

ABSTRACT

SHORT TITLE: Realignment of the West Virginia Department of Health and Human Resources

CODE REFERENCE: West Virginia Code §5-6-4, §5-14-3, §5F-1-2, §5F-1-3a, §5F-2-1, §5F-2-2, §5F-2-7, §5F-3-1 and 2; §6-7-2a, §8-19-18, §9-1-101 through 104, §9-2-101, §9-2-201 and §9-2-202, §9-2-301 through §9-2-307, §9-3-101, §9-3-201 and §9-3-202, §9-3-301 through §9-3-306, §9-3-401 through §9-3-414, §9-3-501 through §9-3-516, §9-3-601 through §9-3-614, §9-3-701 through §9-3-721, §9-3-801, §9-3-901 through §9-3-924; §9-3-1001 through §9-3-1005, §9-3-1101 through §9-3-1108, §9-3-1201 through §9-3-1210, §9-3-1301 through §9-3-1312, §9-3-1401 through §9-3-1413, §9-3-1501 through §9-3-1508, §9-3-1601 through §9-3-1609, §9-3-1701 through §9-3-1703, §9-4-101 through §9-4-108, §9-4-201 through §9-4-203, §15-12-2a and §15-12-2b, §16-1-2, §16-1-3, §16-1-3a, §16-1-5a, §16-1-5b, §16-1-6, §16-1-6a, §16-1-6b, §16-1-6c, §16-2-2, §16-2-9, §16-3-4, §16-3D-2, §16-8-1, §16-8-2, §16-8-3, §16-8-4, §16-8-5, §16-8-6, §16-29E-2, §16-29E-3, §16-29E-5, §17C-5-6a, §18-4-2, §18-5-22c, §18-7A-3, §18-9E-3, §18-9E-5, §18C-3-1, §19-11D-1, §19-11D-3, §19-12A-6, §19-16A-4, §20-2-28, §22-15-10, §22-28-4, §22-28-5, §22A-1-1, §22C-4-10, §25-1-3, §27-1-1, §27-2-1 through 7, §27-3-1 through 5, §27-4-1 through 4, §27-5-1 through 4, §27-6-1, §27-7-1 and §27-7-2, §27-8-1 through 4, §27-9-1 through 9, §27-10-1 through 5, §27-11-1 through 3, §27-12-1 through 3, §27-13-1 through 11, §27-14-1 through 5, §27-15-1 through 3, §27-16-1 through 3, §30-3-4, §30-3-5, §30-3-8, §30-16-19, §31-15A-2 and §31-15A-3, §48-1-236, §48-14-401, §48-18-101, §48-18-108, §48-18-126, §48-19-103, §48-22-104, §48-23-301, §48-26-501, §48-26-502 §48-26-503, §49-1-206, §49-1-208, §49-2-901, §49-2-902, §49-2-903, §49-2-905, §49-2-906, §49-2-913, §49-7-204, §61-12-3, §61-12-4, §61-12-6, and §62-13-5.

PROPOSED LAW PRESENTED TO THE COMMITTEE: The purpose of this bill is to realign the Department of Health and Human Resources into two separate entities; the Department of Health and Healthcare Compliance and the Department of Human Services.

The bill contains findings that indicate the need to reorganize the Department to provide improved service and create a more efficient management structure. The bill would require the existing DHHR to submit two transition plans. The first is due to the Governor, the Division of Personnel and The Joint Committee on Government and Finance by September 1, 2018, and would contain provisions to assign and allocate employees among the two entities created in the bill. Any newly created positions would be required to be justified in the plan. The second plan is due January 1, 2019, to implement the transfer of all of the functionality of the current DHHR to the two newly created entities. The plan is submitted to the Governor, the Secretary of Administration, The Division of Personnel and the Joint Committee on Government and Finance. The plans require the transition to be as revenue neutral as possible.

Organizationally the bill first sets up the Department of Health and Healthcare Compliance. Within this department would be housed, the Bureau for Public Health, the Bureau for Behavioral Health and Health Facilities, the Health Care Authority and all health related Chapter 30 boards which will remain autonomous but can avail themselves of the administrative arm of this department. Relative to the Secretary, who would be the admirative head of this department, are qualifications, powers and duties and responsibilities.

