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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994

## ENROLLED

SENATE BILL NO. 522

(By Senator Wootton, et al,)

PASSED March 11, 1994  
In Effect from Passage

## **E N R O L L E D**

### **Senate Bill No. 522**

(By SENATORS WOOTON, HUMPHREYS, HOLLIDAY, DITTMAR,  
MACNAUGHTAN, MILLER, MINARD, DALTON, ROSS,  
ANDERSON AND CLAYPOLE)

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

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AN ACT to amend and reenact section sixteen, article fifteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto two new sections, designated sections eighteen and nineteen; to amend and reenact section eleven, article sixteen of said chapter; to further amend said article by adding two new sections, designated sections thirteen and fourteen; to amend and reenact section two, article sixteen-c of said chapter; to further amend said article by adding a new section, designated section five-a; to amend and reenact section four, article twenty-four of said chapter; to amend and reenact section six, article twenty-five of said chapter; to amend and reenact section twenty-four, article twenty-five-a of said chapter; and to amend and reenact section fifteen-a, article two, chapter forty-eight of said code, all relating to health coverage; coverage of children; coverage for adopted children and children of divorced parents; prohibiting denial of insurance coverage under certain conditions; insurer's obligations to children, parents, providers and state agencies; employer's obligations;

equal treatment of state agency; coordination of benefits with medicaid; medical support enforcement; applying provisions to certain policies and insurers; modifying domestic relations sections regarding insurance for children of divorced parents; providing remedies for noncompliance with court orders requiring health care coverage; providing for wage attachment by state agencies; and making related technical changes.

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

That section sixteen, article fifteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended be adding thereto two new sections, designated sections eighteen and nineteen; that section eleven, article sixteen of said chapter be amended and reenacted; that said article be further amended by adding thereto two new sections, designated sections thirteen and fourteen; that section two, article sixteen-c of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section five-a; that section four, article twenty-four of said chapter be amended and reenacted; that section six, article twenty-five of said chapter be amended and reenacted; that section twenty-four, article twenty-five-a of said chapter be amended and reenacted; and that section fifteen-a, article two, chapter forty-eight of said code be amended and reenacted, all to read as follows:

### **CHAPTER 33. INSURANCE.**

#### **ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

##### **§33-15-16. Policies not to exclude insured's children from coverage; required services; coordination with other insurance.**

1     (a) An insurer issuing accident and sickness policies  
2     in this state shall provide coverage for the child or  
3     children of the insured without regard to the amount  
4     of child support ordered to be paid or actually paid by  
5     the insured, if any, and without regard to the fact that  
6     the insured may not have legal custody of the child or  
7     children or that the child or children may not be

8 residing in the home of the insured.

9 (b) An insurer issuing accident and sickness policies  
10 in this state shall provide benefits to dependent  
11 children placed with participants or beneficiaries for  
12 adoption under the same terms and conditions as  
13 apply to natural, dependent children of participants  
14 and beneficiaries, irrespective of whether the adoption  
15 has become final.

16 (c) An insurer shall not deny enrollment of a child  
17 under the health plan of the child's parent on the  
18 grounds that:

19 (1) The child was born out of wedlock;

20 (2) The child is not claimed as a dependent on the  
21 parent's federal tax return; or

22 (3) The child does not reside with the parent or in  
23 the insurer's service area.

24 (d) Where a child has health coverage through an  
25 insurer of a noncustodial parent the insurer shall:

26 (1) Provide such information to the custodial parent  
27 as may be necessary for the child to obtain benefits  
28 through that coverage;

29 (2) Permit the custodial parent, or the provider, with  
30 the custodial parent's approval, to submit claims for  
31 covered services without the approval of the noncus-  
32 todial parent; and

33 (3) Make payments on claims submitted in accor-  
34 dance with subdivision (2) of this subsection directly to  
35 the custodial parent, the provider or the state medic-  
36 aid agency: *Provided*, That upon payment to the  
37 custodial parent, the provider or the state medicaid  
38 agency the insurer's obligation to the noncustodial  
39 parent under the policy with respect to the covered  
40 child's claims shall be fully satisfied.

