

FILED

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**WEST VIRGINIA LEGISLATURE**

**SEVENTY-NINTH LEGISLATURE**

**REGULAR SESSION, 2010**

OFFICE WEST VIRGINIA  
CLERK OF STATE

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**ENROLLED**

**Senate Bill No. 636**

(BY SENATORS PREZIOSO, JENKINS AND FOSTER)

[Passed March 10, 2010; in effect ninety days from passage.]

SB 636

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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# 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.**

- 1 (a) The Legislature finds that the state's current system
- 2 of serving children and families in need of or at risk of
- 3 needing social, emotional and behavioral health services
- 4 is fragmented. The existing categorical structure of
- 5 government programs and their funding streams discour-
- 6 ages collaboration, resulting in duplication of efforts and
- 7 a waste of limited resources. Children are usually in-
- 8 volved in multiple child-serving systems, including child

9 welfare, juvenile justice and special education. More than  
10 ten percent of children presently in care are presently in  
11 out-of-state placements. Earlier efforts at reform have  
12 focused on quick fixes for individual components of the  
13 system at the expense of the whole. It is the purpose of  
14 this section to establish a mechanism to achieve systemic  
15 reform by which all of the state's child-serving agencies  
16 involved in the residential placement of at-risk youth  
17 jointly and continually study and improve upon this  
18 system and make recommendations to their respective  
19 agencies and to the Legislature regarding funding and  
20 statutory, regulatory and policy changes. It is further the  
21 Legislature's intent to build upon these recommendations  
22 to establish an integrated system of care for at-risk youth  
23 and families that makes prudent and cost-effective use of  
24 limited state resources by drawing upon the experience of  
25 successful models and best practices in this and other  
26 jurisdictions, which focuses on delivering services in the  
27 least restrictive setting appropriate to the needs of the  
28 child, and which produces better outcomes for children,  
29 families and the state.

30 (b) There is hereby created within the Department of  
31 Health and Human Resources the Commission to Study  
32 the Residential Placement of Children. The commission  
33 consists of the Secretary of the Department of Health and  
34 Human Resources, the Commissioner of the Bureau for  
35 Children and Families, the Commissioner for the Bureau  
36 for Behavioral Health and Health Facilities, the Commis-  
37 sioner for the Bureau for Medical Services, the State  
38 Superintendent of Schools, a representative of local  
39 educational agencies, the Director of the Office of Institu-  
40 tional Educational Programs, the Director of the Office of  
41 Special Education Programs and Assurance, the Director  
42 of the Division of Juvenile Services and the Executive  
43 Director of the Prosecuting Attorney's Institute. At the  
44 discretion of the West Virginia Supreme Court of Appeals,

45 circuit and family court judges and other court personnel,  
46 including the Administrator of the Supreme Court of  
47 Appeals and the Director of the Juvenile Probation  
48 Services Division, may serve on the commission. These  
49 statutory members may further designate additional  
50 persons in their respective offices who may attend the  
51 meetings of the commission if they are the administrative  
52 head of the office or division whose functions necessitate  
53 their inclusion in this process. In its deliberations, the  
54 commission shall also consult and solicit input from  
55 families and service providers.

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

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

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

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

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

72 (4) Staffing, facilitation and oversight of multidisciplin-  
73 ary treatment planning teams;

74 (5) The availability of and investment in community-  
75 based, less restrictive and less costly alternatives to  
76 residential placements;

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

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

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

91 (9) Identification of in-state service gaps and the feasi-  
92 bility of developing services to fill those gaps, including  
93 funding;

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

97 (11) Ways to promote and protect the rights and partici-  
98 pation of parents, foster parents and children involved in  
99 out-of-home care;

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

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

106 (e) On or before December 1, 2010, the commission shall  
107 report to the Legislative Oversight Commission on Health  
108 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;

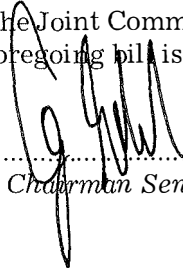
118 (3) Steps shall be taken to obtain all necessary federal  
119 plan waivers or amendments in order for agencies to work  
120 collaboratively while maximizing the availability of  
121 federal funds;

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.

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

  
.....  
Chairman Senate Committee


  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

  
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Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within *is approved* ..... this the *22nd*  
*March* .....  
Day of ....., 2010.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 19 2010

Time

4:00 pm