The Bureau for Public Health would be codified in Chapter 16, which is where its powers and duties currently reside. The bill would place the bureau in code (it currently does not exist statutorily). The bill sets out the qualifications, powers and duties and responsibilities of the Commissioner who would be the administrative head of the bureau. The designation of the Commissioner as the State Health Officer has been eliminated in this and all other chapters of the code. Conforming amendments throughout Chapter 16 have also been made. No modifications to the current responsibilities of the bureau have been changed. As an aside, the sections of the code relative to electrolysis, tattoos, body piercing and tanning beds have been incorporated into a single article entitled "Elective Body Modifications".

Chapter 27 regarding "Mentally Ill Persons" has been renamed "Behavioral Health". This newly named chapter contains the codification of the Bureau for Behavioral Health and Health Facilities. Like the Bureau for Public Health it does not currently exist in our code. This codification mirrors that of the Bureau for Public Health and similar language is repeated for all bureaus which are being codified in this bill. It sets up the structure of the Bureau and sets forth the qualifications, powers and duties and responsibilities of the Commissioner. Chapter 27 also contains references to ownership of the state hospital and long-term care facilities. Language has been added to transfer the ownership of these facilities to the newly created Department of Health and Healthcare Compliance. The qualifications of the chief executive officer of the state facilities is also set forth in code.

The newly rewritten Chapter 27 also continues oversight of comprehensive community behavioral health and intellectual disability centers and group residential facilities. The provisions of these sections have been left primarily intact. Current code provisions relative to suicide prevention, confidentiality of records and both voluntary and involuntary hospitalization have been retained. Also, the manner in which the state would deal with release, discharge and readmission of patients and escapees has been carried over from the prior language contained in the chapter. The chapter also contains language regarding criminal offenses relative to state facilities and language regarding competency and criminal responsibility for committing a crime has been moved over as well. Finally, there are currently two interstate compacts contained in our present code and these have been retained.

New provisions of Chapter 9 also create the Department of Human Services. Similar provisions are placed here as to the qualifications and powers and duties of the Secretary. This Department will contain the Bureau for Child and Family Services, the Bureau for Economic Assistance, the Bureau for Medical Services, the Bureau for Child Support Enforcement and the Board of Review.

Of these entities, only the Bureau for Child Support Enforcement current exists in our code. The language which creates that bureau served as the model for the creation of all other bureaus in this bill.

The Bureau for Child and Family Services has the fairly standard language regarding qualifications, powers and duties of the commissioner. It also sets out that this bureau will oversee the responsibility for the functions set forth in Chapter 49 of the code relative to abuse and neglect matters. The Division of Juvenile Services will also be moved under the umbrella of this bureau. The changes necessary to make that occur are also contained in Chapter 49. This agency would also have responsibility for social services for adults such as Adult Protective Services.

Separated out from services for abused and neglected children would be the Bureau for Economic Assistance. This agency would house the more traditional services considered “welfare”. These include the West Virginia Works program – our version of the Temporary Assistance to Needy Families program – and the Supplement Nutrition Assistance Program or SNAP which is more commonly known as food stamps. Because we now conduct drug screens are certain applicants for TANF that program is also located within this bureau.

This Department of Human Services also oversees the Bureau for Medical Services or Medicaid. Because Medicaid is more closely associated as an insurance and claims processing program it seemed to more logically fit in Human Services than Health and Healthcare Compliance. Like its sister bureau’s this bureau was never created in our code. All of the current functionality of this program in code was reorganized and placed in this newly rewritten section. The Children’s Health Insurance Program or CHIP would become a sub-agency of the Medicaid program in this new structure.

As previously mentioned the Bureau for Child Support Enforcement was the only bureau within the current DHHR structure that is codified. Minor technical changes were made in Chapter 48 to accommodate the changes necessitated by the provisions of this bill.

The final provisions of Chapter 9 would create the Office of Inspector General. That office would report directly to the Governor; removing it from within the confines of the entity it was designed to investigate. It will continue to house the Office of Health Facility Licensure and Certification. Language has been added that would allow the Attorney General to bring criminal actions relative to fraud and abuse once the appropriate county prosecuting attorney has declined to pursue prosecution.

Throughout the remaining sections included in the code are a number of conforming amendments. These would correct cross references, make appropriate name changes, eliminate the State Health Officer and remove archaic references to now non-existing entities such as the Division of Health and the Division of Human Resources. Provisions have also been added that provide for existing references to the Department of Health and Human Resources which may have not been corrected are assumed corrected by the passage of the bill.