41 (e) Where a parent is required by a court or admin-  
42 istrative order to provide health coverage for a child,  
43 and the parent is eligible for family health coverage,  
44 the insurer shall:

45 (1) Permit the parent to enroll, under the family  
46 coverage, a child who is otherwise eligible for the  
47 coverage without regard to any enrollment season  
48 restrictions;

49 (2) If the parent is enrolled but fails to make  
50 application to obtain coverage for the child, enroll the  
51 child under family coverage upon application of the  
52 child's other parent, the state agency administering  
53 the medicaid program or the state agency administer-  
54 ing 42 U.S.C. §651 through §669, the child support  
55 enforcement program; and

56 (3) Not disenroll or eliminate coverage of the child  
57 unless the insurer is provided satisfactory written  
58 evidence that:

59 (A) The court or administrative order is no longer in  
60 effect; or

61 (B) The child is or will be enrolled in comparable  
62 health coverage through another insurer which will  
63 take effect not later than the effective date of  
64 disenrollment.

**§33-15-18. Equal treatment of state agency.**

1 An insurer may not impose requirements on a state  
2 agency, which has been assigned the rights of an  
3 individual eligible for medical assistance under medic-  
4 aid and covered for health benefits from the insurer,  
5 that are different from requirements applicable to an  
6 agent or assignee of any other individual so covered.

**§33-15-19. Coordination of benefits with medicaid.**

1 Any health insurer, health maintenance organiza-  
2 tion as defined in article twenty-five-a of this chapter  
3 or hospital and medical service corporations as defined  
4 in article twenty-four of this chapter is prohibited  
5 from considering the availability or eligibility for  
6 medical assistance in this or any other state under 42  
7 U.S.C. §1396a, Section 1902 of the Social Security Act,  
8 herein referred to as medicaid, when considering  
9 eligibility for coverage or making payments under its  
10 plan for eligible enrollees, subscribers, policyholders or

11 certificateholders.

**ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

**§33-16-11. Group policies not to exclude insured's children from coverage; required services; coordination with other insurance.**

1 (a) An insurer issuing group accident and sickness  
2 policies in this state shall provide coverage for the  
3 child or children of each employee or member of the  
4 insured group without regard to the amount of child  
5 support ordered to be paid or actually paid by such  
6 employee or member, if any, and without regard to  
7 the fact that the employee or member may not have  
8 legal custody of the child or children or that the child  
9 or children may not be residing in the home of the  
10 employee or member.

11 (b) An insurer issuing group accident and sickness  
12 policies in this state shall provide benefits to depen-  
13 dent children placed with participants or beneficiaries  
14 for adoption under the same terms and conditions as  
15 apply to natural, dependent children of participants  
16 and beneficiaries, irrespective of whether the adoption  
17 has become final.

18 (c) An insurer shall not deny enrollment of a child  
19 under the health plan of the child's parent on the  
20 grounds that:

21 (1) The child was born out of wedlock;

22 (2) The child is not claimed as a dependent on the  
23 parent's federal tax return; or

24 (3) The child does not reside with the parent or in  
25 the insurer's service area.

26 (d) Where a child has health coverage through an  
27 insurer of a noncustodial parent the insurer shall:

28 (1) Provide such information to the custodial parent  
29 as may be necessary for the child to obtain benefits  
30 through that coverage;

31 (2) Permit the custodial parent, or the provider, with  
32 the custodial parent's approval, to submit claims for

33 covered services without the approval of the noncus-  
34 todial parent; and

35 (3) Make payments on claims submitted in accor-  
36 dance with subdivision (2) of this subsection directly to  
37 the custodial parent, the provider or the state medic-  
38 aid agency: *Provided*, That upon payment to the  
39 custodial parent, the provider or the state medicaid  
40 agency the insurer's obligation to the noncustodial  
41 parent under the policy with respect to the covered  
42 child's claims shall be fully satisfied.

43 (e) Where a parent is required by court or adminis-  
44 trative order to provide health coverage for a child,  
45 and the parent is eligible for family health coverage,  
46 the insurer shall:

47 (1) Permit the parent to enroll, under the family  
48 coverage, a child who is otherwise eligible for the  
49 coverage without regard to any enrollment season  
50 restrictions;

51 (2) If the parent is enrolled but fails to make  
52 application to obtain coverage for the child, enroll the  
53 child under family coverage upon application of the  
54 child's other parent, the state agency administering  
55 the medicaid program or the state agency administer-  
56 ing 42 U.S.C. §651 through §669, the child support  
57 enforcement program; and

58 (3) Not disenroll or eliminate coverage of the child  
59 unless the insurer is provided satisfactory written  
60 evidence that:

61 (A) The court or administrative order is no longer in  
62 effect; or

63 (B) The child is or will be enrolled in comparable  
64 health coverage through another insurer which will  
65 take effect not later than the effective date of  
66 disenrollment.

