

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Introduced**

## **Senate Bill 239**

By Senators Azinger, Takubo, and Deeds

[Introduced January 16, 2023; referred  
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §9-2-6 of the code of West Virginia, 1931, as amended, relating to  
 2 requiring the Commissioner of Human Services to engage behavioral health and  
 3 substance use disorder providers, municipal leaders, and county government leaders to  
 4 study a breakdown of homeless demographic information throughout West Virginia; and  
 5 reporting the findings of the study to the President of the Senate, Speaker of the House of  
 6 Delegates, and the Joint Committee on Government and Finance.

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

**ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES AND  
 RESPONSIBILITIES GENERALLY.**

**§9-2-6. Powers of secretary.**

1 (a) Within limits of state appropriations and federal grants and subject to provisions of state  
 2 and federal laws and regulations, the secretary, in addition to all other powers, duties, and  
 3 responsibilities granted and assigned to that office in this chapter and elsewhere by law, may:

4 (1) Promulgate, amend, revise, and rescind department rules respecting the organization  
 5 and government of the department and the execution and administration of those powers, duties,  
 6 and responsibilities granted and assigned by this chapter and elsewhere by law to the department  
 7 and the secretary.

8 (2) Promulgate, amend, revise, and rescind department rules and regulations respecting  
 9 qualifications for receiving the different classes of welfare assistance consistent with or permitted  
 10 by federal laws, rules, and policies, but not inconsistent with state law: *Provided*, That rules and  
 11 policies respecting qualifications shall permit the expenditure of state funds to pay for care  
 12 rendered in any birthing center licensed under the provisions of §16-2E-1 *et seq.* of this code by a  
 13 licensed nurse midwife or midwife as this occupation is defined in §30-15-7 of this code and which  
 14 care is within the scope of duties for such licensed nurse midwife or midwife as permitted by §30-  
 15 15-7 of this code.

16 (3) Obtain by purchase or lease grounds, buildings, office, or other space, equipment,  
17 facilities, and services as may be necessary for the execution and administration of those powers,  
18 duties, and responsibilities granted and assigned by this chapter and elsewhere by law to the  
19 department and the secretary.

20 (4) Sign and execute in the name of the state by the Department of Health and Human  
21 Resources any contract or agreement with the federal government or its agencies, other states,  
22 political subdivisions of this state, corporations, associations, partnerships, or individuals:  
23 *Provided*, That the provisions of §5A-3-1 *et seq.* of this code are followed.

24 (5) Sign and execute a contract to implement professional health care, managed care,  
25 actuarial and health care-related monitoring, quality review/utilization, claims processing, and  
26 independent professional consultant contracts for the Medicaid program: *Provided*, That the  
27 provisions of §5A-3-1 *et seq.* of this code are followed: *Provided, however*, That a contract  
28 awarded under the agency purchasing process from April 1, 2009, to January 2, 2013, remains in  
29 full force and effect and the secretary retains sole authority to review, approve, and issue changes  
30 to contracts issued under the former purchasing process, and is responsible for challenges,  
31 disputes, protests, and legal actions related to such contracts.

32 (6) Establish such special funds as may be required by the federal Social Security Act, as  
33 amended, or by any other Act or Acts of Congress, in order for this state to take full advantage of  
34 the benefits and provisions thereof relating to the federal-state assistance and federal assistance  
35 programs administered by the department and to make payments into and disbursements out of  
36 any such special fund or funds in accordance with the requirements of the federal Social Security  
37 Act, as amended, or any other Act or Acts of Congress, and in accordance with applicable state  
38 law and the objects and purposes of this chapter. In addition, the Department of Health and  
39 Human Resources, through the secretary, is hereby authorized to accept any and all gifts or  
40 grants, whether in money, land, services, or materials, which gift or gifts, if in the form of moneys,  
41 shall be placed in a separate fund and expended solely for the purpose of public assistance

42 programs. No part of this special fund may revert to the general revenue funds of this state. No  
43 expenses incurred pursuant to this special fund may be a charge against the general funds of this  
44 state.

