

RECEIVED

FEB 10 5 20 PM '70

STATE OF WEST VIRGINIA

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1970

## ENROLLED

SENATE BILL NO. 155

(By Mr. Carigin)

PASSED Feb 12, 1970

In Effect Ninety days from Passage

THE CLERK OF THE HOUSE  
JOHN G. FOLKRELLER, JR.  
CLERK OF THE HOUSE

THIS DATE 2-18-70

155

**ENROLLED**  
**Senate Bill No. 155**

(By MR. CARRIGAN)

---

[Passed February 12, 1970; in effect ninety days from passage.]

---

AN ACT to repeal section fourteen, article two; section six, article four; and section twenty-seven, article seven, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections one and five, article one of said chapter; to amend and reenact sections nine, twelve and sixteen, article two of said chapter; to amend and reenact section seventeen, article five of said chapter; to amend and reenact sections three and five, article six of said chapter; to amend and reenact section two, article six-a of said chapter; and to amend and reenact sections fourteen, twenty-three, twenty-six and twenty-eight, article seven of said chapter, all relating to child welfare.

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

That section fourteen, article two; section six, article four; and section twenty-seven, article seven, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections one and five, article one of said chapter be amended and reenacted; that sections nine, twelve and sixteen, article two of said chapter be amended and reenacted; that section seventeen, article five of said chapter be amended and reenacted; that sections three and five, article six of said chapter be amended and reenacted; that section two, article six-a of said chapter be amended and reenacted; and that sections fourteen, twenty-three, twenty-six and twenty-eight, article seven of said chapter be amended and reenacted, all to read as follows:

**ARTICLE 1. PURPOSES: DEFINITIONS.**

**§49-1-1. Purpose.**

- 1 The purpose of this chapter is to provide a compre-
- 2 hensive system of child welfare throughout the state.
- 3 The child welfare service of the state shall be ad-
- 4 ministered by the state department of welfare and the
- 5 licensing board herein provided in accordance with the
- 6 provision of this chapter.

7 The state department of welfare is designated as the  
8 agency to cooperate with the children's bureau of the  
9 United States department of health, education and wel-  
10 fare in extending and improving child welfare services,  
11 to comply with regulations of the children's bureau, and  
12 to receive and expend federal funds for these services.

**§49-1-5. Definitions of other terms.**

1 For the purposes of this chapter:

2 (1) "State department" means the state department  
3 of welfare;

4 (2) "State board" means the state advisory board;

5 (3) "Commissioner" means the commissioner of wel-  
6 fare;

7 (4) "Child welfare agency" means any agency or  
8 institution maintained by a municipality or county, or  
9 any agency or institution maintained by a person, firm,  
10 corporation, association or organization to receive chil-  
11 dren for care and maintenance or for placement in a  
12 family home, or day care center or any institution that  
13 provides care for unmarried mothers and their chil-

14 dren, but shall not include county shelters established  
15 and maintained for the detention of delinquent children  
16 or those charged with delinquency.

17 (5) "Licensing board" means a board consisting of  
18 the commissioner of welfare, the state director of health  
19 and three persons appointed by the governor.

**ARTICLE 2. STATE RESPONSIBILITIES FOR THE PROTECTION  
AND CARE OF CHILDREN.**

**§49-2-9. Unsupervised foster homes—Generally.**

1 Any family home, not under the supervision of the  
2 state department of welfare or of a child welfare agency,  
3 in which one or more neglected children under the care  
4 of the state department of welfare and under eighteen  
5 years of age, separated from parents or guardian and not  
6 related by blood or marriage to the person maintaining  
7 the home, are received, cared for and maintained for  
8 compensation, or otherwise, shall be considered an un-  
9 supervised foster home. No person shall conduct an un-  
10 supervised foster home without a certificate from the  
11 state department.

**§49-2-12. Same—Removal of child from undesirable foster home.**

1     If at any time the state department shall find a child in  
2     an unsupervised foster home where the child is subject  
3     to undesirable influences or lacks proper or wise care and  
4     management, it shall take necessary action to remove the  
5     child and arrange for his care.

**§49-2-16. State responsibility for child care.**

1     The state department of welfare is authorized to provide  
2     care, support and protective services for children who  
3     are handicapped by dependency, neglect, illegitimate  
4     birth, mental or physical disability, or who for other rea-  
5     sons are in need of public service. The state department  
6     of welfare is hereby authorized and empowered in its  
7     discretion to accept children for care from their parent  
8     or parents, guardian or relatives and to accept the custody  
9     of children committed to its care by courts exercising  
10    juvenile jurisdiction.

11    The state department of welfare shall provide care in  
12    special boarding homes for children needing detention

13 pending disposition by a court having juvenile jurisdiction  
14 or temporary care following such court action.

**ARTICLE 5. JUVENILE COURTS.**

**§49-5-17. Probation officers of juvenile court—Generally.**

1 The commissioner of the state department of welfare  
2 shall, with the approval of the juvenile court, designate  
3 one of the employees of the state department of welfare  
4 to act as a juvenile court probation officer, and when re-  
5 quired one or more employees of the state department of  
6 welfare to act as assistant or assistants to such probation  
7 officer, and such employee or employees, when so assigned,  
8 shall perform their duties under the sole supervision and  
9 control of the juvenile court and the judge of said court  
10 shall have the sole power to recommend the transfer or  
11 dismissal of employees so assigned.

12 The foregoing provisions of this section shall not be  
13 construed as abrogating or affecting in any way the  
14 power and authority vested in any juvenile court by any  
15 special act of the Legislature or otherwise to select, super-  
16 vise and discharge its own probation officers and as-  
17 sistants thereto.