**§33-16-13. Equal treatment of state agency.**

1 An insurer may not impose requirements on a state  
2 agency, which has been assigned the rights of an  
3 individual eligible for medical assistance under medic-

4 aid and covered for health benefits from the insurer,  
5 that are different from requirements applicable to an  
6 agent or assignee of any other individual so covered.

**§33-16-14. Coordination of benefits with medicaid.**

1 Any health insurer, including a group health plan,  
2 as defined in 29 U.S.C. §1167, Section 607(1) of the  
3 Employee Retirement Income Security Act of 1974,  
4 health maintenance organization as defined in article  
5 twenty-five-a of this chapter or hospital and medical  
6 service corporations as defined in article twenty-four  
7 of this chapter is prohibited from considering the  
8 availability or eligibility for medical assistance in this  
9 or any other state under 42 U.S.C. §1396a, Section 1902  
10 of the Social Security Act herein referred to as  
11 medicaid, when considering eligibility for coverage or  
12 making payments under its plan for eligible enrollees,  
13 subscribers policyholders or certificateholders.

**ARTICLE 16C. EMPLOYER GROUP ACCIDENT AND SICKNESS  
INSURANCE POLICIES.**

**§33-16C-2. Definitions.**

1 As used in this article:

2 (a) "Basic policy" means a group accident and  
3 sickness insurance contract for medical, surgical or  
4 hospital care that is required to contain only those  
5 minimum benefits and coverages mandated by this  
6 article, but which may contain other benefits and  
7 coverages which have been approved by the insurance  
8 commissioner.

9 (b) "Commissioner" means the insurance commis-  
10 sioner of West Virginia.

11 (c) "Department" means the department of  
12 insurance.

13 (d) "Eligible employee" means an employee who is  
14 employed by the employer for an average of at least  
15 twenty hours per week; includes individuals who are  
16 sole proprietors, general partners and limited partners;  
17 and includes individuals who either work or reside in  
18 this state.



19 (e) "Eligible employer" means a corporation, part-  
20 nership or proprietorship which has done business in  
21 this state for at least one year and has not offered  
22 health insurance to all of its employees within the  
23 twelve months preceding its application for a basic  
24 policy as defined by this section.

25 (f) "Family member" means an eligible employee's  
26 spouse and any dependent child or stepchild under the  
27 age of eighteen or under age twenty-three if a full-  
28 time student at an accredited school: *Provided*, That  
29 the spouse, child or stepchild is not eligible for  
30 medicare.

31 (g) "Insurer" means any of the following entities  
32 that holds a valid certificate of authority from the  
33 commissioner: An insurance company authorized to  
34 transact accident and sickness insurance; a hospital  
35 service corporation, medical service corporation or  
36 health service corporation organized pursuant to  
37 article twenty-four of this chapter; a health care  
38 corporation organized pursuant to article twenty-five  
39 of this chapter; or a health maintenance organization  
40 organized pursuant to article twenty-five-a of this  
41 chapter.

42 (h) "Premium" means the consideration for insur-  
43 ance, by whatever name called.

**§33-16C-5a. Policies not to exclude insured's children from  
coverage; required services.**

1 (a) Each basic policy issued pursuant to this article  
2 shall provide coverage for the child or children of each  
3 employee or member of the insured group without  
4 regard to the amount of child support ordered to be  
5 paid or actually paid by such employee or member, if  
6 any, and without regard to the fact that the employee  
7 or member may not have legal custody of the child or  
8 children or that the child or children may not be  
9 residing in the home of the employee or member.

10 (b) Each basic policy issued pursuant to this article  
11 shall provide benefits to dependent children placed  
12 with participants or beneficiaries for adoption under

13 the same terms and conditions as apply to natural,  
14 dependent children of participants and beneficiaries,  
15 irrespective of whether the adoption has become final.

16 (c) An insurer shall not deny enrollment of a child  
17 under the health plan of the child's parent on the  
18 grounds that:

19 (1) The child was born out of wedlock;

20 (2) The child is not claimed as a dependent on the  
21 parent's federal tax return; or

22 (3) The child does not reside with the parent or in  
23 the insurer's service area.

