

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4180

BY DELEGATES WELD, ZATEZALO, STANSBURY,

ROHRBACH, MILLER, SUMMERS AND FRICH

[Introduced January 20, 2016; referred to the Select

Committee on Prevention and Treatment of

Substance Abuse then the Committee on the

Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §49-4-304, relating to authorizing a family court judge to order substance
 3 abuse counseling of a child in emergency situations.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §49-4-304, to read as follows:

ARTICLE 4. COURT ACTIONS.

**§49-4-304. Authorizing a family court judge to order substance abuse counseling of a child
 in emergency situations; requirements; orders; investigative reports; notification
 required.**

1 (a) Notwithstanding the jurisdictional limitations contained in section two, article two-a,
 2 chapter fifty-one of this code, family court judges are authorized to order the department to place
 3 a child who is suffering from drug and/or alcohol abuse, into either an in-patient or out-patient
 4 treatment facility if the family court judge finds that there is clear and convincing evidence that:

5 (1) There exists an imminent danger to the physical well-being of the child as defined in
 6 section two hundred one, article one of this chapter;

7 (2) The permission of the child’s parent, parents, or legal guardian has not been obtained
 8 to provide the child with treatment, despite the due diligence of the department to obtain such
 9 permission; and

10 (3) There are no reasonable available alternatives to the emergency treatment order.

11 (b) An order entered pursuant to subsection (a) of this section must include specific written
 12 findings.

13 (c) A copy of the order issued pursuant to subsection (a) of this section shall be transmitted
 14 forthwith to the department, the circuit court and the prosecuting attorney.

15 (d) Upon receipt of an order issued pursuant to subsection (a) of this section, the
 16 department shall immediately respond and assist the family court judge in placement of the child

17 into either an in-patient or out-patient substance abuse rehabilitation center.

18 (e)(1) Upon receipt of an order issued pursuant to subsection (a) of this section, the circuit
19 court shall cause to be entered and served, an administrative order in the name of and regarding
20 the affected child, directing the department to submit, within seven days from the time the child
21 began treatment, an investigative report to both the circuit and family court.

22 (2) The investigative report shall include a statement of whether the department intends
23 to file a petition pursuant to section six hundred two of this article.

24 (f) An order issued pursuant to subsection (a) of this section terminates by operation of
25 law upon the child's completion of their treatment program, unless a petition is filed with the circuit
26 court under section six hundred two of this article within ninety-six hours from the time the child
27 is initially placed into a treatment facility.

28 (g) Any worker for the department who places a child in a treatment facility pursuant to
29 this section shall immediately notify the parents, parent, grandparents, grandparent, guardian or
30 custodian of the child of the placement and the reasons therefor if the whereabouts of the parents,
31 parent, grandparents, grandparent, guardian or custodian are known or can be discovered with
32 due diligence and, if not, a notice and explanation shall be given to the child's closest relative if
33 his or her whereabouts are known or can be discovered with due diligence within a reasonable
34 time. An inquiry shall be made of relatives and neighbors and, if an appropriate relative or
35 neighbor is willing to assume custody of the child, the child will temporarily be placed in that
36 person's custody.

NOTE: The purpose of this bill is to authorize a family court judge to order substance abuse counseling of a child in emergency situations.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.