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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2001

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ENROLLED

SENATE BILL NO. 620

(By Senator Wootton, et al)

—●—
PASSED April 14, 2001

In Effect 90 days from Passage

ENROLLED
Senate Bill No. 620

(BY SENATORS WOOTON, HUNTER, SPROUSE,
MCCABE AND ROWE)

[Passed April 14, 2001; in effect ninety days from passage.]

AN ACT to amend article six, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section sixteen; and to amend and reenact section nine, article six-a, chapter forty-nine of said code, all relating to abuse and neglect; authorizing the secretary of the department of health and human resources to issue administrative subpoenas in order to locate certain adults and children; providing for service; authorizing circuit courts to issue subpoenas for the secretary; and invoking judicial aid to compel compliance therewith.

Be it enacted by the Legislature of West Virginia:

That article six, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section sixteen; and that section nine, article six-a, chapter forty-nine of said code be amended and reenacted, all to read as follows:

CHAPTER 9. HUMAN SERVICES.**ARTICLE 6. SOCIAL SERVICES FOR ADULTS.****§9-6-16. Compelling production of information.**

1 (a) (1) In order to obtain information regarding the
2 location of an adult who is the subject of an allegation of
3 abuse or neglect, the secretary of the department of health
4 and human resources may serve, by certified mail, per-
5 sonal service or facsimile, an administrative subpoena on
6 any corporation, partnership, business or organization for
7 production of information leading to determining the
8 location of the adult. In case of disobedience to the
9 subpoena, adult protective services may petition any
10 circuit court to require the production of information.

11 (2) In case of disobedience to the subpoena, in compel-
12 ling the production of information the secretary may
13 invoke the aid of: (A) The circuit court with jurisdiction
14 over the served party, if the entity served is located in this
15 state; or (B) the circuit court of the county in which the
16 local protective services office conducting the investiga-
17 tion is located, if the entity served is a nonresident.

18 (3) A circuit court shall not enforce an administrative
19 subpoena unless it finds that: (A) The investigation is one
20 the division of adult protective services is authorized to
21 make and is being conducted pursuant to a legitimate
22 purpose; (B) the inquiry is relevant to that purpose; (C) the
23 inquiry is not too broad or indefinite; (D) the information
24 sought is not already in the possession of the division of
25 adult protective services; and (E) any administrative steps
26 required by law have been followed.

27 (4) If circumstances arise where the secretary, or his or
28 her designee, determines it necessary to compel an individ-
29 ual to provide information regarding the location of an
30 adult who is the subject of an allegation of abuse or
31 neglect, the secretary, or his or her designee, may seek a

32 subpoena from the circuit court with jurisdiction over the
 33 individual from whom the information is sought.

CHAPTER 49. CHILD WELFARE.

ARTICLE 6A. REPORTS OF CHILDREN SUSPECTED TO BE ABUSED OR NEGLECTED.

§49-6A-9. Establishment of child protective services; general duties and powers; cooperation of other state agencies.

1 (a) The state department shall establish or designate in
 2 every county a local child protective services office to
 3 perform the duties and functions set forth in this article.

4 (b) The local child protective service shall investigate all
 5 reports of child abuse or neglect: *Provided*, That under no
 6 circumstances shall investigating personnel be relatives of
 7 the accused, the child or the families involved. In accor-
 8 dance with the local plan for child protective services, it
 9 shall provide protective services to prevent further abuse
 10 or neglect of children and provide for or arrange for and
 11 coordinate and monitor the provision of those services
 12 necessary to ensure the safety of children. The local child
 13 protective service shall be organized to maximize the
 14 continuity of responsibility, care and service of individual
 15 workers for individual children and families: *Provided*,
 16 *however*, That under no circumstances may the secretary
 17 or his or her designee promulgate rules or establish any
 18 policy which restricts the scope or types of alleged abuse
 19 or neglect of minor children which are to be investigated
 20 or the provision of appropriate and available services.