24 (d) Where a child has health coverage through an  
25 insurer of a noncustodial parent the insurer shall:

26 (1) Provide such information to the custodial parent  
27 as may be necessary for the child to obtain benefits  
28 through that coverage;

29 (2) Permit the custodial parent, or the provider, with  
30 the custodial parent's approval, to submit claims for  
31 covered services without the approval of the noncus-  
32 todial parent; and

33 (3) Make payments on claims submitted in accor-  
34 dance with subdivision (2) of this subsection directly to  
35 the custodial parent, the provider or the state medic-  
36 aid agency: *Provided*, That upon payment to the  
37 custodial parent, the provider or the state medicaid  
38 agency the insurer's obligation to the noncustodial  
39 parent under the policy with respect to the covered  
40 child's claims shall be fully satisfied.

41 (e) Where a parent is required by court or adminis-  
42 trative order to provide health coverage for a child,  
43 and the parent is eligible for family health coverage,  
44 the insurer shall:

45 (1) Permit the parent to enroll, under the family  
46 coverage, a child who is otherwise eligible for the  
47 coverage without regard to any enrollment season  
48 restrictions;

49 (2) If the parent is enrolled but fails to make

50 application to obtain coverage for the child, enroll the  
51 child under family coverage upon application of the  
52 child's other parent, the state agency administering  
53 the medicaid program or the state agency administer-  
54 ing 42 U.S.C. §651 through §669, the child support  
55 enforcement program; and

56 (3) Not disenroll or eliminate coverage of the child  
57 unless the insurer is provided satisfactory written  
58 evidence that:

59 (A) The court or administrative order is no longer in  
60 effect; or

61 (B) The child is or will be enrolled in comparable  
62 health coverage through another insurer which will  
63 take effect not later than the effective date of  
64 disenrollment.

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SER-  
VICE CORPORATIONS, DENTAL SERVICE CORPO-  
RATIONS AND HEALTH SERVICE CORPORATIONS.**

**§33-24-4. Exemptions; applicability of insurance laws.**

1 Every corporation defined in section two of this  
2 article is hereby declared to be a scientific, nonprofit  
3 institution and exempt from the payment of all  
4 property and other taxes. Every corporation, to the  
5 same extent the provisions are applicable to insurers  
6 transacting similar kinds of insurance and not incon-  
7 sistent with the provisions of this article, shall be  
8 governed by and be subject to the provisions as  
9 hereinbelow indicated, of the following articles of this  
10 chapter: Article two (insurance commissioner), except  
11 that, under section nine of said article, examinations  
12 shall be conducted at least once every four years;  
13 article four (general provisions), except that section  
14 sixteen of said article shall not be applicable thereto;  
15 section thirty-four, article six (fee for form and rate  
16 filing); article six-c (guaranteed loss ratio); article  
17 seven (assets and liabilities); article eleven (unfair  
18 trade practices); article twelve (agents, brokers and  
19 solicitors), except that the agent's license fee shall be  
20 five dollars; section fourteen, article fifteen (individual

21 accident and sickness insurance); section sixteen,  
22 article fifteen (coverage of children); section eighteen,  
23 article fifteen (equal treatment of state agency);  
24 section nineteen, article fifteen (coordination of  
25 benefits with medicaid); article fifteen-a (long-term  
26 care insurance); section three, article sixteen (required  
27 policy provisions); section three-a, article sixteen  
28 (mental illness); section three-c, article sixteen (group  
29 accident and sickness insurance); section three-d,  
30 article sixteen (medicare supplement insurance);  
31 section three-f, article sixteen (treatment of temporo-  
32 mandibular joint disorder and craniomandibular  
33 disorder); section eleven, article sixteen (coverage of  
34 children); section thirteen, article sixteen (equal  
35 treatment of state agency); section fourteen, article  
36 sixteen (coordination of benefits with medicaid);  
37 article sixteen-a (group health insurance conversion);  
38 article sixteen-c (small employer group policies);  
39 article sixteen-d (marketing and rate practices for  
40 small employers); article twenty-six-a (West Virginia  
41 life and health insurance guaranty association act),  
42 after the first day of October, one thousand nine  
43 hundred ninety-one; article twenty-seven (insurance  
44 holding company systems); article twenty-eight (indi-  
45 vidual accident and sickness insurance minimum  
46 standards); article thirty-three (annual audited finan-  
47 cial report); article thirty-four (administrative supervi-  
48 sion); article thirty-four-a (standards and commission-  
49 er's authority for companies deemed to be in hazard-  
50 ous financial condition); article thirty-five (criminal  
51 sanctions for failure to report impairment); and article  
52 thirty-seven (managing general agents); and no other  
53 provision of this chapter may apply to these corpora-  
54 tions unless specifically made applicable by the provi-  
55 sions of this article. If, however, the corporation is  
56 converted into a corporation organized for a pecuniary  
57 profit or if it transacts business without having  
58 obtained a license as required by section five of this  
59 article, it shall thereupon forfeit its right to these  
60 exemptions.

