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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001

ENROLLED

House Bill No. 3049

(By Delegates Stemple, Mezzatesta, Williams,
Carmichael, Swartzmiller, Louisos and Harrison)

Passed April 14, 2001

In Effect July 1, 2001

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H. B. 3049

(BY DELEGATES STEMPLER, MEZZATESTA, WILLIAMS,
CARMICHAEL, SWARTZMILLER, LOUISOS AND HARRISON)

[Passed April 14, 2001; in effect July 1, 2001.]

AN ACT to amend and reenact section one, article two-c, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article three, chapter eighteen-a of said code by adding thereto a new section, designated section ten, all relating to public safety; including on the central abuse registry those persons who have abused, neglected or committed other crimes against persons who are adults, receiving behavioral health services; authorizing the state department of education to request information from the central abuse registry; requiring fingerprinting and criminal record checks of certain applicants with state department of education; and use and disclosure of information obtained from record checks.

Be it enacted by the Legislature of West Virginia:

That section one, article two-c, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article three, chapter eighteen-a of said code be amended by adding thereto a new section, designated section ten, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2C. CENTRAL ABUSE REGISTRY.

§15-2C-1. Definitions.

1 The following words when used in this article have
2 meanings ascribed to them in this section, except in those
3 instances where the context clearly indicates a different
4 meaning:

5 (a) “Central abuse registry” or “registry” means the registry
6 created by this article which shall contain the names of individ-
7 uals who have been convicted of a felony or a misdemeanor
8 offense constituting abuse, neglect or misappropriation of the
9 property of a child or an incapacitated adult or an adult receiv-
10 ing behavioral health services.

11 (b) “Child abuse and neglect” or “child abuse or neglect”
12 means those terms as defined in section three, article one,
13 chapter forty-nine of this code, and shall include any act with
14 respect to a child which is a crime against the person pursuant
15 to article two, chapter sixty-one of this code, any act which is
16 unlawful pursuant to article eight-d of said chapter sixty-one,
17 and any offense with respect to a child which is enumerated in
18 section three of this article.

19 (c) “Abuse or neglect of an incapacitated adult” means
20 “abuse” “neglect” and “incapacitated adult” as those terms are
21 defined in section one, article six, chapter nine, and shall
22 include any act with respect to an incapacitated adult which is
23 a crime against the person pursuant to article two, chapter sixty-
24 one of this code, and any offense with respect to an incapaci-
25 tated adult which is enumerated in section three of this article.

26 (d) “Adult receiving behavioral health services” means a
27 person over the age of eighteen years who is receiving any
28 behavioral health service from a licensed behavioral health

29 provider or any behavioral health provider whose services are
30 paid for, in whole or in part, by medicaid or medicare.

31 (e) "Conviction" of a felony or a misdemeanor means an
32 adjudication of guilt by a court or jury following a hearing on
33 the merits, or entry of a plea of guilty or nolo contendere.

34 (f) "Residential care facility" means any facility where a
35 child or an incapacitated adult or an adult receiving behavioral
36 health services resides which is subject to registration, licensure
37 or certification by the department of health and human re-
38 sources, and shall include nursing homes, personal care homes,
39 residential board and care homes, adult family care homes,
40 group homes, legally unlicensed service providers, residential
41 child care facilities, family based foster care homes, specialized
42 family care homes and intermediate care facilities for the
43 mentally retarded.

44 (g) "Misappropriation of property" means any act which is
45 a crime against property under article three, chapter sixty-one
46 of this code with respect to a child in a residential care facility
47 or an incapacitated adult or an adult receiving behavioral health
48 services in a residential care facility or a child or an incapaci-
49 tated adult or an adult receiving behavioral health services who
50 is a recipient of home care services.

51 (h) "Home care" or "home care services" means services
52 provided to children or incapacitated adults or adults receiving
53 behavioral health services in the home through a hospice
54 provider, a community care provider, a home health agency,
55 through the medicaid waiver program, or through any person
56 when that service is reimbursable under the state medicaid
57 program.

58 (i) "Requester" means the West Virginia department of
59 education, any residential care facility, any state licensed day
60 care center, or any provider of home care services or an adult
61 receiving behavioral health services providing to the central

62 abuse registry the name of an individual and other information
63 necessary to identify that individual, and either: (1) Certifying
64 that the individual is being considered for employment by the
65 requester or for a contractual relationship with the requester
66 wherein the individual will provide services to a child or an
67 incapacitated adult or an adult receiving behavioral health
68 services for compensation; or (2) certifying that an allegation
69 of abuse, neglect or misappropriation of property has been
70 made against the individual.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL DEVELOPMENT.

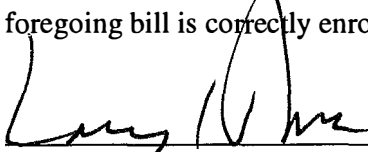
§18A-3-10. Criminal history check of applicants for licensure by the state department of education.

1 Beginning the first day of January, two thousand two, any
2 applicant for an initial license issued by the West Virginia
3 department of education shall be fingerprinted by the West
4 Virginia state police in accordance with state board policy in
5 order to determine the applicant's suitability for licensure. The
6 fingerprints shall be analyzed by the state police for a state
7 criminal history record check through the central abuse registry
8 and then forwarded to the federal bureau of investigation for a
9 national criminal history record check. Information contained
10 in either the central abuse registry record or the federal bureau
11 of investigation record may form the basis for the denial of a
12 certificate for just cause. The applicant for initial certification
13 pays for the cost of obtaining the central abuse registry record
14 and the federal bureau of investigation record.

15 Upon written consent to the state department by the
16 applicant and within ninety days of the state fingerprint
17 analysis, the results of a state analysis may be provided to a
18 county board with which the applicant is applying for employ-
19 ment without further cost to the applicant.

20 Information maintained by the state department or a county
21 board which was obtained for the purpose of this section is
22 exempt from the disclosure provisions of chapter twenty-nine-b
23 of this code. Nothing in this section prohibits disclosure or
24 publication of information in a statistical or other form which
25 does not identify the individuals involved or provide personal
26 information.

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



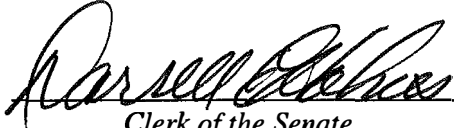
Chairman Senate Committee




Chairman House Committee

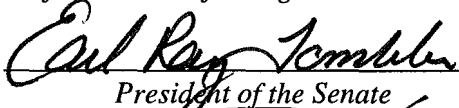
Originating in the House.

In effect July 1, 2001.

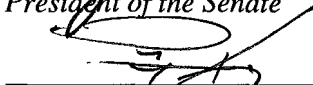


Clerk of the Senate

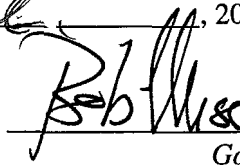

Clerk of the House of Delegates



President of the Senate


Speaker of the House of Delegates

The within is appended this the 30th
day of April, 2001.


Governor

PRESENTED TO THE

GOVERNOR

Date 4/20/01

Time 5:30 pm