

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1972

ENROLLED

HOUSE BILL No. 979

(By Mr. SEPTOR AND MR. ALBRIGHT)

PASSED MARCH 7, 1972

In Effect 90 DAYS FROM Passage



FILED IN THE OFFICE
JOHN D. COSGROVE, II
SECRETARY OF STATE

THIS DATE 3-28-72

979

ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 979
(By MR. STEPTOE and MR. ALBRIGHT)

[Passed March 7, 1972; in effect ninety days from passage.]

AN ACT to amend chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five-a, relating to the creation of a statewide juvenile court referee system; allowing referee to hold detention hearing; authorizing the department of welfare to provide juvenile facilities; and review by judge.

Be it enacted by the Legislature of West Virginia:

That chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article five-a, to read as follows:

ARTICLE 5A. JUVENILE COURT REFEREE SYSTEM.

§49-5A-1. Juvenile court referee; qualifications; compensation; authority; definition.

1 In each county, the judge of the court exercising orig-
2 inal juvenile jurisdiction in cases or proceedings relat-
3 ing to dependent and neglected or delinquent children
4 may appoint one person who is qualified by education
5 and experience to serve as juvenile court referee on a
6 full-time or part-time basis who shall serve at the will
7 and pleasure of the appointing judge. The salary of

8 such referee shall be fixed by the appointing judge, by
9 and with the consent of the county court, and shall be
10 paid out of the county treasury. It shall be the duty
11 of the referee to hold any detention hearing determined
12 necessary pursuant to the provisions of section two of
13 this article. Each referee shall also perform such other
14 duties as are assigned to him by the appointing judge
15 to carry out the purposes of this article. Referees shall
16 not be permitted to conduct hearings on the merits of
17 any case.

18 As used in this article, the terms "child" or "children"
19 shall have the meaning ascribed to those terms else-
20 where in this chapter.

§49-5A-2. Investigation and release; detention hearings.

1 A child who has been arrested or who under color
2 of law is taken into the custody of any officer or employee
3 of the state or any political subdivision thereof shall be
4 forthwith afforded a hearing to ascertain if such child
5 shall be further detained. In connection with any such
6 hearing, the provisions of section thirteen, article five of
7 this chapter shall apply. It shall be the duty of the
8 judge or referee to avoid incarceration of such child in
9 any jail. Unless the circumstances of the case otherwise
10 require, taking into account the welfare of such child as
11 well as the interest of society, such child shall be forth-
12 with released into the custody of his parent or parents,
13 relative, guardian or other responsible adult or agency.
14 A hearing on the merits may be held at the same time
15 as the detention hearing, as may be required by law or
16 as may be deemed suitable.

**§49-5A-3. Orders of juvenile court referee or judge following
detention hearing; force and effect and finality of
such orders.**

1 After a detention hearing conducted by a judge or
2 referee an order shall be forthwith entered setting forth
3 the findings of fact and conclusions of law with respect to
4 further detention pending hearing and disposition of the
5 child proceedings involving such juvenile. A copy of
6 such order shall be furnished to the juvenile court judge,
7 if entered by a referee, and to the child and his at-

8 torney, if any, and to the parent or parents or guardian
9 of the child. A detention order of a judge or referee
10 shall become effective immediately, subject to the right
11 of review provided for in section four of this article, and
12 shall continue in effect until modified or vacated by the
13 judge. In the event any referee under this article shall
14 order further detention, the judge shall within two days
15 of the entry of the referee's order afford to the child
16 a new hearing upon the issue of further detention, to
17 which hearing the provisions of this and the preceding
18 sections shall apply.

§49-5A-4. Review of order following detention hearing.

1 Upon the application of any person in interest or on his
2 own motion, a judge may modify or vacate any order en-
3 tered in his court after a detention hearing and enter such
4 order as to detention or release from detention as he
5 deems just and proper.

§49-5A-5. Detention in other counties.

1 If further detention is ordered, the court or referee,
2 with the consent of the child or his counsel may order
3 such child to be detained in a facility other than a jail
4 in a county other than the county in which such court
5 sits if no facility other than a jail exists in the county
6 wherein the court sits.

§49-5A-6. Assistance of department of welfare.

1 With the approval of the commissioner of welfare the
2 department of welfare is authorized to assign the neces-
3 sary personnel and provide adequate space for the sup-
4 port and operation of any facility not a jail providing for
5 the detention of children as provided in this article, sub-
6 ject to and not inconsistent with the appropriation and
7 availability of funds.

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



Chairman Senate Committee

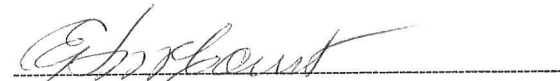

Chairman House Committee

Originated in the House.




In effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within  this the 
day of , 1972.


Governor



PRESENTED TO THE
GOVERNOR

Date 3/10/72

Time 5:20 p.m.