate
18 certain legislative rules in the form that the rules were
19 filed in the State Register; authorizing certain of the
20 agencies to promulgate certain legislative rules with various
21 modifications presented to and recommended by the Legislative
22 Rule-Making Review Committee; authorizing certain of the
23 agencies to promulgate certain legislative rules with various
24 modifications presented to and recommended by the Legislative

1 Rule-Making Review Committee and as amended by the
2 Legislature; authorizing the Department of Health and Human
3 Resources to promulgate a legislative rule relating to
4 medication administration by unlicensed personnel; authorizing
5 the Department of Health and Human Resources to promulgate a
6 legislative rule relating to child care centers' licensing;
7 authorizing the Department of Health and Human Resources to
8 promulgate a legislative rule relating to clinical laboratory
9 technician and technologist licensure and certification;
10 authorizing the Department of Health and Human Resources to
11 promulgate a legislative rule relating to AIDS-related medical
12 testing and confidentiality; authorizing the Department of
13 Health and Human Resources to promulgate a legislative rule
14 relating to the Cancer Registry; authorizing the Department of
15 Health and Human Resources to promulgate a legislative rule
16 relating to the Medical Examiner's rule for post-mortem
17 inquiries; authorizing the Health Care Authority to promulgate
18 a legislative rule relating to the West Virginia Health
19 Information Network; authorizing the Bureau for Child Support
20 Enforcement to promulgate a legislative rule relating to the
21 bureau; repealing the Bureau for Child Support Enforcement's
22 legislative rule relating to obtaining support from federal
23 and state tax refunds; repealing the Bureau for Child Support
24 Enforcement's legislative rule relating to interstate income

1 withholding; authorizing the Bureau for Child Support
2 Enforcement to promulgate a legislative rule relating to
3 support enforcement activities undertaken by the bureau; and
4 authorizing the Bureau for Child Support Enforcement to
5 promulgate a legislative rule relating to the distribution of
6 support payments.

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

8 That article 5, chapter 64 of the Code of West Virginia, 1931,
9 as amended, be amended and reenacted to read as follows:

10 **§64-5-1. Department of Health and Human Resources.**

11 (a) The legislative rule filed in the State Register on July
12 29, 2013, authorized under the authority of section eleven, article
13 five-o, chapter sixteen of this code, modified by the Department of
14 Health and Human Resources to meet the objections of the
15 Legislative Rule-Making Review Committee and refiled in the State
16 Register on November 8, 2013, relating to the Department of Health
17 and Human Resources (medication administration by unlicensed
18 personnel, 64 CSR 60), is authorized with the following amendment:

19 On page four, paragraph 2.13.a.4 after the word "appliances"
20 by changing the semicolon to a period striking out the word "and".

21 (b) The legislative rule filed in the State Register on July
22 29, 2013, authorized under the authority of section four, article
23 two-b, chapter forty-nine of this code, modified by the Department
24 of Health and Human Resources to meet the objections of the

1 Legislative Rule-Making Review Committee and refiled in the State
2 Register on December 3, 2013, relating to the Department of Health
3 and Human Resources (child care centers' licensing, 78 CSR 1), is
4 authorized, with the following amendment:

5 On page nine, subdivision 4.2.b, by removing the word
6 "thirty", the left parenthesis, the number "30" and the right
7 parenthesis, and inserting in lieu thereof, the word "ninety", the
8 left parenthesis, the number "90" and the right parenthesis;

9 On page forty, subparagraph 13.3.a.3, line two, after the
10 word, "served" by striking out the semi-colon and the following
11 underlined words "provided that the center shall not use tables
12 with built-in multiple bucket-type seats after June 30, 2015";

13 On page forty, by striking subdivision 13.3.b in its entirety,
14 and in lieu thereof, inserting a new subdivision 13.3.b to read as
15 follows:

16 "13.3.b. Jumpers, and infant walkers are prohibited."

