

Mo. 621

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

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ENROLLED

SENATE BILL NO. 61

(By Senator Tucker)

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PASSED March 8, 1986

In Effect 90 days from Passage



ENROLLED
Senate Bill No. 61

(BY SENATOR TUCKER)

[Passed March 8, 1986; 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-c, relating to child welfare; authorizing department of human services to enter into interstate adoption assistance compacts; legislative findings and purpose; definitions; contents of compacts; medical assistance under compacts; and felony penalty for submitting false, misleading or fraudulent claims for payment or reimbursement for services or benefits.

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-c, to read as follows:

ARTICLE 2C. INTERSTATE ADOPTION ASSISTANCE COMPACT.

§49-2C-1. Interstate adoption assistance compact — Findings and purpose.

- 1 (a) The Legislature finds that:
- 2 (1) Finding adoptive families for children, for whom

3 state assistance is desirable pursuant to section seventeen,
4 article two of this chapter and assuring the protection of the
5 interests of the children affected during the entire
6 assistance period, require special measures when the
7 adoptive parents move to other states or are residents of
8 another state; and

9 (2) Provision of medical and other necessary services for
10 children, with state assistance, encounters special
11 difficulties when the provision of services takes place in
12 other states.

13 (b) The purposes of sections one through four of this
14 article are to:

15 (1) Authorize the department of human services to enter
16 into interstate agreements with agencies of other states for
17 the protection of children on behalf of whom adoption
18 assistance is being provided by the department of human
19 services.

20 (2) Provide procedures for interstate children's
21 adoption assistance payments, including medical
22 payments.

**§49-2C-2. Interstate adoption assistance compacts authorized;
definitions.**

1 (a) The department of human services is authorized to
2 develop, participate in the development of, negotiate and
3 enter into one or more interstate compacts on behalf of this
4 state with other states to implement one or more of the
5 purposes set forth in sections one through four of this
6 article. When so entered into, and for so long as it shall
7 remain in force, such a compact shall have the force and
8 effect of law.

9 (b) For the purposes of sections one through four of this
10 article, the term "state" means a state of the United States,
11 the District of Columbia, the Commonwealth of Puerto
12 Rico, the Virgin Islands, Guam, the Commonwealth of the
13 Northern Mariana Islands, or a Territory or Possession of or
14 administered by the United States.

15 (c) For the purposes of sections one through four of this
16 article, the term "adoption assistance state" means the state
17 that is signatory to an adoption assistance agreement in a
18 particular case.

19 (d) For the purposes of sections one through four of this

20 article, the term “residence state” means the state of which
21 the child is a resident by virtue of the residence of the
22 adoptive parents.

**§49-2C-3. Interstate adoption assistance compact — Contents
of compact.**

1 A compact entered into pursuant to the authority
2 conferred by sections one through four of this article shall
3 have the following content:

4 (1) A provision making it available to joinder by all
5 states.

6 (2) A provision or provisions for withdrawal from the
7 compact upon written notice to the parties, but with a
8 period of one year between the date of the notice and the
9 effective date of the withdrawal.

10 (3) A requirement that the protections afforded by or
11 pursuant to the compact continue in force for the duration
12 of the adoption assistance and be applicable to all children
13 and their adoptive parents who on the effective date of the
14 withdrawal are receiving adoption assistance from a party
15 state other than the one in which they are resident and have
16 their principal place of abode.

17 (4) A requirement that each instance of adoption
18 assistance to which the compact applies be covered by an
19 adoption assistance agreement in writing between the
20 adoptive parents and the state child welfare agency of the
21 state which undertakes to provide the adoption assistance,
22 and further, that any such agreement be expressly for the
23 benefit of the adopted child and enforceable by the adoptive
24 parents, and the state agency providing the adoption
25 assistance.

26 (5) Such other provisions as may be appropriate to
27 implement the proper administration of the compact.

§49-2C-4. Same—Medical assistance.

1 (a) A child with special needs resident in this state who
2 is the subject of an adoption assistance agreement with
3 another state shall be entitled to receive a medical
4 assistance identification from this state upon the filing in
5 the department of human services of a certified copy of the
6 adoption assistance agreement obtained from the adoption
7 assistance state. In accordance with regulations of the

8 department of human services the adoptive parents shall be
9 required at least annually to show that the agreement is still
10 in force or has been renewed.

11 (b) The department of human services shall consider the
12 holder of a medical assistance identification pursuant to
13 this section as any other holder of a medical assistance
14 identification under the laws of this state and shall process
15 and make payment on claims on account of such holder in
16 the same manner and pursuant to the same conditions and
17 procedures as for other recipients of medical assistance.

18 (c) The department of human services shall provide
19 coverage and benefits for a child who is in another state and
20 who is covered by an adoption assistance agreement made
21 by the department of human services for the coverage or
22 benefits, if any, not provided by the residence state. To this
23 end, the adoptive parents acting for the child may submit
24 evidence of payment for services or benefit amounts not
25 payable in the residence state and shall be reimbursed
26 therefor. However, there shall be no reimbursement for
27 services or benefit amounts covered under any insurance or
28 other third party medical contract or arrangement held by
29 the child or the adoptive parents. The department of human
30 services shall make regulations implementing this section.
31 The additional coverages and benefit amounts provided
32 pursuant to this section shall be for services to the cost of
33 which there is no federal contribution, or which, if federally
34 aided, are not provided by the residence state. Among other
35 things, such regulations shall include procedures to be
36 followed in obtaining prior approvals for services in those
37 instances where required for the assistance.

38 (d) Any person who submits a claim for payment or
39 reimbursement for services or benefits pursuant to this
40 section or the making of any statement in connection
41 therewith, which claim or statement the maker knows or
42 should know to be false, misleading or fraudulent is guilty
43 of a felony, and upon conviction thereof, shall be fined not
44 more than ten thousand dollars, or imprisoned in the
45 penitentiary not more than two years, or both fined and
46 imprisoned.

47 (e) The provisions of this section shall apply only to
48 medical assistance for children under adoption assistance
49 agreements from states that have entered into a compact

50 with this state under which the other state provides medical
51 assistance to children with special needs under adoption
52 assistance agreements made by this state. All other children
53 entitled to medical assistance pursuant to adoption
54 assistance agreements entered into by this state shall be
55 eligible to receive it in accordance with the laws and
56 procedures applicable thereto.

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

Bruce O. Williams
.....
Chairman Senate Committee

Floyd Fuller
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Edith C. Wick
.....
Clerk of the Senate

Donald L. Kopp
.....
Clerk of the House of Delegates

Dan Tonkovich
.....
President of the Senate

Joseph P. Allright
.....
Speaker House of Delegates

The within *Appropriated* this the *25th*
March
day of , 1986.

Arthur Shouse Jr.
.....
Governor



PRESENTED TO THE

GOVERNOR

Date 3/20/86

Time 10:56 a.m.

RECEIVED

1936 MAR 23 PM 4:30

SECRETARY OF STATE

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/26/86