**ARTICLE 6. PROCEDURE IN NEGLECT CASES.****§49-6-3. Same—Temporary custody.**

1     Until a hearing can be held upon the petition, the court  
2     or judge may order that the child be delivered into the  
3     custody of the state department of welfare or into such  
4     other custody as the court or judge may deem proper.

**§49-6-5. Disposition of neglected children.**

1     In any case of a neglected child the court may:

2     (1) Return the child to his own home under supervision  
3     of the state department of welfare;

4     (2) Commit the child to the custody of the state de-  
5     partment of welfare or a licensed private child welfare  
6     agency;

7     (3) When necessary for the welfare of the child,  
8     terminate all the parental rights and responsibilities of  
9     the parent or parents of the child and commit the child  
10    to the permanent care and guardianship of the state  
11    department or of a licensed private child welfare agency;

12    (4) Commit the child to a suitable person who may be  
13    appointed guardian of the person of the child;

14    (5) Enter whatever other order may, in the discretion  
15    of the court, be most conducive to the welfare of the child.

**ARTICLE 6A. REPORTS OF CHILD ABUSE BY PHYSICIANS AND  
OTHERS.**

**§49-6A-2. Reports to department of welfare and to prosecuting  
attorney; form and contents.**

1 Any duly licensed physician or surgeon, resident physi-  
2 cian or surgeon, or intern, or doctor of the healing arts,  
3 examining, attending or treating a child under the age of  
4 eighteen years, or any registered nurse, any visiting nurse,  
5 any school teacher or any social worker, acting in his or  
6 her official capacity as such, having a reason to believe  
7 that a child under the age of eighteen years has had  
8 serious injury or injuries inflicted upon him or her as a  
9 result of abuse or neglect, shall report the matter prompt-  
10 ly to the nearest office of the department of welfare and to  
11 the prosecuting attorney of the county in which the injury  
12 or abuse occurred or if the county in which the injury or  
13 abuse occurred be unknown, to the prosecuting attorney of  
14 the county in which such injury or abuse be discovered or  
15 reported: *Provided*, That when attendance with respect  
16 to a child is pursuant to the performance of services as a  
17 member of the staff of a hospital or similar institution,

18 such staff member shall immediately notify the superin-  
19 tendent, manager, or other person in charge of the insti-  
20 tution, who shall immediately make the report to the  
21 department of welfare and to the prosecuting attorney.  
22 If the report is not made in writing in the first instance,  
23 it shall be reduced to writing by the maker thereof as soon  
24 as may be practicable thereafter and shall contain the  
25 names and addresses of the child and his or her parent  
26 or parents, or other person or persons responsible for his  
27 or her care, if known, the name of the person or persons  
28 delivering or accompanying the child for treatment, if  
29 known, the child's age, the nature and extent of the child's  
30 injury or injuries, including any evidence of previous in-  
31 jury or injuries, and any other information that the maker  
32 of the report believes to be helpful in establishing the  
33 cause of the injury and the identity of the person or per-  
34 sons responsible therefor, and such written report shall  
35 be immediately filed with the department of welfare and  
36 the prosecuting attorney.

**ARTICLE 7. GENERAL PROVISIONS.**

**§49-7-14. Same—Recovery on forfeited bond.**

1 The penalty of a bond given upon suspension of sen-

2 tence which becomes forfeited shall be recoverable with-  
3 out separate suit. The court or judge may cause cita-  
4 tion or summons to issue to the principal and surety,  
5 requiring that they appear at a time named by the court  
6 or judge, not less than ten nor more than twenty days  
7 from the issuance of the summons, and show cause why  
8 judgment should not be entered for the penalty of such  
9 bond and execution issued against the property of the  
10 principal and of the surety. Upon failure to appear, or  
11 failure to show sufficient cause, the court shall enter  
12 judgment in behalf of the state of West Virginia against  
13 the principal and surety in an amount not to exceed  
14 the penalty of the bond plus costs.

15 Any money collected or paid upon an execution, or upon  
16 the bond, shall be deposited with the clerk of the court  
17 in which the bond was given. The money shall be  
18 applied first to the payment of all court costs and then  
19 to the treatment, care, or maintenance of the child  
20 for whose delinquency conviction was had. If any money  
21 so collected is not required for these purposes, it shall  
22 be paid within one year into the state treasury.

**§49-7-23. Preservation of records.**

1     The proceedings, records, reports, case histories, and  
2     all other papers or documents of or received by the  
3     state department in the administration of this chapter  
4     shall be filed of record and preserved.

**§49-7-26. Duty of prosecuting attorney.**

1     The prosecuting attorney shall render to the state de-  
2     partment of welfare, without additional compensation,  
3     such legal services as the department may require. This  
4     section shall not be construed to prohibit the depart-  
5     ment from developing plans for cooperation with courts,  
6     prosecuting attorneys, and other law enforcement offi-  
7     cials in such a manner as to permit the state and its  
8     citizens to obtain maximum fiscal benefits under federal  
9     laws, rules and regulations.

**§49-7-28. Proceeding by the state department of welfare.**

1     The state department of welfare shall have the au-  
2     thority to institute, in the name of the state, proceed-  
3     ings incident to the performance of its duties under the  
4     provisions of this chapter.

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

*William Tompa*  
Chairman Senate Committee

*Clayton C. Davidson*  
Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

*Harmon Myers*  
Clerk of the Senate

*C. A. Blankenship*  
Clerk of the House of Delegates

*Laurel G. Jackson*  
President of the Senate

*Israel F. Bousky*  
Speaker House of Delegates

The within *approved* this the *17th*  
day of *February*, 1970.

*Arch A. Shaver, Jr.*  
Governor



PRESENTED TO THE  
GOVERNOR

Date 2/17/70

Time 2:15 p.m.