**ARTICLE 25. HEALTH CARE CORPORATIONS.**

**§33-25-6. Supervision and regulation by insurance commissioner; exemption from insurance laws.**

1 Corporations organized under this article are subject  
2 to supervision and regulation of the insurance com-  
3 missioner. The corporations organized under this  
4 article, to the same extent these provisions are appli-  
5 cable to insurers transacting similar kinds of insurance  
6 and not inconsistent with the provisions of this article,  
7 shall be governed by and be subject to the provisions  
8 as hereinbelow indicated of the following articles of  
9 this chapter: Article four (general provisions), except  
10 that section sixteen of said article shall not be applica-  
11 ble thereto; article six-c (guaranteed loss ratio); article  
12 seven (assets and liabilities); article eight (invest-  
13 ments); article ten (rehabilitation and liquidation);  
14 section fourteen, article fifteen (individual accident  
15 and sickness insurance); section sixteen, article fifteen  
16 (coverage of children); section eighteen, article fifteen  
17 (equal treatment of state agency); section nineteen,  
18 article fifteen (coordination of benefits with medicaid);  
19 section three, article sixteen (required policy provi-  
20 sions); section eleven, article sixteen (coverage of  
21 children); section thirteen, article sixteen (equal  
22 treatment of state agency); section fourteen, article  
23 sixteen (coordination of benefits with medicaid);  
24 article sixteen-a (group health insurance conversion);  
25 article sixteen-c (small employer group policies);  
26 article sixteen-d (marketing and rate practices for  
27 small employers); article twenty-six-a (West Virginia  
28 life and health insurance guaranty association act);  
29 article twenty-seven (insurance holding company  
30 systems); article thirty-three (annual audited financial  
31 report); article thirty-four-a (standards and commis-  
32 sioner's authority for companies deemed to be in  
33 hazardous financial condition); article thirty-five  
34 (criminal sanctions for failure to report impairment);  
35 and article thirty-seven (managing general agents);  
36 and no other provision of this chapter may apply to  
37 these corporations unless specifically made applicable  
38 by the provisions of this article.

**ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

**§33-25A-24. Statutory construction and relationship to other laws.**

1 (a) Except as otherwise provided in this article,  
2 provisions of the insurance laws and provisions of  
3 hospital or medical service corporation laws shall not  
4 be applicable to any health maintenance organization  
5 granted a certificate of authority under this article.  
6 This provision shall not apply to an insurer or hospital  
7 or medical service corporation licensed and regulated  
8 pursuant to the insurance laws or the hospital or  
9 medical service corporation laws of this state except  
10 with respect to its health maintenance corporation  
11 activities authorized and regulated pursuant to this  
12 article.

13 (b) Factually accurate advertising or solicitation  
14 regarding the range of services provided, the premi-  
15 ums and copayments charged, the sites of services and  
16 hours of operation, and any other quantifiable, non-  
17 professional aspects of its operation by a health  
18 maintenance organization granted a certificate of  
19 authority, or its representative shall not be construed  
20 to violate any provision of law relating to solicitation  
21 or advertising by health professions: *Provided*, That  
22 nothing contained herein shall be construed as autho-  
23 rizing any solicitation or advertising which identifies  
24 or refers to any individual provider or makes any  
25 qualitative judgment concerning any provider.

26 (c) Any health maintenance organization authorized  
27 under this article shall not be deemed to be practicing  
28 medicine and shall be exempt from the provision of  
29 chapter thirty of this code, relating to the practice of  
30 medicine.

31 (d) The provisions of section fifteen, article four  
32 (general provisions); article six-c (guaranteed loss  
33 ratio); article seven (assets and liabilities); article eight  
34 (investments); section fourteen, article fifteen (individ-  
35 ual accident and sickness insurance); section sixteen,  
36 article fifteen (coverage of children); section eighteen,  
37 article fifteen (equal treatment of state agency);  
38 section nineteen, article fifteen (coordination of

