

ENROLLED

COMMITTEE SUBSTITUTE

for

H. B. 2527

(BY DELEGATE(S) PASDON, MARCUM, KESSINGER,
R. PHILLIPS AND UPSON)

[Passed March 13, 2015;
in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §49-2-126 and §49-2-814, all relating to the welfare of children; establishing the Task Force on Prevention of Sexual Abuse of Children; authorizing section to be called “Erin Merryn’s Law”; specifying membership; specifying responsibilities, including report of recommendations to Legislature and Governor; precluding member compensation or expense reimbursement; relating to legislative findings and declaration of intent for goals for foster children; requiring the Department of Health and Human Resources to propose legislative rules; providing that no new cause of action against the state is created; providing that no expenditure of funds is required; and providing for notifying former foster parents of child’s availability for placement.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto two new sections, designated §49-2-126 and §49-2-814, all to read as follows:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-814. Task Force on Prevention of Sexual Abuse of Children.

- 1 (a) This section may be referred to as “Erin Merryn’s Law”.
- 2 (b) The Task Force on Prevention of Sexual Abuse of
3 Children is established. The task force consists of the following
4 members:
 - 5 (1) The Chair of the West Virginia Senate Committee on
6 Health and Human Resources, or his or her designee;
 - 7 (2) The Chair of the House of Delegates Committee on
8 Health and Human Resources, or his or her designee;
 - 9 (3) The Chair of the West Virginia Senate Committee on
10 Education, or his or her designee;
 - 11 (4) The Chair of the House of Delegates Committee on
12 Education, or his or her designee;
 - 13 (5) One citizen member appointed by the President of the
14 Senate;
 - 15 (6) One citizen member appointed by the Speaker of the
16 House of Delegates;
 - 17 (7) One citizen member, who is a survivor of child sexual
18 abuse, appointed by the Governor;
 - 19 (8) The President of the State Board of Education, or his or
20 her designee;

21 (9) The State Superintendent of Schools, or his or her
22 designee;

23 (10) The Secretary of the Department of Health and Human
24 Resources, or his or her designee;

25 (11) The Director of the Prosecuting Attorney's Institute, or
26 his or her designee;

27 (12) One representative of each statewide professional
28 teachers' organization, each selected by the leader of his or her
29 respective organization;

30 (13) One representative of the statewide school service
31 personnel organization, selected by the leader of the
32 organization;

33 (14) One representative of the statewide school principals'
34 organization, appointed by the leader of the organization;

35 (15) One representative of the statewide professional social
36 workers' organization, appointed by the leader of the
37 organization;

38 (16) One representative of a teacher preparation program of
39 a regionally accredited institution of higher education in the
40 state, appointed by the Chancellor of the Higher Education
41 Policy Commission;

42 (17) The Chief Executive Officer of the Center for
43 Professional Development, or his or her designee;

44 (18) The Director of Prevent Child Abuse West Virginia, or
45 his or her designee;

46 (19) The Director of the West Virginia Child Advocacy
47 Network, or his or her designee;

48 (20) The Director of the West Virginia Coalition Against
49 Domestic Violence, or his or her designee;

50 (21) The Director of the West Virginia Foundation for Rape
51 Information and Services, or his or her designee;

52 (22) The Administrative Director of the West Virginia
53 Supreme Court of Appeals, or his or her designee;

54 (23) The Executive Director of the West Virginia Sheriffs'
55 Association, or his or her designee;

56 (24) One representative of an organization representing law
57 enforcement, appointed by the Superintendent of the West
58 Virginia State Police; and

59 (25) One practicing school counselor appointed by the leader
60 of the West Virginia School Counselors Association.

61 (c) To the extent practicable, members of the task force shall
62 be individuals actively involved in the fields of child abuse and
63 neglect prevention and child welfare.

64 (d) At the joint call of the House of Delegates and Senate
65 Education Committee Chairs, the task force shall convene its
66 first meeting and by majority vote of members present elect
67 presiding officers. Subsequent meetings shall be at the call of the
68 presiding officer.