17 On page forty, after subdivision 13.3.b, by inserting a new
18 subdivision 13.3.c to read as follows:

19 "13.3.c. Play pens and play yards, if used, must be
20 manufactured after February 28, 2013, properly disinfected after
21 each use and not used for multiple children at the same time.";

22 On page forty-three, subparagraph 13.4.i.5, line three, after
23 the word "worn" by striking out the comma, and the following words,
24 "but the use of a blanket is prohibited in the crib" and by un-

1 striking and restoring the following words, "or a thin blanket used
2 for a covering. If a blanket is used, it shall be tucked around the
3 mattress of the crib and only cover the child high as his or her
4 chest";

5 And,

6 On page forty-eight, by striking out in its entirety
7 subdivision 14.3.d and inserting in lieu thereof a new subdivision
8 14.3.d to read as follows:

9 "14.3.d. Restrictive equipment. Infant equipment that
10 restricts movement such as swings, play pens, play yards,
11 stationary activity centers (exersaucers), infant seats, etc., if
12 used, shall only be used for short periods of time not to exceed
13 fifteen (15) minutes in a four (4) hour period."

14 **§64-5-2. Bureau for Public Health.**

15 (a) The legislative rule filed in the State Register on July
16 24, 2013, authorized under the authority of section four, article
17 one, chapter sixteen of this code, modified by the Department of
18 Health and Human Resources to meet the objections of the
19 Legislative Rule-Making Review Committee and refiled in the State
20 Register on November 5, 2013, relating to the Department of Health
21 and Human Resources (clinical laboratory technician and
22 technologist licensure and certification, 64 CSR 57), is
23 authorized.

24 (b) The legislative rule filed in the State Register on July

1 25, 2013, authorized under the authority of section four, article
2 one, chapter sixteen of this code, modified by the Department of
3 Health and Human Resources to meet the objections of the
4 Legislative Rule-Making Review Committee and refiled in the State
5 Register on December 9, 2013, relating to the Department of Health
6 and Human Resources (AIDS-related medical testing and
7 confidentiality, 64 CSR 64), is authorized with the following
8 amendments:

9 On page two, subdivision 4.1.e, by inserting the following
10 after the period, "The cost of the test not be passed through to
11 the patient by a public health department."

12 On page six, paragraph 4.3.b.1., by striking out the words "an
13 oral" and inserting in lieu thereof the word "a";

14 On page six, by striking out all of subparagraph 4.3.b.1.A.
15 and inserting in lieu thereof the following:

16 4.3.b.1.A. The court shall require the defendant or juvenile
17 respondent to submit to the testing not later than forty-eight
18 hours after the issuance of the order described in paragraph
19 4.3.b.1 of this subsection, unless good cause for delay is shown
20 upon a request for a hearing: *Provided*, That no such delay shall
21 cause the HIV-related testing to be administered later than forty-
22 eight hours after the filing of any indictment or information
23 regarding an adult defendant or the filing of a petition regarding
24 a juvenile respondent.

1 4.3.b.1.B. The prosecuting attorney may, upon the request of
2 the victim or the victim's parent or legal guardian, and with
3 notice to the defendant or juvenile respondent, apply to the court
4 for an order directing that an appropriate human immunodeficiency
5 virus (HIV) test or other STD test be performed on a defendant
6 charged with or a juvenile subject to a petition involving the
7 offenses of prostitution, sexual abuse, sexual assault or incest.

8 On page six, by striking out all of part 4.3.b.1.A.1.;

9 On page six, by striking out all of paragraph 4.3.b.2.;

10 And renumbering the remaining paragraphs;

11 On page six, by striking out all of paragraph 4.3.b.6. and
12 inserting in lieu thereof the following:

13 4.3.b.5. The costs of testing may be charged to the defendant
14 or juvenile respondent, or to that person's medical insurance
15 provider, unless determined unable to pay by the court having
16 jurisdiction over the matter. If the defendant or juvenile is
17 unable to pay, the cost of laboratory testing for HIV testing may
18 be borne by the bureau or the local health department.

19 4.3.b.5.A. The commissioner designates and authorizes all
20 health care providers operating in regional jails, correctional or
21 juvenile facilities to administer HIV tests, either by taking blood
22 or oral specimens, and transmitting those specimens to the Office
23 of Laboratory Services in accordance with instructions set forth
24 at: <http://www.wvdhhr.org/labservices/labe/HIV/index.cfm>.

