

SB 41

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

Committee Substitute for
SENATE BILL NO. 41

(By Senator Schoonover, et al)



PASSED March 11, 1994

In Effect 90 days from Passage

E N R O L L E D
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 41

(SENATORS SCHOONOVER, ANDERSON, BAILEY,
BLATNIK, BOLEY, BURDETTE, MR. PRESIDENT, CHAFIN,
CLAYPOLE, CRAIGO, DALTON, DITTMAR, GRUBB,
HELMICK, HOLLIDAY, HUMPHREYS, JONES, LUCHT,
MACNAUGHTAN, MANCHIN, MILLER, MINARD, PLYMALE,
ROSS, SHARPE, TOMBLIN, WAGNER, WEHRLE, WALKER,
WHITLOW, WIEDEBUSCH, WITHERS, YODER, WOOTON
AND CHERNENKO, *original sponsors*)

[Passed March 11, 1994; in effect ninety days from passage.]

AN ACT to amend and reenact section sixteen, article four, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to prohibiting the sale or purchase of a child; and creating criminal penalties and exceptions.

Be it enacted by the Legislature of West Virginia:

That section sixteen, article four, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 4. ADOPTION.

§48-4-16. Prohibition of purchase or sale of child; penalty; definitions; exceptions.

1 (a) Any person or agency who knowingly offers, gives
2 or agrees to give to another person money, property,
3 service or other thing of value in consideration for the
4 recipient's locating, providing or procuring a minor child
5 for any purpose which entails a transfer of the legal or
6 physical custody of said child, including, but not limited
7 to, adoption or placement, shall be guilty of a felony and
8 subject to fine and imprisonment as provided herein.

9 (b) Any person who knowingly receives, accepts or
10 offers to accept money, property, service or other thing
11 of value to locate, provide or procure a minor child for
12 any purpose which entails a transfer of the legal or
13 physical custody of said child, including, but not limited
14 to, adoption or placement, shall be guilty of a felony and
15 subject to fine and imprisonment as provided herein.

16 (c) Any person who violates the provisions of this
17 section shall be guilty of a felony, and, upon conviction
18 thereof, may be imprisoned in the penitentiary for not
19 less than one year nor more than five years or, in the
20 discretion of the court, be confined in jail not more than
21 one year and shall be fined not less than one hundred
22 dollars nor more than two thousand dollars.

23 (d) A child whose parent, guardian or custodian has
24 sold or attempted to sell said child in violation of the
25 provisions of this article may be deemed an abused child
26 as defined by section three, article one, chapter forty-
27 nine of this code. The court may place such a child in the
28 custody of the department of health and human
29 resources or with such other responsible person as the
30 best interests of the child dictate.

31 (e) This section does not prohibit the payment or
32 receipt of the following:

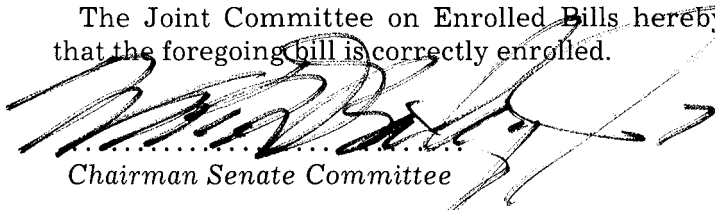
33 (1) Fees paid for reasonable and customary services
34 provided by the department of health and human
35 resources or any licensed or duly authorized adoption or
36 child-placing agency.

37 (2) Reasonable and customary legal, medical, hospital
38 or other expenses incurred in connection with legal
39 adoption proceedings.

40 (3) Fees and expenses included in any agreement in
41 which a woman agrees to become a surrogate mother.

42 (4) Any fees or charges authorized by law or approved
43 by a court in a proceeding relating to the placement plan,
44 prospective placement or placement of a minor child for
45 adoption.

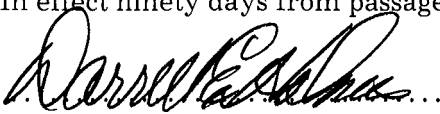
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

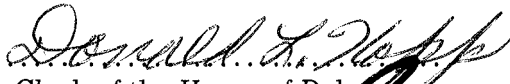

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Chairman Senate Committee

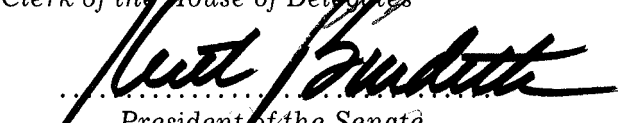

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Chairman House Committee

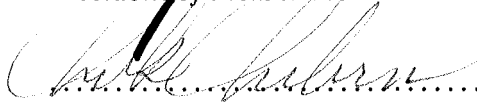
Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within ~~is~~ approved this the 30th
day of March, 1994.


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Governor

PRESENTED TO THE

GOVERNOR

Date 3/30/14

Time 12:59 pm