

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **Senate Bill 456**

BY SENATORS TRUMP, WELD, MILLER AND GAUNCH

[Introduced February 27, 2017; Referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §49-4-605 of the Code of West Virginia, 1931, as amended, relating  
 2 to standards for termination of parental rights in child abuse and neglect cases; and  
 3 correcting a technical error.

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

1 That §49-4-605 of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted to read as follows:

**ARTICLE 4. COURT ACTIONS.**

**§49-4-605. When department efforts to terminate parental rights are required.**

1 (a) Except as provided in subsection (b) of this section, the department shall file or join in  
 2 a petition or otherwise seek a ruling in any pending proceeding to terminate parental rights:

3 (1) If a child has been in foster care for fifteen of the most recent twenty-two months as  
 4 determined by the earlier of the date of the first judicial finding that the child is subjected to abuse  
 5 or neglect or the date which is sixty days after the child is removed from the home;

6 (2) If a court has determined the child is abandoned, tortured, sexually abused, or  
 7 chronically abused; or

8 (3) If a court has determined the parent has committed murder or voluntary manslaughter  
 9 of another of his or her children, another child in the household, or the other parent of his or her  
 10 children; has attempted or conspired to commit murder or voluntary manslaughter or has been an  
 11 accessory before or after the fact of either crime; has committed unlawful or malicious wounding  
 12 resulting in serious bodily injury to the child or to another of his or her children, another child in  
 13 the household or to the other parent of his or her children; has committed sexual assault or sexual  
 14 abuse of the child, the child’s other parent, guardian or custodian, another child of the parent, or  
 15 any other child residing in the same household or under the temporary or permanent custody of  
 16 the parent; ~~or to the other parent of his or her children~~; or the parental rights of the parent to  
 17 another child have been terminated involuntarily.

18 (b) The department may determine not to file a petition to terminate parental rights when:

19           (1) At the option of the department, the child has been placed permanently with a relative  
20 by court order;

21           (2) The department has documented in the case plan made available for court review a  
22 compelling reason, including, but not limited to, the child's age and preference regarding  
23 termination or the child's placement in custody of the department based on any proceedings  
24 initiated under part seven of this article, that filing the petition would not be in the best interests of  
25 the child; or

26           (3) The department has not provided, when reasonable efforts to return a child to the  
27 family are required, the services to the child's family as the department deems necessary for the  
28 safe return of the child to the home.

NOTE: The provisions of Senate Bill No. 329 enacted during the 2016 Regular Legislative Session inadvertently separated the phrase "*or to the other parent of his or her children*" from its original clause. The purpose of this bill is to restore the language to the original clause.

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