1 4.3.b.5.B. Laboratory testing done on specimens sent to the
2 Office of Laboratory Services by health care providers for regional
3 jails, correctional or juvenile facilities shall be performed at no
4 cost to the jails, facilities or health care providers.;

5 And,

6 On page seven, by striking out all of subdivision 4.3.d. and
7 inserting in lieu thereof a new subdivision, designated subdivision
8 4.3.d., to read as follows:

9 4.3.d. A person convicted or a juvenile adjudicated of the
10 offenses described in this subsection may be required to undergo
11 HIV-related testing and counseling immediately upon conviction or
12 adjudication: *Provided*, That if the person convicted or
13 adjudicated has been tested in accordance with the provisions of
14 subdivision 4.3.b. of this subsection, that person need not be
15 retested.

16 (c) The legislative rule filed in the State Register on July
17 24, 2013, authorized under the authority of section two-a, article
18 five-a, chapter sixteen of this code, modified by the Department of
19 Health and Human Resources to meet the objections of the
20 Legislative Rule-Making Review Committee and refiled in the State
21 Register on October 7, 2013, relating to the Department of Health
22 and Human Resources (Cancer Registry, 64 CSR 68), is authorized.

23 (d) The legislative rule filed in the State Register on July
24 24, 2013, authorized under the authority of section three, article

1 twelve, chapter sixty-one of this code, modified by the Department
2 of Health and Human Resources to meet the objections of the
3 Legislative Rule-Making Review Committee and refiled in the State
4 Register on November 5, 2013, relating to the Department of Health
5 and Human Resources (Medical Examiner rule for postmortem
6 inquiries, 64 CSR 84), is authorized.

7 **§64-5-3. Health Care Authority.**

8 The legislative rule filed in the State Register on July 26,
9 2013, authorized under the authority of section seven, article
10 twenty-nine-g, chapter sixteen of this code, modified by the Health
11 Care Authority to meet the objections of the Legislative Rule-
12 Making Review Committee and refiled in the State Register on
13 September 4, 2013, relating to the Health Care Authority (West
14 Virginia Health Information Network, 65 CSR 28), is authorized.

15 **§64-5-4. Bureau for Child Support Enforcement.**

16 (a) The legislative rule filed in the State Register on July
17 29, 2013, authorized under the authority of section one hundred
18 five, article eighteen, chapter forty-eight of this code, modified
19 by the Bureau for Child Support Enforcement to meet the objections
20 of the Legislative Rule-Making Review Committee and refiled in the
21 State Register on December 18, 2013, relating to the Bureau for
22 Child Support Enforcement (the Bureau for Child Support
23 Enforcement, 97 CSR 1), is authorized.

24 (b) The legislative rule filed in the State Register on July

1 29, 2013, authorized under the authority of section one hundred
2 five, article eighteen, chapter forty-eight of this code, relating
3 to the Bureau for Child Support Enforcement (obtaining support from
4 federal and state tax refunds, 97 CSR 3), is repealed.

5 (c) The legislative rule filed in the State Register on July
6 29, 2013, authorized under the authority of section one hundred
7 five, article eighteen, chapter forty-eight of this code, relating
8 to the Bureau for Child Support Enforcement (interstate income
9 withholding, 97 CSR 4), is repealed.

10 (d) The legislative rule filed in the State Register on July
11 29, 2013, authorized under the authority of section one hundred
12 five, article eighteen, chapter forty-eight of this code, modified
13 by the Bureau for Child Support Enforcement to meet the objections
14 of the Legislative Rule-Making Review Committee and refiled in the
15 State Register on December 18, 2013, relating to the Bureau for
16 Child Support Enforcement (support enforcement activities
17 undertaken by the Bureau for Child Support Enforcement, 97 CSR 6),
18 is authorized.

19 (e) The legislative rule filed in the State Register on July
20 29, 2013, authorized under the authority of section one hundred
21 five, article eighteen, chapter forty-eight of this code, modified
22 by the Bureau for Child Support Enforcement to meet the objections
23 of the Legislative Rule-Making Review Committee and refiled in the
24 State Register on December 18, 2013, relating to the Bureau for

1 Child Support Enforcement (distribution of support payments, 97 CSR
2 7), is authorized.