WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1975

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ENROLLED

HOUSE BILL No. 721

(By Mr. WAPP and Mr. HARMAN)

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PASSED March 8, 1975

In Effect ninety days from Passage

C 641
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 two-a, relating to adoption of the interstate compact on the placement of children, purpose and policies, definitions, requirements and conditions for placement, penalty for illegal placement, retention of jurisdiction by sending agency, institutional care of delinquent children, appointment of a compact administrator, limitations on application of compact, enactment and withdrawal, and providing for a severability clause.

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 two-a, to read as follows:

CHAPTER 49. CHILD WELFARE.

ARTICLE 2A. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.

§49-2A-1. Adoption of compact.

1 The interstate compact on the placement of children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:
INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

Article I. Purpose and Policy.

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

Article II. Definitions.

As used in this compact:

(a) “Child” means a person who, by reason of minority is legally subject to parental, guardianship or similar control.

(b) “Sending agency” means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) “Receiving state” means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and
whether for placement with state or local public authorities
or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a
child in a family free home or boarding home or in a child-
caring agency or institution but does not include any institution
caring for the mentally ill, mentally defective or epileptic
or any institution primarily educational in character, and
any hospital or other medical facility.

Article III. Conditions for Replacement

(a) No sending agency shall send, bring, or cause to be
sent or brought into any other party state any child for
placement in foster care or as a preliminary to a possible
adoption unless the sending agency shall comply with each
and every requirement set forth in this article and with the
applicable laws of the receiving state governing the placement
of children therein.

(b) Prior to sending, bringing or causing any child to
be sent or brought into a receiving state for placement in
foster care or as a preliminary to a possible adoption, the
sending agency shall furnish the appropriate public authorities
in the receiving state written notice of the intention to send,
bring, or place the child in the receiving state. The notice
shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents
or legal guardian.

(3) The name and address of the person, agency or
institution to or with which the sending agency proposes to
send, bring, or place the child.

(4) A full statement of the reasons for such proposed
action and evidence of the authority pursuant to which the
placement is proposed to be made.

(c) Any public officer or agency in a receiving state
which is in receipt of a notice pursuant to paragraph (b) of
this article may request of the sending agency, or any other
appropriate officer or agency of or in the sending agency's
state, and shall be entitled to receive therefrom, such sup-
porting or additional information as it may deem necessary
under the circumstances to carry out the purpose and policy
of this compact.

(d) The child shall not be sent, brought, or caused to
be sent or brought into the receiving state until the ap-
propriate public authorities in the receiving state shall notify
the sending agency, in writing, to the effect that the proposed
placement does not appear to be contrary to the interests
of the child.

Article IV. Penalty for Illegal Placement.

The sending, bringing, or causing to be sent or brought
into any receiving state of a child in violation of the terms of
this compact shall constitute a violation of the laws respect-
ing the placement of children of both the state in which the
sending agency is located or from which it sends or brings
the child and of the receiving state. Such violation may be
punished or subjected to penalty in either jurisdiction in
accordance with its laws. In addition to liability for any
such punishment or penalty, any such violation shall con-
stitute full and sufficient grounds for the suspension or
revocation of any license, permit, or other legal authorization
held by the sending agency which empowers or allows it to
place, or care for children.

Article V. Retention of Jurisdiction.

(a) The sending agency shall retain jurisdiction over the
child sufficient to determine all matters in relation to the
custody, supervision, care, treatment and disposition of the
child which it would have had if the child had remained in
the sending agency’s state, until the child is adopted, reaches
majority, becomes self-supporting or is discharged with the
concurrence of the appropriate authority in the receiving
state. Such jurisdiction shall also include the power to effect
or cause the return of the child or its transfer to another
location and custody pursuant to law. The sending agency
shall continue to have financial responsibility for support
and maintenance of the child during the period of the place-
ment. Nothing contained herein shall defeat a claim of
jurisdiction by a receiving state sufficient to deal with an
act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may
enter into an agreement with an authorized public or private
agency in the receiving state providing for the performance
of one or more services in respect of such case by the
latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent
a private charitable agency authorized to place children in
the receiving state from performing services or acting as
agent in that state for a private charitable agency of the
sending state; nor to prevent the agency in the receiving state
from discharging financial responsibility for the support and
maintenance of a child who has been placed on behalf of the
sending agency without relieving the responsibility set forth
in paragraph (a) hereof.

Article VI.

Institutional Care of Delinquent Children.

A child adjudicated delinquent may be placed in an in-
stitution in another party jurisdiction pursuant to this com-
 pact but no such placement shall be made unless the child
is given a court hearing on notice to the parent or guardian
with opportunity to be heard, prior to his being sent to
such other party jurisdiction for institutional care and the
court finds that:

1. Equivalent facilities for the child are not available in
the sending agency's jurisdiction; and

2. Institutional care in the other jurisdiction is in the
best interest of the child and will not produce undue hardship.

Article VII. Compact Administrator.

The executive head of each jurisdiction party to this com-
 pact shall designate an officer who shall be general coordinator
of activities under this compact in his jurisdiction and who,
acting jointly with like officers of other party jurisdictions,
shall have power to promulgate rules and regulations to carry
out more effectively the terms and provisions of this compact.
Article VIII. Limitations.

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

Article IX. Enactment and Withdrawal.

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

Article X. Construction.

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not
be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

§49-2A-2. Definitions; implementation.

(1) Financial responsibility for any child placed pursuant to the provisions of the interstate compact on the placement of children shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of section one, article two of this chapter may be invoked.

(2) The "appropriate public authorities" as used in Article III of the interstate compact on the placement of children shall, with reference to this state, mean the department of welfare and said agency shall receive and act with reference to notices required by said Article III.

(3) As used in paragraph (a) of Article V of the interstate compact on the placement of children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the department of welfare.

(4) The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of Article V of the interstate compact on the placement of children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the auditor in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

(5) Any requirements for visitation, inspection or supervision of children, homes, institutions or other agencies in another party state which may apply under sections five and eleven of article two of this chapter shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision.
thereof as contemplated by paragraph (b) of Article V of the interstate compact on the placement of children.

(6) The provisions of section fifteen, article two of this chapter shall not apply to placements made pursuant to the interstate compact on the placement of children.

(7) Any court having jurisdiction to place delinquent children may place such a child in an institution of or in another state pursuant to Article VI of the interstate compact on the placement of children and shall retain jurisdiction as provided in Article V thereof.

(8) As used in Article VII of the interstate compact on the placement of children, the term "executive head" means the governor. The governor is hereby authorized to appoint a compact administrator in accordance with the terms of said Article VII.
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.
Takes 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 approved this the 20th day of Third, 1975.

Governor
PRESENTED TO THE GOVERNOR

Date 3/14/75
Time 4:30 p.m.