

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for House Bill 2933

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 2933. This bill purports to modify the criminal penalties imposed on a parent, guardian, or custodian for child abuse resulting in injury and child abuse or neglect creating risk of injury.

Although I support the intent of the bill, Enrolled Committee Substitute for House Bill 2933 is technically flawed because either its title is defective, *see State ex rel. Davis v. Oakley*, 156 W.Va. 154, 191 S.E.2d 610 (1972) (requiring bill titles to provide notice of a bill's contents), or the bill inadvertently makes ambiguous or ineffective certain limitations on penalties for conviction under W.Va. Code §61-8D-4. Specifically, the bill repeals language creating a "misdemeanor" for certain offenses, but fails to repeal or amend subsection (f) which provides certain limitations on the penalties to be assessed against those "convicted of a misdemeanor." The title does not provide notice of the repeal of these limitations (i.e., that one may now be required to register pursuant to the requirements of W.Va. Code §15-13-1 et seq. or, solely by virtue of conviction under the section, have their custody, visitation, or parental rights automatically restricted), or the bill makes ambiguous or ineffective these certain limitations, and, therefore, is technically flawed.

As a result of the flaws noted above, I disapprove and return Enrolled Committee Substitute 2933, but welcome a similar bill in a subsequent legislative session, correcting or clarifying this issue.

Sincerely,

Jim Justice
Governor

cc: The Hon. Roger Hanshaw
Speaker of the House of Delegates
The Hon. Mitch Carmichael
President of the Senate