69 (e) The task force shall make recommendations for
70 decreasing incidence of sexual abuse of children in West
71 Virginia. In making those recommendations, the task force shall:

72 (1) Gather information regarding sexual abuse of children
73 throughout the state;

74 (2) Receive related reports and testimony from individuals,
75 state and local agencies, community-based organizations, and
76 other public and private organizations;

77 (3) Create goals for state education policy that would prevent
78 sexual abuse of children;

79 (4) Create goals for other areas of state policy that would
80 prevent sexual abuse of children; and

81 (5) Submit a report with its recommendations to the
82 Governor and the Legislature.

83 (f) The recommendations may include proposals for specific
84 statutory changes and methods to foster cooperation among state
85 agencies and between the state and local governments. The task
86 force shall consult with employees of the Bureau for Children
87 and Family Services, the Division of Justice and Community
88 Services, the West Virginia State Police, the State Board of
89 Education, and any other state agency or department as
90 necessary to accomplish its responsibilities under this section.

91 (g) Task force members serve without compensation and do
92 not receive expense reimbursement.

**§49-2-126. Legislative findings and declaration of intent for goals
for foster children.**

1 (a) The Legislature finds and declares that the design and
2 delivery of child welfare services should be directed by the
3 principle that the health and safety of children should be of
4 paramount concern and, therefore, establishes the goals for
5 children in foster care. A child in foster care should have:

6 (1) Protection by a family of his or her own, and be provided
7 readily available services and support through care of an
8 adoptive family or by plan, a continuing foster family;

9 (2) Nurturing by foster parents who have been selected to
10 meet his or her individual needs, and who are provided services
11 and support, including specialized education, so that the child
12 can grow to reach his or her potential;

13 (3) A safe foster home free of violence, abuse, neglect and
14 danger;

15 (4) The ability to communicate with the assigned social
16 worker or case worker overseeing the child's case and have calls
17 made to the social worker or case worker returned within a
18 reasonable period of time;

19 (5) Permission to remain enrolled in the school the child
20 attended before being placed in foster care, if at all possible;

21 (6) Participation in school extracurricular activities,
22 community events, and religious practices;

23 (7) Communication with the biological parents. Communi-
24 cation is necessary if the child placed in foster care receives any
25 immunizations and if any additional immunizations are needed,
26 if the child will be transitioning back into a home with his or her
27 biological parents;

28 (8) A bank or savings account established in accordance with
29 state laws and federal regulations;

30 (9) Identification and other permanent documents, including
31 a birth certificate, social security card and health records by the
32 age of sixteen, to the extent allowed by federal and state law;

33 (10) The use of appropriate communication measures to
34 maintain contact with siblings if the child placed in foster care
35 is separated from his or her siblings; and

36 (11) Meaningful participation in a transition plan for those
37 phasing out of foster care.

38 (b) A person shall not have a cause of action against the state
39 or any of its subdivisions, agencies, contractors, subcontractors,
40 or agents, based upon the adoption of or failure to provide

41 adequate funding for the achievement fo these goals by the
42 Legislature. Nothing in this section requires the expenditure of
43 funds to meet the goals established in this section, except funds
44 specifically appropriated for that purpose.

45 (c) The West Virginia Department of Health and Human
46 Resources shall propose rules for promulgation in accordance
47 with the provisions of article three, chapter twenty-nine-a of this
48 code to ensure that a child has an effective means of being heard
49 if he or she believes the goals of this section are not being met.

50 (d) When a child who was previously placed into foster care,
51 but left the custody or guardianship of the department, is again
52 placed into foster care, the department shall notify the foster
53 parents who most recently cared for the child of the child's
54 availability for foster care placement to determine if the foster
55 parents are desirous of seeking a foster care arrangement for the
56 child. The arrangement may only be made if the foster parents
57 are otherwise qualified or can become qualified to enter into the
58 foster care arrangement with the department and if the
59 arrangement is in the best interests of the child: *Provided*, That
60 the department may petition the court to waive notification to the
61 foster parents. This waiver may be granted, *ex parte*, upon a
62 showing of compelling circumstances.

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

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2015.

Governor

