

Senate Bill No. 375

(By Senators Plymale, Jenkins, Unger, Stollings and Cookman)

[Introduced February 26, 2013; referred to the Committee on the
Judiciary.]

A BILL to amend and reenact §49-6-10 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §49-6-10b, all relating to granting prosecuting attorneys and judges broad discretion in their respective responsibilities concerning the placement of children in cases of child neglect or abuse.

Be it enacted by the Legislature of West Virginia:

That §49-6-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §49-6-10b, all to read as follows:

ARTICLE 6. PROCEDURE IN CASES OF CHILD NEGLECT OR ABUSE.

§49-6-10. Duties of prosecuting attorney.

It shall be the duty of every prosecuting attorney to fully

1 and promptly cooperate with persons seeking to apply for relief
2 under ~~the provisions of~~ this article in all cases of suspected
3 child abuse and neglect, to promptly prepare applications and
4 petitions for relief requested by such persons, to investigate
5 reported cases of suspected child abuse and neglect for possible
6 criminal activity and to report at least annually to the grand jury
7 regarding the discharge of his or her duties with respect thereto.
8 Prosecuting attorneys have broad discretion and wide latitude in
9 their investigation and prosecution of cases that involve, or
10 potentially involve, the placement of children as a result of child
11 abuse or neglect.

12 **§49-6-10b. Duties of the court.**

13 It is the duty of every state court to fully and promptly hear
14 cases that seek relief under this article in all cases of suspected
15 child abuse and neglect and to promptly review petitions for
16 requested relief. State court judges have broad discretion and
17 wide latitude in their decisions concerning cases that involve, or
18 potentially involve, the placement of children as a result of child
19 abuse or neglect.

NOTE: The purpose of this bill is to grant prosecuting attorneys and judges broad discretion in their respective responsibilities concerning the placement of children in cases of child neglect or abuse.

Strike-throughs indicate language that would be stricken from

the present law, and underscoring indicates new language that would be added.

§49-6-10b is new; therefore, strike-throughs and underscoring have been omitted.