

1 **H. B. 4240**

2
3 (By Delegates Lawrence, Smith, Miley,
4 Skaff, T. Campbell, Manchin, Marshall,
5 White, Stowers, L. Phillips and Carmichael)

6 [Introduced January 20, 2012; referred to the
7 Committee on the Judiciary then Finance.]

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10 A BILL to amend and reenact §49-6A-1, §49-6A-2, §49-6A-8 and
11 §49-6A-10 of the Code of West Virginia, 1931, as amended, all
12 relating to increasing the persons mandated to report abuse
13 and neglect of children; increasing the criminal penalties for
14 failure to report; and providing funding for educational
15 programs for reporting and preventing child abuse and neglect.

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

17 That §49-6A-1, §49-6A-2, §49-6A-8 and §49-6A-10 of the Code
18 of West Virginia, 1931, as amended, be amended and reenacted, all
19 to read as follows:

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

22 **§49-6A-1. Purpose.**

23 It is the purpose of this article, through the complete
24 reporting of suspected child abuse and neglect, to protect the best

1 interests of the child, to offer protective services in order to
2 prevent any further harm to the child or any other children living
3 in the home, to stabilize the home environment, to preserve family
4 life whenever possible, ~~and~~ promote adult responsibility for
5 protecting children and to encourage cooperation among the states
6 to prevent future incidents of child abuse and neglect and in
7 dealing with the problems of child abuse and neglect.

8 **§49-6A-2. Persons mandated to report suspected abuse and neglect.**

9 When any medical, dental or mental health professional,
10 Christian Science practitioner, religious healer, school teacher or
11 other school personnel, social service worker, child care or foster
12 care worker, emergency medical services personnel, peace officer or
13 law-enforcement official, humane officer, member of the clergy,
14 circuit court judge, family court judge, employee of the Division
15 of Juvenile Services, ~~or~~ magistrate, youth camp administrator or
16 counselor, employee or volunteer of an entity that provides
17 organized activities for children or commercial film or
18 photographic print processor who has reasonable cause to suspect
19 that a child is neglected or abused or observes the child being
20 subjected to conditions that are likely to result in abuse or
21 neglect ~~such person~~ shall immediately, and not more than forty-
22 eight hours after suspecting this abuse, report the circumstances
23 or cause a report to be made to the Department of Health and Human
24 Resources. ~~Provided, That In any case where~~

1 (b) If the reporter believes that the child suffered serious
2 physical abuse or sexual abuse or sexual assault, the reporter
3 shall also immediately report, or cause a report to be made, to the
4 State Police and any law-enforcement agency having jurisdiction to
5 investigate the complaint: *Provided, ~~however,~~* That any person
6 required to report under this article who is a member of the staff
7 or volunteer of a public or private institution, school, facility
8 or agency shall immediately notify the person in charge of ~~such the~~
9 institution, school, facility or agency, or a designated agent
10 thereof, who shall report or cause a report to be made. However,
11 nothing in this article is intended to prevent individuals from
12 reporting on their own behalf.

13 In addition to those persons and officials specifically
14 required to report situations involving suspected abuse or neglect
15 of children any other person may make a report if ~~such~~ that person
16 has reasonable cause to suspect that a child has been abused or
17 neglected in a home or institution or observes the child being
18 subjected to conditions or circumstances that would reasonably
19 result in abuse or neglect.

20 **§49-6A-8. Failure to report; penalty.**

21 Any person ~~official or institution~~ required by this article to
22 report a case involving a child known or suspected to be abused or
23 neglected, or required by section five of this article to forward
24 a copy of a report of serious injury, who knowingly fails to do so

1 or knowingly prevents another person acting reasonably from doing
2 so, ~~shall be~~ is guilty of a misdemeanor and, upon conviction
3 thereof, shall be confined in jail not more than ten days or fined
4 not more than ~~\$100~~ \$1,000, or both fined and confined.

5 **§49-6A-10. Educational programs.**

6 In each fiscal year beginning after June 30, 2012, it is the
7 intent of the Legislature that, pursuant to appropriation in the
8 budget bill for each respective fiscal year, \$1 million of general
9 revenue funds be transferred to the West Virginia Children's Trust
10 Fund established in section one, article six-c of this chapter for
11 the purpose of preventing child abuse and neglect. These funds
12 shall be used to support ~~Within available funding and as~~
13 ~~appropriate, the state department shall conduct~~ and
14 training programs ~~with the staff of the state department, persons~~
15 ~~required to report~~ suspected abuse or neglect, and the general
16 public, as well as evidence-based programs that reduce incidents of
17 child maltreatment including child sexual abuse. Training for
18 persons required to report and the general public shall include
19 indicators of child abuse and neglect, tactics used by sexual
20 abusers, how and when to make a report and protective factors that
21 prevent abuse and neglect in order to promote adult responsibility
22 for protecting children, encourage maximum reporting of suspected
23 child abuse and neglect, and to improve communication, cooperation
24 and coordination among all agencies involved in the identification,

1 prevention and treatment of the abuse and neglect of children.

NOTE: The purpose of this bill is to include youth camp administrator or counselor, employee or volunteer of an entity that provides organized activities for children or commercial film or photographic print processor as mandated reporters of suspected child abuse. It increases criminal penalties for failing to report child abuse. And, the bill provides funding for educational programs for reporting and preventing child abuse and neglect.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.