

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 312

INTERIM
BILL

BY SENATORS WELD, STOLLINGS, RUCKER, ROBERTS,
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WOELFEL, AND PALUMBO

[Introduced January 13, 2020; referred
to the Select Committee on Children and Families;
and then to the Committee on Health and Human
Resources]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §29-6-29; to amend and reenact §30-30-16 of said code; to amend said code
 3 by adding thereto a new section, designed §30-30-30; and to amend and reenact §49-2-
 4 802 of said code, all relating to child protective caseworkers; classifications; registrations;
 5 qualifications; grievances; and returning foster children back to this state.

Be it enacted by the Legislature of West Virginia:

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 6. CIVIL SERVICE SYSTEM.

§29-6-29. Child Protective service caseworker classifications.

- 1 (a) The division shall create the following classifications:
 2 (1) Child Protective Service Worker Trainee with a starting salary range of \$32,500;
 3 (2) Child Protective Service Investigator 1, 2, 3, with a starting salary range of \$32,500;
 4 (3) Child protective service worker 1, 2, and 3, with a starting salary range of \$35,000;
 5 (4) Child protective service worker senior 1, 2, and 3 with a starting salary range of
 6 \$45,000; and
 7 (5) Child protective service worker supervisor 1, 2, and 3, with a starting salary range of
 8 \$55,000.
 9 (b) The department shall work with the division to develop the qualifications and the job
 10 duties associated with each classification. The department makes the final decision on
 11 qualifications and job duties of the above classifications.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

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

14 ~~(6) (5) 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) (6) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this~~
17 ~~code: *Provided, That* an applicant in an active recovery process, which may, in the discretion of~~
18 ~~the board, be evidenced by participation in an acknowledged substance abuse treatment and/or~~
19 ~~recovery program may be considered;~~

20 ~~(8) (7) Not have been convicted of a felony in any jurisdiction within five years preceding~~
21 ~~the date of application for license which conviction remains unreversed;~~

22 ~~(9) (8) 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) (9) Meet any other requirements established by the board.~~

26 ~~(b) The board shall promulgate emergency rules, in accordance with section fifteen, article~~
27 ~~three, chapter twenty-nine-a of this code, to implement the provisions of subsection (a) of this~~
28 ~~section~~

29 ~~(e)~~ A provisionally licensed social worker may become a licensed social worker, by
30 completing the following:

31 (1) Be continuously employed for four years as a social worker and supervised. The board
32 shall promulgate by legislative rule the supervision requirements;

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

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

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

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

48 ~~(e)~~ (d) An individual currently working for the department and licensed pursuant to this
49 section has until 2022 to transition to licensure under this section. If the individual is unable to
50 complete this process, he or she shall be eligible ~~to~~ for registration as provided in §30-30-30 of
51 this code.

§30-30-30. Registration as a child protective caseworker.

1 To be eligible to be registered as a child protective service worker, the applicant must:

2 (1) Submit an application to the board;

- 3 (2) Be at least 18 years of age;
- 4 (3) Have a baccalaureate degree;
- 5 (4) Have obtained regular supervised employment, or the reasonable promise of regular
6 supervised employment contingent upon being registered;
- 7 (5) Satisfy the requirements of CARES;
- 8 (6) Satisfy the requirements provided in §30-1-24 of this code;
- 9 (7) Pay the application fee;
- 10 (8) Complete training as prescribed by board; and
- 11 (9) Complete continuing education as required by legislative rule.

CHAPTER 49. CHILD WELFARE.

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-802. Establishment of child protective services; general duties and powers; administrative procedure; immunity from civil liability; cooperation of other state agencies.

- 1 (a) The department shall establish or designate in every county a local child protective
- 2 services office to perform the duties and functions set forth in this article.
- 3 (b) The local child protective services office shall investigate all reports of child abuse or
- 4 neglect. Under no circumstances may investigating personnel be relatives of the accused, the
- 5 child or the families involved. In accordance with the local plan for child protective services, it shall
- 6 provide protective services to prevent further abuse or neglect of children and provide for or
- 7 arrange for and coordinate and monitor the provision of those services necessary to ensure the
- 8 safety of children. The local child protective services office shall be organized to maximize the
- 9 continuity of responsibility, care, and service of individual workers for individual children and
- 10 families. Under no circumstances may the secretary or his or her designee promulgate rules or
- 11 establish any policy which restricts the scope or types of alleged abuse or neglect of minor

12 children which are to be investigated or the provision of appropriate and available services.

