

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Introduced**

## **Senate Bill 492**

BY SENATORS TRUMP, BOSO, GAUNCH, MARONEY,

RUCKER, TAKUBO, AND CLINE

[Introduced February 6, 2018; Referred  
to the Committee on Government Organization]

1 A BILL to amend and reenact §30-30-16 and §30-30-18 of the Code of West Virginia, 1931, as  
 2 amended, all relating to provisionally licensed social workers with the Department of  
 3 Health and Human Resources; eliminating special requirements for department  
 4 provisionally licensed social workers; requiring amendment of a legislative rule of the  
 5 Board of Social Work; repealing a rule of the department; clarifying an individual's  
 6 voluntary pursuit of provisional license; grandfathering those department employees with  
 7 a provisional license; and exempting from licensure persons employed as children and  
 8 adult services workers with the department except for certain senior and supervisory staff.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 30. SOCIAL WORKERS.**

### **§30-30-16. Provisional license to practice as a social worker.**

1 (a) To be eligible for a provisional license to practice as a social worker, the applicant  
 2 must:

3 (1) Submit an application to the board;

4 (2) Be at least 18 years of age;

5 (3) Be of good moral character;

6 (4) Have a baccalaureate degree in a related field, as provided by legislative rule;

7 ~~Provided, That an individual seeking employment as a provisionally licensed social worker with~~  
 8 ~~the West Virginia Department of Health and Human Resources shall have a baccalaureate degree~~

9 (5) Have obtained regular supervised employment, or the reasonable promise of regular  
 10 supervised employment contingent upon receiving a provisional license, in a critical social work  
 11 workforce shortage position, area or setting requiring a social work license: *Provided, That such*  
 12 *employment shall not be* as an independent practitioner, contracted employee, sole proprietor,  
 13 consultant or other nonregular employment;

14 (6) Have satisfied the board that he or she merits the public trust by providing the board  
 15 with three letters of recommendation from persons not related to the applicant;

16 (7) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code:  
17 *Provided*, That an applicant in an active recovery process, which may, in the discretion of the  
18 board, be evidenced by participation in an acknowledged substance abuse treatment and/or  
19 recovery program may be considered;

20 (8) Not have been convicted of a felony in any jurisdiction within five years preceding the  
21 date of application for license which conviction remains unreversed;

22 (9) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense  
23 for which he or she was convicted related to the practice of social work, which conviction remains  
24 unreversed; and

25 (10) Meet any other requirements established by the board.

26 (b) The board shall promulgate emergency rules, in accordance with §29A-3-15 of this  
27 code, to implement the provisions of §30-30-16(a) of this code.

28 (c) A provisionally licensed social worker may become a licensed social worker, by  
29 completing the following:

30 (1) Be continuously employed for four years as a social worker and supervised; The board  
31 shall ~~promulgate by~~ amend by emergency legislative rule ~~the supervision requirements~~  
32 “Qualifications for the Profession of Social Work” (25 CSR 1) as it relates to the Department of  
33 Health and Human Resources (DHHR) in accordance with the provisions of this article;

34 (2) Complete 12 credit hours of core social work study from a program accredited by the  
35 council on social work education, as defined by legislative rule, within the four-year provisional  
36 license period; ~~*Provided*, That an individual employed as a provisionally licensed social worker~~  
37 ~~with the West Virginia Department of Health and Human Resources shall satisfy this requirement~~  
38 ~~upon completion of the social work training program with the West Virginia Department of Health~~  
39 ~~and Human Resources. The Secretary of the West Virginia Department of Health and Human~~  
40 ~~Resources shall, with the advice of the Higher Education Policy Commission, West Virginia~~  
41 ~~University School of Social Work and Marshall University Department of Social Work, promulgate~~

42 legislative rules, in accordance with article three, chapter twenty-nine-a of this code, to implement  
43 the provisions of this subdivision;

44 (3) Complete continuing education as required by legislative rule; and

45 (4) Pass an examination approved by the board.

46 (d) Legislative rule, "Qualifications for a Provisional License to Practice as a Social Worker  
47 within the Department of Health and Human Resources" (78 CSR 24), is hereby repealed.

48 (e) Nothing in this section prohibits individuals employed in child protective services with  
49 the DHHR from voluntarily pursuing provisional licensure by the board, so long as they meet the  
50 applicable requirements. Licensure is not, however, a prerequisite for child protective services  
51 employment with the DHHR, except for certain senior and supervisory positions.

52 (f) Any person who, as of July 1, 2018, has a DHHR restricted provisional license and  
53 who is currently in a position which requires them to be provisionally licensed or licensed, may  
54 remain in that position. After July 1, 2018, an applicant for any position in DHHR which requires  
55 a provisional license or license must have either a board provisional license or a license.

56 ~~(d)~~ (g) On or before July 1, 2020, the Legislative Auditor shall cause to be performed a  
57 performance audit of the provisional license to practice as a social worker application process  
58 and the application process by which a provisional licensee may become a licensed social worker.

**§30-30-18. Exemptions from this article.**

1 The following persons are exempt from licensure, unless specifically stated in writing by  
2 the employer:

3 (1) A person employed as the director or administrative head of a social service agency  
4 or division, ~~or~~ applicants for employment to be licensed, or persons employed as children and  
5 adult services workers in all job classifications with the Department of Health and Human  
6 Resources: *Provided*, That the child protective services senior workers, child protective services  
7 supervisors, and social services supervisors must be licensed;

8 (2) Licensed or qualified members of other professions, such as physicians, psychologists,

9 lawyers, counselors, clergy, educators, or the general public engaged in social work-like activities,  
10 from doing social work consistent with their training if they do not hold themselves out to the public  
11 by a title or description incorporating the words "licensed social worker" or "licensed clinical social  
12 worker" or a variation thereof;

13 (3) An employer from performing social work-like activities performed solely for the benefit  
14 of employees;

15 (4) Activities and services of a student, intern, or resident in social work pursuing a course  
16 of study at an accredited university or college or working in a generally recognized training center  
17 if the activities and services constitute a part of the supervised course of study; and

18 (5) Pending disposition of the application for a license, activities and services by a person  
19 who has recently become a resident of this state, has applied for a license within 90 days of taking  
20 up residency in this state, and is licensed to perform the activities and services in the state of  
21 former residence.

NOTE: The purpose of this bill is to increase recruitment and retention of children and adult services workers in the West Virginia Department of Health and Human Resources by exempting certain employees from licensure; to amend board rules relating to the Department; to eliminate the provisional license training program at the West Virginia Department of Health and Human Resources; to repeal DHHR rules relating to provisional licensure; to provide for voluntary provisional licensure; to grandfather those employees who hold a current provisional license; and exempting children and adult services workers with the department from licensure, except for certain senior and supervisory positions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.