

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 456

SENATORS TRUMP, WELD, MILLER AND GAUNCH,

original sponsors

[Passed April 1, 2017; in effect from passage]

1 AN ACT to amend and reenact §49-4-605 of the Code of West Virginia, 1931, as amended,
2 relating to standards for termination of parental rights in child abuse and neglect cases;
3 and clarifying applicability of section when certain crimes are committed by one parent
4 against another.

Be it enacted by the Legislature of West Virginia:

1 That §49-4-605 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 4. COURT ACTIONS.

§49-4-605. When department efforts to terminate parental rights are required.

1 (a) Except as provided in subsection (b) of this section, the department shall file or join in
2 a petition or otherwise seek a ruling in any pending proceeding to terminate parental rights:

3 (1) If a child has been in foster care for fifteen of the most recent twenty-two months as
4 determined by the earlier of the date of the first judicial finding that the child is subjected to abuse
5 or neglect or the date which is sixty days after the child is removed from the home;

6 (2) If a court has determined the child is abandoned, tortured, sexually abused or
7 chronically abused; or

8 (3) If a court has determined the parent has committed murder or voluntary manslaughter
9 of another of his or her children, another child in the household, or the other parent of his or her
10 children; has attempted or conspired to commit murder or voluntary manslaughter or has been an
11 accessory before or after the fact of either crime; has committed unlawful or malicious wounding
12 resulting in serious bodily injury to the child or to another of his or her children, another child in
13 the household or to the other parent of his or her children; has committed sexual assault or sexual
14 abuse of the child, the child's other parent, guardian or custodian, another child of the parent or
15 any other child residing in the same household or under the temporary or permanent custody of
16 the parent; or the parental rights of the parent to another child have been terminated involuntarily.

17 (b) The department may determine not to file a petition to terminate parental rights when:

18 (1) At the option of the department, the child has been placed permanently with a relative
19 by court order;

20 (2) The department has documented in the case plan made available for court review a
21 compelling reason, including, but not limited to, the child's age and preference regarding
22 termination or the child's placement in custody of the department based on any proceedings
23 initiated under part seven of this article, that filing the petition would not be in the best interests of
24 the child; or

25 (3) The department has not provided, when reasonable efforts to return a child to the
26 family are required, the services to the child's family as the department deems necessary for the
27 safe return of the child to the home.

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

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2017.

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Governor