

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 2527**

5  
6 (By Delegates Pasdon, Marcum, Kessinger, R. Phillips and Upson)

7  
8 [Passed March 13, 2015; in effect ninety days from passage.]

9  
10 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto two new  
11 sections, designated §49-2-126 and §49-2-814, all relating to the welfare of children;  
12 establishing the Task Force on Prevention of Sexual Abuse of Children; authorizing section  
13 to be called “Erin Merryn’s Law”; specifying membership; specifying responsibilities,  
14 including report of recommendations to Legislature and Governor; precluding member  
15 compensation or expense reimbursement; relating to legislative findings and declaration of  
16 intent for goals for foster children; requiring the Department of Health and Human Resources  
17 to propose legislative rules; providing that no new cause of action against the state is created;  
18 providing that no expenditure of funds is required; and providing for notifying former foster  
19 parents of child’s availability for placement.

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

21 That the Code of West Virginia, 1931, as amended, be amended by adding thereto two  
22 new sections, designated §49-2-126 and §49-2-814, all to read as follows:

23 **ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.**

1 **§49-2-814. Task Force on Prevention of Sexual Abuse of Children.**

2 (a) This section may be referred to as “Erin Merryn's Law”.

3 (b) The Task Force on Prevention of Sexual Abuse of Children is established. The task  
4 force consists of the following members:

5 (1) The Chair of the West Virginia Senate Committee on Health and Human Resources,  
6 or his or her designee;

7 (2) The Chair of the House of Delegates Committee on Health and Human Resources, or  
8 his or her designee;

9 (3) The Chair of the West Virginia Senate Committee on Education, or his or her  
10 designee;

11 (4) The Chair of the House of Delegates Committee on Education, or his or her designee;

12 (5) One citizen member appointed by the President of the Senate;

13 (6) One citizen member appointed by the Speaker of the House of Delegates;

14 (7) One citizen member, who is a survivor of child sexual abuse, appointed by the  
15 Governor;

16 (8) The President of the State Board of Education, or his or her designee;

17 (9) The State Superintendent of Schools, or his or her designee;

18 (10) The Secretary of the Department of Health and Human Resources, or his or her  
19 designee;

20 (11) The Director of the Prosecuting Attorney's Institute, or his or her designee;

21 (12) One representative of each statewide professional teachers' organization, each  
22 selected by the leader of his or her respective organization;

23 (13) One representative of the statewide school service personnel organization, selected

- 1 by the leader of the organization;
- 2 (14) One representative of the statewide school principals' organization, appointed by the  
3 leader of the organization;
- 4 (15) One representative of the statewide professional social workers' organization,  
5 appointed by the leader of the organization;
- 6 (16) One representative of a teacher preparation program of a regionally accredited  
7 institution of higher education in the state, appointed by the Chancellor of the Higher Education  
8 Policy Commission;
- 9 (17) The Chief Executive Officer of the Center for Professional Development, or his or  
10 her designee;
- 11 (18) The Director of Prevent Child Abuse West Virginia, or his or her designee;
- 12 (19) The Director of the West Virginia Child Advocacy Network, or his or her designee;
- 13 (20) The Director of the West Virginia Coalition Against Domestic Violence, or his or  
14 her designee;
- 15 (21) The Director of the West Virginia Foundation for Rape Information and Services, or  
16 his or her designee;
- 17 (22) The Administrative Director of the West Virginia Supreme Court of Appeals, or his  
18 or her designee;
- 19 (23) The Executive Director of the West Virginia Sheriffs' Association, or his or her  
20 designee;
- 21 (24) One representative of an organization representing law enforcement, appointed by  
22 the Superintendent of the West Virginia State Police; and
- 23 (25) One practicing school counselor appointed by the leader of the West Virginia School

1 Counselors Association.

2 (c) To the extent practicable, members of the task force shall be individuals actively  
3 involved in the fields of child abuse and neglect prevention and child welfare.

4 (d) At the joint call of the House of Delegates and Senate Education Committee Chairs,  
5 the task force shall convene its first meeting and by majority vote of members present elect  
6 presiding officers. Subsequent meetings shall be at the call of the presiding officer.