39 benefits with medicaid); article fifteen-b (uniform  
40 health care administration act); section three, article  
41 sixteen (required policy provisions); section three-f,  
42 article sixteen (treatment of temporomandibular  
43 disorder and craniomandibular disorder); section  
44 eleven, article sixteen (coverage of children); section  
45 thirteen, article sixteen (equal treatment of state  
46 agency); section fourteen, article sixteen (coordination  
47 of benefits with medicaid); article sixteen-a (group  
48 health insurance conversion); article sixteen-c (small  
49 employer group policies); article sixteen-d (marketing  
50 and rate practices for small employers); article twenty-  
51 seven (insurance holding company systems); article  
52 thirty-four-a (standards and commissioner's authority  
53 for companies deemed to be in hazardous financial  
54 condition); article thirty-five (criminal sanctions for  
55 failure to report impairment); and article thirty-seven  
56 (managing general agents) shall be applicable to any  
57 health maintenance organization granted a certificate  
58 of authority under this article.

59 (e) Any long-term care insurance policy delivered or  
60 issued for delivery in this state by a health mainte-  
61 nance organization shall comply with the provisions of  
62 article fifteen-a of this chapter.

## **CHAPTER 48. DOMESTIC RELATIONS.**

### **ARTICLE 2. DIVORCE, ANNULMENT AND SEPARATE MAIN- TENANCE.**

#### **§48-2-15a. Medical support enforcement.**

- 1 (a) For the purposes of this section:
- 2 (1) "Custodian for the children" means a parent,  
3 legal guardian, committee or other third party  
4 appointed by court order as custodian of child or  
5 children for whom child support is ordered.
- 6 (2) "Obligated parent" means a natural or adoptive  
7 parent who is required by agreement or order to pay  
8 for insurance coverage and medical care, or some  
9 portion thereof, for his or her child.
- 10 (3) "Insurance coverage" means coverage for medi-

11 cal, dental, including orthodontic, optical, psychologi-  
12 cal, psychiatric or other health care service.

13 (4) "Child" means a child to whom a duty of child  
14 support is owed.

15 (5) "Medical care" means medical, dental, optical,  
16 psychological, psychiatric or other health care service  
17 for children in need of child support.

18 (6) "Insurer" means any company, health mainte-  
19 nance organization, self-funded group, multiple  
20 employer welfare arrangement, hospital or medical  
21 services corporation, trust, group health plan, as  
22 defined in 29 U.S.C. §1167, Section 607(1) of the  
23 Employee Retirement Income Security Act of 1974 or  
24 other entity which provides insurance coverage or  
25 offers a service benefit plan.

26 (b) In every action to establish or modify an order  
27 which requires the payment of child support, the court  
28 shall ascertain the ability of each parent to provide  
29 medical care for the children of the parties. In any  
30 temporary or final order establishing an award of  
31 child support or any temporary or final order modify-  
32 ing a prior order establishing an award of child  
33 support, the court shall order one or more of the  
34 following:

35 (1) The court shall order either parent or both  
36 parents to provide insurance coverage for a child, if  
37 such insurance coverage is available to that parent on  
38 a group basis through an employer or through an  
39 employee's union. If similar insurance coverage is  
40 available to both parents, the court shall order the  
41 child to be insured under the insurance coverage  
42 which provides more comprehensive benefits. If such  
43 insurance coverage is not available at the time of the  
44 entry of the order, the order shall require that if such  
45 coverage thereafter becomes available to either party,  
46 that party shall promptly notify the other party of the  
47 availability of insurance coverage for the child.

48 (2) If the court finds that insurance coverage is not  
49 available to either parent on a group basis through an



50 employer, multi-employer trust or employees' union,  
51 or that the group insurer is not accessible to the  
52 parties, the court may order either parent or both  
53 parents to obtain insurance coverage which is other-  
54 wise available at a reasonable cost.

55 (3) Based upon the respective ability of the parents  
56 to pay, the court may order either parent or both  
57 parents to be liable for reasonable and necessary  
58 medical care for a child. The court shall specify the  
59 proportion of the medical care for which each party  
60 shall be responsible.

61 (4) If insurance coverage is available, the court shall  
62 also determine the amount of the annual deductible on  
63 insurance coverage which is attributable to the chil-  
64 dren and designate the proportion of the deductible  
65 which each party shall pay.

66 (5) The order shall require the obligor to continue to  
67 provide the child advocate office with information as  
68 to his or her employer's name and address and  
69 information as to the availability of employer-related  
70 insurance programs providing medical care coverage  
71 so long as the child continues to be eligible to receive  
72 support.

73 (c) The cost of insurance coverage shall be consid-  
74 ered by the court in applying the child support  
75 guidelines provided for in section eight, article two,  
76 chapter forty-eight-a of this code.