21 Each local child protective service office shall:

22 (1) Receive or arrange for the receipt of all reports of
 23 children known or suspected to be abused or neglected on
 24 a 24-hour, seven-day-a-week basis and cross-file all such
 25 reports under the names of the children, the family and
 26 any person substantiated as being an abuser or neglecter

27 by investigation of the department of health and human
28 resources, with use of such cross-filing of such person's
29 name limited to the internal use of the department;

30 (2) Provide or arrange for emergency children's services
31 to be available at all times;

32 (3) Upon notification of suspected child abuse or neglect,
33 commence or cause to be commenced a thorough investi-
34 gation of the report and the child's environment. As a part
35 of this response, within fourteen days there shall be a
36 face-to-face interview with the child or children and the
37 development of a protection plan, if necessary for the
38 safety or health of the child, which may involve
39 law-enforcement officers or the court;

40 (4) Respond immediately to all allegations of imminent
41 danger to the physical well-being of the child or of serious
42 physical abuse. As a part of this response, within sev-
43 enty-two hours, there shall be a face-to-face interview
44 with the child or children and the development of a
45 protection plan which may involve law-enforcement
46 officers or the court; and

47 (5) In addition to any other requirements imposed by
48 this section, when any matter regarding child custody is
49 pending the circuit court or family law master may refer
50 allegations of child abuse and neglect to the local child
51 protective service for investigation of the allegations as
52 defined by this chapter and require the local child protec-
53 tive service to submit a written report of the investigation
54 to the referring circuit court or family law master within
55 the time frames set forth by the circuit court or family law
56 master.

57 (c) In those cases in which the local child protective
58 service determines that the best interests of the child
59 require court action, the local child protective service shall
60 initiate the appropriate legal proceeding.

61 (d) The local child protective service shall be responsible
62 for providing, directing or coordinating the appropriate
63 and timely delivery of services to any child suspected or
64 known to be abused or neglected, including services to the
65 child's family and those responsible for the child's care.

66 (e) To carry out the purposes of this article, all depart-
67 ments, boards, bureaus and other agencies of the state or
68 any of its political subdivisions and all agencies providing
69 services under the local child protective service plan shall,
70 upon request, provide to the local child protective service
71 such assistance and information as will enable it to fulfill
72 its responsibilities.

73 (f)(1) In order to obtain information regarding the
74 location of a child who is the subject of an allegation of
75 abuse or neglect, the secretary of the department of health
76 and human resources may serve, by certified mail or
77 personal service, an administrative subpoena on any
78 corporation, partnership, business or organization for the
79 production of information leading determining to the
80 location of the child.

81 (2) In case of disobedience to the subpoena, in compel-
82 ling the production of documents, the secretary may
83 invoke the aid of: (A) The circuit court with jurisdiction
84 over the served party, if the person served is a resident; or
85 (B) the circuit court of the county in which the local child
86 protective services office conducting the investigation is
87 located, if the person served is a nonresident.

88 (3) A circuit court shall not enforce an administrative
89 subpoena unless it finds that: (A) The investigation is one
90 the division of child protective services is authorized to
91 make and is being conducted pursuant to a legitimate
92 purpose; (B) the inquiry is relevant to that purpose; (C) the
93 inquiry is not too broad or indefinite; (D) the information
94 sought is not already in the possession of the division of
95 child protective services; and (E) any administrative steps
96 required by law have been followed.

97 (4) If circumstances arise where the secretary, or his or
98 her designee, determines it necessary to compel an individ-
99 ual to provide information regarding the location of a
100 child who is the subject of an allegation of abuse or
101 neglect, the secretary, or his or her designee, may seek a
102 subpoena from the circuit court with jurisdiction over the
103 individual from whom the information is sought.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within is approved this the 2nd
Day of May, 2001.
[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 5/1/01

Time 9:25 pm