WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1970

ENROLLED
SENATE BILL NO. 175
(By Mr. Carrigin)

PASSED Feb 12, 1970

In Effect Ninety days from Passage
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article seven, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections one and five, article one of said chapter be amended and reenacted; that sections nine, twelve and sixteen, article two of said chapter be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 comprehensive system of child welfare throughout the state.

2 The child welfare service of the state shall be administered by the state department of welfare and the licensing board herein provided in accordance with the provision of this chapter.
The state department of welfare is designated as the agency to cooperate with the children's bureau of the United States department of health, education and welfare in extending and improving child welfare services, to comply with regulations of the children's bureau, and to receive and expend federal funds for these services.

§49-1-5. Definitions of other terms.

For the purposes of this chapter:

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

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

(3) "Commissioner" means the commissioner of welfare;

(4) "Child welfare agency" means any agency or institution maintained by a municipality or county, or any agency or institution maintained by a person, firm, corporation, association or organization to receive children for care and maintenance or for placement in a family home, or day care center or any institution that provides care for unmarried mothers and their children.
dren, but shall not include county shelters established
and maintained for the detention of delinquent children
or those charged with delinquency.

(5) “Licensing board” means a board consisting of
the commissioner of welfare, the state director of health
and three persons appointed by the governor.

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


Any family home, not under the supervision of the
state department of welfare or of a child welfare agency,
in which one or more neglected children under the care
of the state department of welfare and under eighteen
years of age, separated from parents or guardian and not
related by blood or marriage to the person maintaining
the home, are received, cared for and maintained for
compensation, or otherwise, shall be considered an un-
supervised foster home. No person shall conduct an un-
supervised foster home without a certificate from the
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 an unsupervised foster home where the child is subject to undesirable influences or lacks proper or wise care and management, it shall take necessary action to remove the child and arrange for his care.


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

11 The state department of welfare shall provide care in special boarding homes for children needing detention
pending disposition by a court having juvenile jurisdiction 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 shall, with the approval of the juvenile court, designate one of the employees of the state department of welfare to act as a juvenile court probation officer, and when required one or more employees of the state department of welfare to act as assistant or assistants to such probation officer, and such employee or employees, when so assigned, shall perform their duties under the sole supervision and control of the juvenile court and the judge of said court shall have the sole power to recommend the transfer or dismissal of employees so assigned.

The foregoing provisions of this section shall not be construed as abrogating or affecting in any way the power and authority vested in any juvenile court by any special act of the Legislature or otherwise to select, supervise and discharge its own probation officers and assistants 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 or judge may order that the child be delivered into the custody of the state department of welfare or into such 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 of the state department of welfare;

3 (2) Commit the child to the custody of the state department of welfare or a licensed private child welfare agency;

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

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

6 (5) Enter whatever other order may, in the discretion 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.

Any duly licensed physician or surgeon, resident physician or surgeon, or intern, or doctor of the healing arts, examining, attending or treating a child under the age of eighteen years, or any registered nurse, any visiting nurse, any school teacher or any social worker, acting in his or her official capacity as such, having a reason to believe that a child under the age of eighteen years has had serious injury or injuries inflicted upon him or her as a result of abuse or neglect, shall report the matter promptly to the nearest office of the department of welfare and to the prosecuting attorney of the county in which the injury or abuse occurred or if the county in which the injury or abuse occurred be unknown, to the prosecuting attorney of the county in which such injury or abuse be discovered or reported: Provided, That when attendance with respect to a child is pursuant to the performance of services as a member of the staff of a hospital or similar institution,
such staff member shall immediately notify the superin-
tendent, manager, or other person in charge of the insti-
tution, who shall immediately make the report to the
department of welfare and to the prosecuting attorney.

If the report is not made in writing in the first instance,
it shall be reduced to writing by the maker thereof as soon
as may be practicable thereafter and shall contain the
names and addresses of the child and his or her parent
or parents, or other person or persons responsible for his
or her care, if known, the name of the person or persons
delivering or accompanying the child for treatment, if
known, the child's age, the nature and extent of the child's
injury or injuries, including any evidence of previous in-
jury or injuries, and any other information that the maker
of the report believes to be helpful in establishing the
cause of the injury and the identity of the person or per-
sons responsible therefor, and such written report shall
be immediately filed with the department of welfare and
the prosecuting attorney.

ARTICLE 7. GENERAL PROVISIONS.

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

The penalty of a bond given upon suspension of sen-
Enr. S. B. No. 155

2 The sentence which becomes forfeited shall be recoverable without separate suit. The court or judge may cause citation or summons to issue to the principal and surety, requiring that they appear at a time named by the court or judge, not less than ten nor more than twenty days from the issuance of the summons, and show cause why judgment should not be entered for the penalty of such bond and execution issued against the property of the principal and of the surety. Upon failure to appear, or failure to show sufficient cause, the court shall enter judgment in behalf of the state of West Virginia against the principal and surety in an amount not to exceed the penalty of the bond plus costs.

Any money collected or paid upon an execution, or upon the bond, shall be deposited with the clerk of the court in which the bond was given. The money shall be applied first to the payment of all court costs and then to the treatment, care, or maintenance of the child for whose delinquency conviction was had. If any money so collected is not required for these purposes, it shall 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.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor
PRESENTED TO THE
GOVERNOR

Date 2/17/70
Time 2:15 p.m.