77 (d) Within thirty days after the entry of an order  
78 requiring the obligated parent to provide insurance  
79 coverage for the children, that parent shall submit to  
80 the custodian for the child written proof that the  
81 insurance has been obtained or that an application for  
82 insurance has been made. Such proof of insurance  
83 coverage shall consist of, at a minimum:

84 (1) The name of the insurer;

85 (2) The policy number;

86 (3) An insurance card;

87 (4) The address to which all claims should be mailed;

88 (5) A description of any restrictions on usage, such as  
89 prior approval for hospital admission, and the manner  
90 in which to obtain such approval;

91 (6) A description of all deductibles; and

92 (7) Five copies of claim forms.

93 (e) The custodian for the child shall send the insurer  
94 or the obligated parent's employer the children's  
95 address and notice that the custodian will be submit-  
96 ting claims on behalf of the children. Upon receipt of  
97 such notice, or an order for insurance coverage under  
98 this section, the obligated parent's employer, multi-  
99 employer trust or union shall, upon the request of the  
100 custodian for the child, release information on the  
101 coverage for the children, including the name of the  
102 insurer.

103 (f) A copy of the court order for insurance coverage  
104 shall not be provided to the obligated parent's employ-  
105 er or union or the insurer unless ordered by the court,  
106 or unless:

107 (1) The obligated parent, within thirty days of  
108 receiving effective notice of the court order, fails to  
109 provide to the custodian for the child written proof  
110 that the insurance has been obtained or that an  
111 application for insurance has been made;

112 (2) The custodian for the child serves written notice  
113 by mail at the obligated parent's last known address of  
114 intention to enforce the order requiring insurance  
115 coverage for the child; and

116 (3) The obligated parent fails within fifteen days  
117 after the mailing of the notice to provide written proof  
118 to the custodian for the child that the child has  
119 insurance coverage.

120 (g) (1) Upon service of the order requiring insurance  
121 coverage for the children, the employer, multi-  
122 employer trust or union shall enroll the child as a  
123 beneficiary in the group insurance plan and withhold  
124 any required premium from the obligated parent's  
125 income or wages.

126     (2) If more than one plan is offered by the employer,  
127 multi-employer trust or union, the child shall be  
128 enrolled in the same plan as the obligated parent at a  
129 reasonable cost.

130     (3) Insurance coverage for the child which is ordered  
131 pursuant to the provisions of this section shall not be  
132 terminated except as provided in subsection (j) of this  
133 section.

134     (h) Where a parent is required by a court or admin-  
135 istrative order to provide health coverage, which is  
136 available through an employer doing business in this  
137 state, the employer is required:

138     (1) To permit the parent to enroll under family  
139 coverage any child who is otherwise eligible for  
140 coverage without regard to any enrollment season  
141 restrictions;

142     (2) If the parent is enrolled but fails to make  
143 application to obtain coverage of the child, to enroll  
144 the child under family coverage upon application by  
145 the child's other parent, by the state agency adminis-  
146 tering the medicaid program or by the child advocate  
147 office;

148     (3) Not to disenroll or eliminate coverage of any such  
149 child unless the employer is provided satisfactory  
150 written evidence that:

151     (A) The court or administrative order is no longer in  
152 effect;

153     (B) The child is or will be enrolled in comparable  
154 coverage which will take effect no later than the  
155 effective date of disenrollment; or

156     (C) The employer has eliminated family health  
157 coverage for all of its employees.

158     (4) To withhold from the employee's compensation  
159 the employee's share, if any, of premiums for health  
160 coverage and to pay this amount to the insurer:  
161 *Provided*, That the amount so withheld may not  
162 exceed the maximum amount permitted to be with-  
163 held under 15 U.S.C. §1673, Section 303(b) of the

164 Consumer Credit Protection Act.

165 (i) (1) The signature of the custodian for the child  
166 shall constitute a valid authorization to the insurer for  
167 the purposes of processing an insurance payment to  
168 the provider of medical care for the child.

169 (2) No insurer, employer or multi-employer trust in  
170 this state may refuse to honor a claim for a covered  
171 service when the custodian for the child or the  
172 obligated parent submits proof of payment for medical  
173 bills for the child.

174 (3) The insurer shall reimburse the custodian for the  
175 child or the obligated parent who submits copies of  
176 medical bills for the child with proof of payment.

