

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2002**

By Delegates Jeffries, Storch, Hott, Kelly, Dillon,  
Pinson, Heckert, Street, Lucas, Miller, and Bridges

[Originating in the Committee on Finance;

February 6, 2023]

1 A BILL to amend and reenact §11-21-10a of the Code of West Virginia, 1931, as amended; to  
2 amend said code by adding thereto a new section, designated §16-5K-7; and to amend  
3 said code by adding thereto a new article, designated §16-66-1, §16-66-2, and §16-66-3,  
4 all relating to providing support for families; increasing the adoption tax credit for tax years  
5 2023 forward; defining terms; providing rulemaking authority to the tax commissioner;  
6 establishing eligibility of adopted children of West Virginia residents for early intervention  
7 services; establishing the West Virginia Mothers and Babies Pregnancy Support Program;  
8 defining terms; establishing which organizations are eligible for funding pursuant to the  
9 program; allowing bureau to contract with management agency to provide program  
10 services; and establishing requirements and responsibilities of a management agency.

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

## **CHAPTER 11. TAXATION.**

### **ARTICLE 21. PERSONAL INCOME TAX.**

#### **§11-21-10a. Credit for nonfamily adoption Adoption tax credit.**

1 A one time credit against the tax imposed by the provisions of this article shall be allowed  
2 as follows:

3 *Nonfamily adoptions.* — For nonfamily adoptions, the credit is equal to \$4,000 \$5,000  
4 which may be taken in the year of the adoption of each nonfamily child, whose age at adoption is  
5 under eighteen years. This credit may, at the option of the taxpayer, be taken over a period of three  
6 years.

7 For the purpose of this section and credit "nonfamily adoptions" means adoptions of a child  
8 or children by a taxpayer or taxpayers who are not the father, mother, or stepparent of the child.

## **CHAPTER 16. PUBLIC HEALTH.**

### **ARTICLE 5K. EARLY INTERVENTION SERVICES FOR CHILDREN WITH DEVELOPMENTAL DELAYS.**

#### **§16-5K-7. Early intervention services for adopted children.**

1           (a) Effective July 1, 2023, a child or children adopted on and after that date whose adoptive  
2 parent or parents are residents of West Virginia shall be eligible for any early intervention services  
3 provided for families which may be offered by the Department of Health and Human Resources.  
4 These services shall include, but are not limited to, Right From the Start, Drug Free Moms and  
5 Babies, and Birth to Three.

6           (b) If an early intervention program has federal mandated eligibility requirements as a  
7 condition of the receipt of federal funds, an adoptive parent or parents and their newly adopted  
8 child or children may be required to meet those federally mandated eligibility requirements for  
9 participation in the program.

10           (c) The Department of Health and Human Resources shall recruit additional sites to  
11 expand the Drug Free Moms and Babies program and report back to the Legislature if additional  
12 funding becomes necessary to operate these sites.

13           (d) The Bureau for Medical Services shall seek approval of and implement a Medicaid  
14 state plan amendment to meet the requirements of this section if the program is offered through or  
15 funded by the state Medicaid program and a state Medicaid plan amendment would be necessary  
16 to effectuate the purposes of this section.

17           (e) Use of early intervention services are optional to an adoptive parent or parents and  
18 nothing in this section should be construed to require an adoptive parent or parents to use any  
19 early intervention service as provided in this section.

**ARTICLE 66. SUPPORT FOR MOTHERS AND BABIES ACT.**

**§16-66-1. Definitions.**

1           The following terms are defined:

2           "Abortion industry organization" means any organization that performs, prescribes, refers  
3 for, encourages or promotes abortion as an option for a pregnant woman, or owns, operates, or  
4 manages a facility where abortions are performed and prescribed.

5 "Organization" means the entire legal entity, including any entity or affiliate that controls, is  
6 controlled by, or is under common control with such an entity.

7 "Pregnancy help organization" means an organization that seeks to provide a range of  
8 services to pregnant women. Pregnancy help organizations do not perform, prescribe, refer for or  
9 encourage abortion, as defined above, nor do they affiliate with any organization that performs,  
10 prescribes, refers for, or encourages abortion. Pregnancy help organizations include, but are not  
11 limited to, organizations traditionally known as "crisis pregnancy organizations," maternity homes,  
12 adoption agencies, and social services agencies that provide material support and other  
13 assistance to pregnant women.

14 "Management agency" means an organization that contracts with the Bureau for Public  
15 Health, or department thereof to manage the West Virginia Mothers and Babies Pregnancy  
16 Support Program.

17 "Subcontractor" means a pregnancy help organization that contracts with the management  
18 agency to provide Pregnancy Support Program services to individuals.

**§16-66-2. Establishing the West Virginia Mothers and Babies Pregnancy Support Program.**

1 (a) There is hereby established the West Virginia Mothers and Babies Pregnancy Support  
2 Program under the Bureau for Public Health.

3 (b) A pregnancy help organization is eligible to receive funding from the program, subject  
4 to meeting the standards defined by the managing agency.

5 (c) An abortion industry organization may not receive funding from the program.

6 (d) Funds distributed under the program shall be distributed on a fee per service  
7 arrangement with a fee per service and hour arrangement as set by the management agency.

**§16-66-3. Management agency.**

1 (a) The bureau shall contract with a management agency that exclusively promotes and  
2 supports childbirth and is knowledgeable and supportive of pregnancy help organization

2 operations to receive the funds and administer the program, as the program's management  
3 agency.

4 (b) The management agency may not perform, prescribe, refer for, advocate for, or  
5 encourage abortion; nor may they affiliate or hold any relationship with any abortion industry  
6 organization or any entity that controls, is controlled by, or is under common control with an  
7 abortion industry organization.

8 (c) The management agency shall be tasked with the following:

9 (1) Locating and advertising program participation to pregnancy help organizations within  
10 the state;

11 (2) Establishing qualification requirements for a pregnancy help organization participation,  
12 which include:

13 (A) Providing training and annual evaluations to their employees and volunteers;

14 (B) Maintaining policies and processes for child abuse reporting, medical emergencies,  
15 and/or addressing client complaints;

16 (C) Requiring a policy that pregnancy help organizations abide by all applicable federal  
17 and state laws; and

18 (D) Registering as a 501(c)(3) nonprofit organization.

19 (3) Establishing invoicing and reimbursement for pregnancy help organizations receiving  
20 funding under the program, including a fee or service schedule whereby costs for each service are  
21 set forth.

22 (4) Establishing statistical standards and other reporting requirements.

23 (5) Establishing an auditing procedure for pregnancy help organizations to ensure financial  
24 and operational accountability.

25 (d) The management agency shall enter into contracts with pregnancy help organizations  
26 to operate as subcontractors for serving individuals under the program.