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OFFICE OF  
THE CLERK OF THE HOUSE OF DELEGATES  
STATE OF WEST VIRGINIA

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1975

— ● —

# ENROLLED

HOUSE BILL No. 721

(By Mr. Hopp and Mr. Warner)

— ● —

PASSED March 8, 1975

In Effect ninety days from Passage



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**ENROLLED**

**H. B. 721**

(By MR. KOPP and MR. HARMAN)

[Passed March 8, 1975; 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 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  
2 hereby enacted into law and entered into with all other juris-  
3 dictions 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

39 whether for placement with state or local public authorities  
40 or for placement with private agencies or persons.

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

### 47 **Article III. Conditions for Replacement**

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

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

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

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

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

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

71 (c) Any public officer or agency in a receiving state  
72 which is in receipt of a notice pursuant to paragraph (b) of  
73 this article may request of the sending agency, or any other  
74 appropriate officer or agency of or in the sending agency's

75 state, and shall be entitled to receive therefrom, such sup-  
76 porting or additional information as it may deem necessary  
77 under the circumstances to carry out the purpose and policy  
78 of this compact.

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

85 **Article IV. Penalty for Illegal Placement.**

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

99 **Article V. Retention of Jurisdiction.**

100 (a) The sending agency shall retain jurisdiction over the  
101 child sufficient to determine all matters in relation to the  
102 custody, supervision, care, treatment and disposition of the  
103 child which it would have had if the child had remained in  
104 the sending agency's state, until the child is adopted, reaches  
105 majority, becomes self-supporting or is discharged with the  
106 concurrence of the appropriate authority in the receiving  
107 state. Such jurisdiction shall also include the power to effect  
108 or cause the return of the child or its transfer to another  
109 location and custody pursuant to law. The sending agency  
110 shall continue to have financial responsibility for support  
111 and maintenance of the child during the period of the place-  
112 ment. Nothing contained herein shall defeat a claim of

113 jurisdiction by a receiving state sufficient to deal with an  
114 act of delinquency or crime committed therein.

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

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

129

#### **Article VI.**

130

#### **Institutional Care of Delinquent Children.**

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

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

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

142

#### **Article VII. Compact Administrator.**

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

149                   **Article VIII. Limitations.**

150       This compact shall not apply to:

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

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

161                   **Article IX. Enactment and Withdrawal.**

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

177                   **Article X. Construction.**

178       The provisions of this compact shall be liberally con-  
179 strued to effectuate the purposes thereof. The provisions  
180 of this compact shall be severable and if any phrase, clause,  
181 sentence or provision of this compact is declared to be con-  
182 trary to the constitution of any party state or of the United  
183 States or the applicability thereof to any government, agency,  
184 person or circumstance is held invalid, the validity of the  
185 remainder of this compact and the applicability thereof to  
186 any government, agency, person or circumstance shall not

187 be affected thereby. If this compact shall be held contrary  
188 to the constitution of any state party thereto, the compact  
189 shall remain in full force and effect as to the remaining  
190 states and in full force and effect as to the state affected  
191 as to all severable matters.

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

1 (1) Financial responsibility for any child placed pursuant  
2 to the provisions of the interstate compact on the placement  
3 of children shall be determined in accordance with the provi-  
4 sions of Article V thereof in the first instance. However, in  
5 the event of partial or complete default of performance there-  
6 under, the provisions of section one, article two of this chapter  
7 may be invoked.

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

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

17 (4) The officers and agencies of this state and its sub-  
18 divisions having authority to place children are hereby em-  
19 powered to enter into agreements with appropriate officers or  
20 agencies of or in other party states pursuant to paragraph (b)  
21 of Article V of the interstate compact on the placement of  
22 children. Any such agreement which contains a financial com-  
23 mitment or imposes a financial obligation on this state or  
24 subdivision or agency thereof shall not be binding unless it  
25 has the approval in writing of the auditor in the case of  
26 the state and of the chief local fiscal officer in the case of a  
27 subdivision of the state.

28 (5) Any requirements for visitation, inspection or super-  
29 vision of children, homes, institutions or other agencies in  
30 another party state which may apply under sections five and  
31 eleven of article two of this chapter shall be deemed to be  
32 met if performed pursuant to an agreement entered into by  
33 appropriate officers or agencies of this state or a subdivision



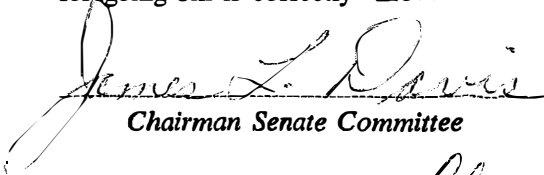
34 thereof as contemplated by paragraph (b) of Article V of  
35 the interstate compact on the placement of children.

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

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

44 (8) As used in Article VII of the interstate compact on  
45 the placement of children, the term "executive head" means  
46 the governor. The governor is hereby authorized to appoint  
47 a compact administrator in accordance with the terms of said  
48 Article VII.

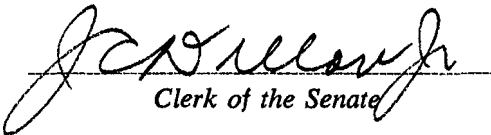
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman Senate Committee

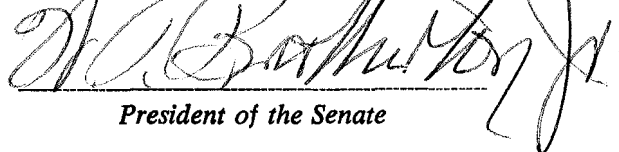
  
Chairman House Committee

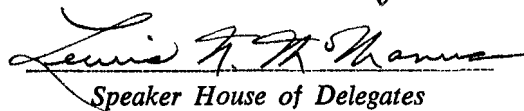
Originated in the House.

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  this the 20th  
day of March, 1975.

  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3/14/75

Time 4:30 p.m.