7 (e) The task force shall make recommendations for decreasing incidence of sexual abuse  
8 of children in West Virginia. In making those recommendations, the task force shall:

9 (1) Gather information regarding sexual abuse of children throughout the state;

10 (2) Receive related reports and testimony from individuals, state and local agencies,  
11 community-based organizations, and other public and private organizations;

12 (3) Create goals for state education policy that would prevent sexual abuse of children;

13 (4) Create goals for other areas of state policy that would prevent sexual abuse of  
14 children; and

15 (5) Submit a report with its recommendations to the Governor and the Legislature.

16 (f) The recommendations may include proposals for specific statutory changes and  
17 methods to foster cooperation among state agencies and between the state and local governments.

18 The task force shall consult with employees of the Bureau for Children and Family Services, the  
19 Division of Justice and Community Services, the West Virginia State Police, the State Board of  
20 Education, and any other state agency or department as necessary to accomplish its  
21 responsibilities under this section.

22 (g) Task force members serve without compensation and do not receive expense  
23 reimbursement.

1 **§49-2-126. Legislative findings and declaration of intent for goals for foster children.**

2 (a) The Legislature finds and declares that the design and delivery of child welfare  
3 services should be directed by the principle that the health and safety of children should be of  
4 paramount concern and, therefore, establishes the goals for children in foster care. A child in  
5 foster care should have:

6 (1) Protection by a family of his or her own, and be provided readily available services  
7 and support through care of an adoptive family or by plan, a continuing foster family;

8 (2) Nurturing by foster parents who have been selected to meet his or her individual  
9 needs, and who are provided services and support, including specialized education, so that the  
10 child can grow to reach his or her potential;

11 (3) A safe foster home free of violence, abuse, neglect and danger;

12 (4) The ability to communicate with the assigned social worker or case worker overseeing  
13 the child's case and have calls made to the social worker or case worker returned within a  
14 reasonable period of time;

15 (5) Permission to remain enrolled in the school the child attended before being placed in  
16 foster care, if at all possible;

17 (6) Participation in school extracurricular activities, community events, and religious  
18 practices;

19 (7) Communication with the biological parents. Communication is necessary if the child  
20 placed in foster care receives any immunizations and if any additional immunizations are needed,  
21 if the child will be transitioning back into a home with his or her biological parents;

22 (8) A bank or savings account established in accordance with state laws and federal  
23 regulations;

1           (9) Identification and other permanent documents, including a birth certificate, social  
2 security card and health records by the age of sixteen, to the extent allowed by federal and state  
3 law;

4           (10) The use of appropriate communication measures to maintain contact with siblings if  
5 the child placed in foster care is separated from his or her siblings; and

6           (11) Meaningful participation in a transition plan for those phasing out of foster care.

7           (b) A person shall not have a cause of action against the state or any of its subdivisions,  
8 agencies, contractors, subcontractors, or agents, based upon the adoption of or failure to provide  
9 adequate funding for the achievement fo these goals by the Legislature. Nothing in this section  
10 requires the expenditure of funds to meet the goals established in this section, except funds  
11 specifically appropriated for that purpose.

12           (c) The West Virginia Department of Health and Human Resources shall propose rules  
13 for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this  
14 code to ensure that a child has an effective means of being heard if he or she believes the goals of  
15 this section are not being met.

16           (d) When a child who was previously placed into foster care, but left the custody or  
17 guardianship of the department, is again placed into foster care, the department shall notify the  
18 foster parents who most recently cared for the child of the child's availability for foster care  
19 placement to determine if the foster parents are desirous of seeking a foster care arrangement for  
20 the child. The arrangement may only be made if the foster parents are otherwise qualified or can  
21 become qualified to enter into the foster care arrangement with the department and if the  
22 arrangement is in the best interests of the child: *Provided*, That the department may petition the  
23 court to waive notification to the foster parents. This waiver may be granted, ex parte, upon a

1 showing of compelling circumstances.