13 (c) Each local child protective services office shall:

14 (1) Receive or arrange for the receipt of all reports of children known or suspected to be
15 abused or neglected on a 24-hour, seven-day-a-week basis and cross-file all reports under the
16 names of the children, the family, and any person substantiated as being an abuser or neglecter
17 by investigation of the Department of Health and Human Resources, with use of cross-filing of
18 the person's name limited to the internal use of the department: Provided, That local child
19 protective services offices shall disclose the names of alleged abusers pursuant to §49-2-
20 802(c)(4) of this code;

21 (2) Provide or arrange for emergency children's services to be available at all times;

22 (3) Upon notification of suspected child abuse or neglect, commence or cause to be
23 commenced a thorough investigation of the report and the child's environment. As a part of this
24 response, within 14 days there shall be a face-to-face interview with the child or children and the
25 development of a protection plan, if necessary, for the safety or health of the child, which may
26 involve law-enforcement officers or the court;

27 (4) Make efforts as soon as practicable to determine the military status of parents whose
28 children are subject to abuse or neglect allegations. If the office determines that a parent or
29 guardian is in the military, the department shall notify a Department of Defense family advocacy
30 program that there is an allegation of abuse and neglect that is screened in and open for
31 investigation that relates to that military parent or guardian;

32 (5) Respond immediately to all allegations of imminent danger to the physical well-being
33 of the child or of serious physical abuse. As a part of this response, within 72 hours there shall be
34 a face-to-face interview with the child or children and the development of a protection plan, which
35 may involve law-enforcement officers or the court; and

36 (6) In addition to any other requirements imposed by this section, when any matter
37 regarding child custody is pending, the circuit court or family court may refer allegations of child

38 abuse and neglect to the local child protective services office for investigation of the allegations
39 as defined by this chapter and require the local child protective services office to submit a written
40 report of the investigation to the referring circuit court or family court within the time frames set
41 forth by the circuit court or family court.

42 (d) In those cases in which the local child protective services office determines that the
43 best interests of the child require court action, the local child protective services office shall initiate
44 the appropriate legal proceeding.

45 (e) The local child protective services office shall be responsible for providing, directing,
46 or coordinating the appropriate and timely delivery of services to any child suspected or known to
47 be abused or neglected, including services to the child's family and those responsible for the
48 child's care.

49 (f) To carry out the purposes of this article, all departments, boards, bureaus, and other
50 agencies of the state or any of its political subdivisions and all agencies providing services under
51 the local child protective services plan shall, upon request, provide to the local child protective
52 services office any assistance and information as will enable it to fulfill its responsibilities.

53 (g)(1) In order to obtain information regarding the location of a child who is the subject of
54 an allegation of abuse or neglect, the Secretary of the Department of Health and Human
55 Resources may serve, by certified mail or personal service, an administrative subpoena on any
56 corporation, partnership, business, or organization for the production of information leading to
57 determining the location of the child.

58 (2) In case of disobedience to the subpoena, in compelling the production of documents,
59 the secretary may invoke the aid of:

60 (A) The circuit court with jurisdiction over the served party if the person served is a
61 resident; or

62 (B) The circuit court of the county in which the local child protective services office
63 conducting the investigation is located if the person served is a nonresident.

64 (3) A circuit court shall not enforce an administrative subpoena unless it finds that:

65 (A) The investigation is one the Division of Child Protective Services is authorized to make
66 and is being conducted pursuant to a legitimate purpose;

67 (B) The inquiry is relevant to that purpose;

68 (C) The inquiry is not too broad or indefinite;

69 (D) The information sought is not already in the possession of the Division of Child
70 Protective Services; and

71 (E) Any administrative steps required by law have been followed.

72 (4) If circumstances arise where the secretary, or his or her designee, determines it
73 necessary to compel an individual to provide information regarding the location of a child who is
74 the subject of an allegation of abuse or neglect, the secretary, or his or her designee, may seek
75 a subpoena from the circuit court with jurisdiction over the individual from whom the information
76 is sought.

77 (h) No child protective services caseworker may be held personally liable for any
78 professional decision or action taken pursuant to that decision in the performance of his or her
79 official duties as set forth in this section or agency rules promulgated thereupon. However, nothing
80 in this subsection protects any child protective services worker from any liability arising from the
81 operation of a motor vehicle or for any loss caused by gross negligence, willful and wanton
82 misconduct, or intentional misconduct.

83 (i) Beginning January 1, 2021, a child protective caseworker may file a grievance, as
84 provided in §6C-2-1 et seq., for any assigned cases over 25.

85 (j) The Bureau for Children and Families shall create a new team of 5-10 child protective
86 caseworkers who shall specialize in bringing foster children back to West Virginia who are in
87 residential treatment facilities out-of-state. The caseworkers shall evaluate the children with the
88 longest length of stay and develop a case plan to transition them to foster homes or kinship
89 placement.

NOTE: The main purpose of this bill is to modernize the job classification of child protective caseworker.

This bill was recommended for passage during the 2020 legislative session by the Joint Committee on Health.

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