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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2005



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2334

(By Mr. Speaker, Mr. Kiss and Delegates Michael,
Perdue, Amores, Brown and Palumbo)



Passed April 9, 2005

In Effect Ninety Days from Passage

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FOR

H. B. 2334

(BY MR. SPEAKER, MR. KISS AND DELEGATES MICHAEL,
PERDUE, AMORES, BROWN AND PALUMBO)

[Passed April 9, 2005; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-7-34, relating to creating a commission to study the out-of-state placement of children; providing for members and a chair; providing study topics; and requiring certain reporting requirements on specific goals.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-7-34, to read as follows:

ARTICLE 7. GENERAL PROVISIONS.

§49-7-34. Commission to study residential placement of children.

1 (a) The Legislature finds that the state's current system of
2 serving children and families in need of or at risk of needing
3 social, emotional and behavioral health services is fragmented.
4 The existing categorical structure of government programs and
5 their funding streams discourages collaboration, resulting in
6 duplication of efforts and a waste of limited resources. Children
7 are usually involved in multiple child-serving systems, includ-
8 ing child welfare, juvenile justice and special education. More
9 than ten percent of children presently in care are presently in
10 out-of-state placements. Earlier efforts at reform have focused
11 on quick fixes for individual components of the system at the
12 expense of the whole. It is the purpose of this section therefore
13 to establish a mechanism to achieve systemic reform by which
14 all of the state's child-serving agencies involved in the residen-
15 tial placement of at- risk youth jointly and continually study
16 and improve upon this system and make recommendations to
17 their respective agencies and to the Legislature regarding
18 funding and statutory, regulatory and policy changes. It is
19 further the Legislature's intent to build upon these recommen-
20 dations to establish an integrated system of care for at-risk
21 youth and families that makes prudent and cost-effective use of
22 limited state resources by drawing upon the experience of
23 successful models and best practices in this and other jurisdic-
24 tions, which focuses on delivering services in the least restric-
25 tive setting appropriate to the needs of the child, and which
26 produces better outcomes for children, families and the state.

27 (b) There is hereby created within the Department of Health
28 and Human Resources a Commission to Study the Residential
29 Placement of Children. The Commission shall consist of the
30 Secretary of the Department of Health and Human Resources,
31 the Commissioner of the Bureau for Children and Families, the
32 Commissioner for the Bureau for Behavioral Health and Health
33 Facilities, the Commissioner for the Bureau for Medical
34 Services, the State Superintendent of Schools, a representative
35 of local educational agencies, the Director of the Office of

36 Institutional Educational Programs, the Director of the Office
37 of Special Education Programs and Assurance, the Director of
38 the Division of Juvenile Services and the Executive Director of
39 the Prosecuting Attorney's Institute. At the discretion of the
40 West Virginia Supreme Court of Appeals, circuit and family
41 court judges and other court personnel, including the adminis-
42 trator of the Supreme Court of Appeals and the director of the
43 Juvenile Probation Services Division, may serve on the
44 Commission. These statutory members may further designate
45 additional persons in their respective offices who may attend
46 the meetings of the Commission if they are the administrative
47 head of the office or division whose functions necessitate their
48 inclusion in this process. In its deliberations, the Commission
49 shall also consult and solicit input from families and service
50 providers.

51 (c) The Secretary of the Department of Health and Human
52 Resources shall serve as chair of the Commission, which shall
53 meet on a monthly basis at the call of the chairman.

54 (d) At a minimum, the Commission shall study:

55 (1) The current practices of placing children out-of-home
56 and into residential placements, with special emphasis on
57 out-of-state placements;

58 (2) The adequacy, capacity, availability and utilization of
59 existing in-state facilities to serve the needs of children requir-
60 ing residential placements;

61 (3) Strategies and methods to reduce the number of children
62 who must be placed in out-of-state facilities and to return
63 children from existing out-of-state placements, initially
64 targeting older youth who have been adjudicated delinquent;

65 (4) Staffing, facilitation and oversight of multidisciplinary
66 treatment planning teams;

67 (5) The availability of and investment in community-based,
68 less restrictive and less costly alternatives to residential
69 placements;

70 (6) Ways in which up-to-date information about in-state
71 placement availability may be made readily accessible to state
72 agency and court personnel, including an interactive secure web
73 site;

74 (7) Strategies and methods to promote and sustain coopera-
75 tion and collaboration between the courts, state and local
76 agencies, families and service providers, including the use of
77 inter-agency memoranda of understanding, pooled funding
78 arrangements and sharing of information and staff resources;

79 (8) The advisability of including “no-refusal” clauses in
80 contracts with in-state providers for placement of children
81 whose treatment needs match the level of licensure held by the
82 provider;

83 (9) Identification of in-state service gaps and the feasibility
84 of developing services to fill those gaps, including funding;

85 (10) Identification of fiscal, statutory and regulatory
86 barriers to developing needed services in-state in a timely and
87 responsive way;

88 (11) Ways to promote and protect the rights and participa-
89 tion of parents, foster parents and children involved in out-of-
90 home care; and

91 (12) Ways to certify out-of-state providers to ensure that
92 children who must be placed out-of-state receive high quality
93 services consistent with this state’s standards of licensure and
94 rules of operation.

95 (e) Beginning July 1, 2005, the Chair, or his or her
96 designee, shall report on the work of the Commission to the
97 legislative Juvenile Task Force during the Legislature's
98 monthly interim meetings.

99 (f) On or before December 1, 2005, the Commission shall
100 report to the Joint Committee on Government and Finance its
101 conclusions and recommendations, including an implementa-
102 tion plan whereby:

103 (1) Out-of-state placements shall be reduced by at least ten
104 per cent per year and by at least fifty percent within three years;

105 (2) Child-serving agencies shall develop joint operating and
106 funding proposals to serve the needs of children and families
107 that cross their jurisdictional boundaries in a more seamless
108 way;

109 (3) Steps shall be taken to obtain all necessary federal plan
110 waivers or amendments in order for agencies to work collabor-
111 atively while maximizing the availability of federal funds;

112 (4) Agencies shall enter into memoranda of understanding
113 to assume joint responsibilities;

114 (5) System of care components and cooperative relation-
115 ships shall be incrementally established at the local, state and
116 regional levels, with links to existing resources, such as family
117 resource networks and regional summits, wherever possible;
118 and

119 (6) Recommendations for changes in fiscal, statutory and
120 regulatory provisions are included for legislative action.

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

Chandy White
Chairman Senate Committee

H. Rule Ben
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Parrell E. Holmes
Clerk of the Senate

George W. Ben
Clerk of the House of Delegates

Carl Ray Tomblin
President of the Senate

[Signature]
Speaker of the House of Delegates

The within is approved this the 2nd
day of May, 2005.

[Signature]
Governor

PRESENTED TO THE
GOVERNOR

MAY 2 2005

Time 10:15 AM