177 (4) All insurers in this state shall comply with the  
178 provisions of section sixteen, article fifteen, chapter  
179 thirty-three of this code and section eleven, article  
180 sixteen of said chapter and shall provide insurance  
181 coverage for the child of a covered employee notwith-  
182 standing the amount of support otherwise ordered by  
183 the court and regardless of the fact that the child may  
184 not be living in the home of the covered employee.

185 (j) When an order for insurance coverage for a child  
186 pursuant to this section is in effect and the obligated  
187 parent's employment is terminated, or the insurance  
188 coverage for the child is denied, modified or terminat-  
189 ed, the insurer shall in addition to complying with the  
190 requirements of article sixteen-a, chapter thirty-three  
191 of this code, within ten days after the notice of change  
192 in coverage is sent to the covered employee, notify the  
193 custodian for the child and provide an explanation of  
194 any conversion privileges available from the insurer.

195 (k) A child of an obligated parent shall remain  
196 eligible for insurance coverage until the child is  
197 emancipated or until the insurer under the terms of  
198 the applicable insurance policy terminates said child  
199 from coverage, whichever is later in time, or until  
200 further order of the court.

201 (l) If the obligated parent fails to comply with the  
202 order to provide insurance coverage for the child, the

203 court shall:

204 (1) Hold the obligated parent in contempt for failing  
205 or refusing to provide the insurance coverage, or for  
206 failing or refusing to provide the information required  
207 in subsection (d) of this section;

208 (2) Enter an order for a sum certain against the  
209 obligated parent for the cost of medical care for the  
210 child, and any insurance premiums paid or provided  
211 for the child during any period in which the obligated  
212 parent failed to provide the required coverage; and

213 (3) In the alternative, other enforcement remedies  
214 available under sections two and three, article five,  
215 chapter forty-eight-a of this code, or otherwise avail-  
216 able under law, may be used to recover from the  
217 obligated parent the cost of medical care or insurance  
218 coverage for the child.

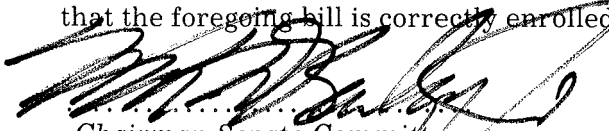
219 (4) In addition to other remedies available under  
220 law, the child advocate office may garnish the wages,  
221 salary or other employment income of, and withhold  
222 amounts from state tax refunds to any person who:

223 (A) Is required by court or administrative order to  
224 provide coverage of the cost of health services to a  
225 child eligible for medical assistance under medicaid;  
226 and

227 (B) Has received payment from a third party for the  
228 costs of such services but has not used the payments  
229 to reimburse either the other parent or guardian of  
230 the child or the provider of the services, to the extent  
231 necessary to reimburse the state medicaid agency for  
232 its costs: *Provided*, That claims for current and past  
233 due child support shall take priority over these claims.

234 (m) Proof of failure to maintain court ordered  
235 insurance coverage for the child constitutes a showing  
236 of substantial change in circumstances or increased  
237 need pursuant to section fifteen of this article, and  
238 provides a basis for modification of the child support  
239 order.

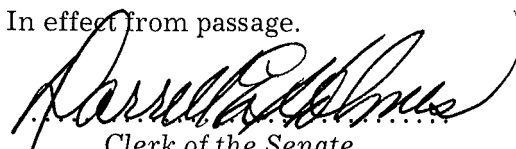
The Joint Committee on Enrolled Bills hereby certifies  
that the foregoing bill is correctly enrolled.

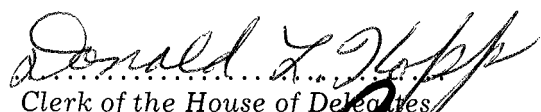
  
.....  
Chairman Senate Committee

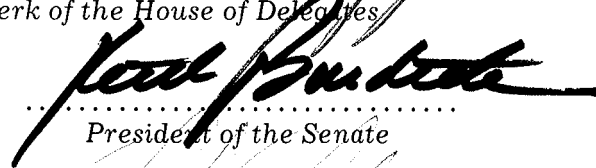
  
..... Ernest C. Moore  
Chairman House Committee

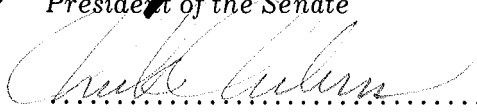
Originated in the Senate.

In effect from passage.

  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within *is approved* this the *30<sup>th</sup>*  
*March*  
day of ....., 1994.

  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3-30-94

Time 4:34 p.m.