Senate Bill No. 636

(By Senators Prezioso, Jenkins and Foster)

[Passed March 10, 2010; in effect ninety days from passage.]
AN ACT to amend and reenact §49-7-34 of the Code of West Virginia, 1931, as amended, relating to reconstituting the Commission to Study Residential Placement of Children.

Be it enacted by the Legislature of West Virginia:

That §49-7-34 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 7. GENERAL PROVISIONS.

§49-7-34. Commission to Study Residential Placement of Children.

(a) The Legislature finds that the state's current system of serving children and families in need of or at risk of needing social, emotional and behavioral health services is fragmented. The existing categorical structure of government programs and their funding streams discourages collaboration, resulting in duplication of efforts and a waste of limited resources. Children are usually involved in multiple child-serving systems, including child
welfare, juvenile justice and special education. More than
ten percent of children presently in care are presently in
out-of-state placements. Earlier efforts at reform have
focused on quick fixes for individual components of the
system at the expense of the whole. It is the purpose of
this section to establish a mechanism to achieve systemic
reform by which all of the state’s child-serving agencies
involved in the residential placement of at-risk youth
jointly and continually study and improve upon this
system and make recommendations to their respective
agencies and to the Legislature regarding funding and
statutory, regulatory and policy changes. It is further the
Legislature’s intent to build upon these recommendations
to establish an integrated system of care for at-risk youth
and families that makes prudent and cost-effective use of
limited state resources by drawing upon the experience of
successful models and best practices in this and other
jurisdictions, which focuses on delivering services in the
least restrictive setting appropriate to the needs of the
child, and which produces better outcomes for children,
families and the state.

(b) There is hereby created within the Department of
Health and Human Resources the Commission to Study
the Residential Placement of Children. The commission
consists of the Secretary of the Department of Health and
Human Resources, the Commissioner of the Bureau for
Children and Families, the Commissioner for the Bureau
for Behavioral Health and Health Facilities, the Commis-
sioner for the Bureau for Medical Services, the State
Superintendent of Schools, a representative of local
educational agencies, the Director of the Office of Institu-
tional Educational Programs, the Director of the Office of
Special Education Programs and Assurance, the Director
of the Division of Juvenile Services and the Executive
Director of the Prosecuting Attorney’s Institute. At the
discretion of the West Virginia Supreme Court of Appeals,
circuit and family court judges and other court personnel, including the Administrator of the Supreme Court of Appeals and the Director of the Juvenile Probation Services Division, may serve on the commission. These statutory members may further designate additional persons in their respective offices who may attend the meetings of the commission if they are the administrative head of the office or division whose functions necessitate their inclusion in this process. In its deliberations, the commission shall also consult and solicit input from families and service providers.

(c) The Secretary of the Department of Health and Human Resources shall serve as chair of the commission, which shall meet on a quarterly basis at the call of the chair.

(d) At a minimum, the commission shall study:

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

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

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

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

(5) The availability of and investment in community-based, less restrictive and less costly alternatives to residential placements;
(6) Ways in which up-to-date information about in-state placement availability may be made readily accessible to state agency and court personnel, including an interactive secure web site;

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

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

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

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

(11) Ways to promote and protect the rights and participation of parents, foster parents and children involved in out-of-home care;

(12) Ways to certify out-of-state providers to ensure that children who must be placed out-of-state receive high quality services consistent with this state's standards of licensure and rules of operation; and

(13) Any other ancillary issue relative to foster care placement.

(e) On or before December 1, 2010, the commission shall report to the Legislative Oversight Commission on Health and Human Resources Accountability its conclusions and
109 recommendations, including an implementation plan
110 whereby:

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

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

118 (3) Steps shall be taken to obtain all necessary federal
119 plan waivers or amendments in order for agencies to work
120 collaboratively while maximizing the availability of
121 federal funds;

122 (4) Agencies shall enter into memoranda of understand-
123 ing to assume joint responsibilities;

124 (5) System of care components and cooperative relation-
125 ships shall be incrementally established at the local, state
126 and regional levels, with links to existing resources, such
127 as family resource networks and regional summits,
128 wherever possible; and

129 (6) Recommendations for changes in fiscal, statutory and
130 regulatory provisions are included for legislative action.
Enr. S. B. No. 636

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

Chairman Senate Committee

 Originated in the Senate.

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 be approved this the 22nd Day of March, 2010.

Governor
PRESENTED TO THE GOVERNOR

MAR 19 2010

Time 4:00 pm