45 (7) Establish within the department an Office of Inspector General for the purpose of  
46 conducting and supervising investigations, performing inspections, evaluations, and review, and  
47 providing quality control for the programs of the department. The Office of Inspector General shall  
48 be headed by the Inspector General who shall report directly to the secretary. Neither the  
49 secretary nor any employee of the department may prevent, inhibit, or prohibit the Inspector  
50 General or his or her employees from initiating, carrying out, or completing any investigation,  
51 inspection, evaluation, review, or other activity oversight of public integrity by the Office of the  
52 Inspector General. The secretary shall place within the Office of Inspector General any function he  
53 or she deems necessary. Qualification, compensation, and personnel practice relating to the  
54 employees of the Office of the Inspector General, including that of the position of Inspector  
55 General, shall be governed by the classified service provisions of §29-6-1 *et seq.* of this code and  
56 rules promulgated thereunder. The Inspector General shall supervise all personnel of the Office of  
57 Inspector General.

58 (8) Provide at department expense a program of continuing professional, technical, and  
59 specialized instruction for the personnel of the department.

60 (9) Pay from available funds all or part of the reasonable expenses incurred by a person  
61 newly employed by the department in moving his household furniture, effects, and immediate  
62 family from his or her place of residence in this state to his or her place of employment in this state;  
63 and to pay from available funds all or part of the reasonable expenses incurred by a department  
64 employee in moving his or her household furniture, effects, and immediate family as a result of a  
65 reassignment of the employee which is considered desirable, advantageous to and in the best  
66 interests of the state, but no part of the moving expenses of any one such employee may be paid  
67 more frequently than once in 12 months or for any movement other than from one place of

68 employment in this state to another place of employment in this state.

69 (10) Establish a program to provide reimbursement to employees of the department whose  
70 items of personal property, as defined by the department by policy, are damaged during the course  
71 of employment or other work-related activity as a result of aggressive behavior by a client or  
72 patient receiving services from the department: *Provided*, That the reimbursement is limited to a  
73 maximum amount of \$250 per claim.

74 (11) Establish and maintain such institutions as are necessary for the temporary care,  
75 maintenance, and training of children and other persons.

76 (12) Prepare and submit state plans which will meet the requirements of federal laws, rules  
77 governing federal-state assistance, and federal assistance, and which are not inconsistent with  
78 state law.

79 (13) Organize within the department a board of review, consisting of a ~~chairman~~ chair  
80 appointed by the secretary and as many assistants or employees of the department as may be  
81 determined by the secretary and as may be required by federal laws and rules respecting state  
82 assistance, federal-state assistance, and federal assistance, the board of review to have such  
83 powers of a review nature and such additional powers as may be granted to it by the secretary and  
84 as may be required by federal laws and rules respecting federal-state assistance and federal  
85 assistance.

86 (14) Provide by rules review and appeal procedures within the Department of Health and  
87 Human Resources as may be required by applicable federal laws and rules respecting state  
88 assistance, federal-state assistance, and federal assistance, and as will provide applicants for,  
89 and recipients of, all classes of welfare assistance an opportunity to be heard by the board of  
90 review, a member thereof, or individuals designated by the board, upon claims involving denial,  
91 reduction, closure, delay, or other action or inaction pertaining to public assistance.

92 (15) Provide by rules, consistent with requirements of applicable federal laws and rules,  
93 application forms and application procedures for the various classes of public assistance.

94 (16) Provide locations for making applications for the various classes of public assistance.

95 (17) Provide a citizen or group of citizens an opportunity to file objections and to be heard  
96 upon objections to the grant of any class of public assistance.

97 (18) Delegate to the personnel of the department all powers and duties vested in the  
98 secretary, except the power and authority to sign contracts and agreements.

99 (19) Make such reports in such form and containing such information as may be required  
100 by applicable federal laws and rules respecting federal-state assistance and federal assistance.

101 (20) Invoke any legal, equitable, or special remedies for the enforcement of the provisions  
102 of this chapter.

103 (21) Require a provider, subgrantee, or other entity performing services on behalf of the  
104 department to comply with all applicable laws, rules, and written procedures pertaining to the  
105 program for which the entity is providing or coordinating services, including, but not limited to,  
106 policy manuals, statements of work, program instructions, or other similar agreements. When  
107 submitting a claim for payment, the entity shall certify that it has complied with all material  
108 conditions for payment. Knowingly and intentionally submitting a claim or billing for services  
109 performed in material violation of any law, rule, policy, or other written agreement shall constitute  
110 fraud and the agreement for provision of services shall terminate. The entity shall be required to  
111 repay the department for any payment under the program for which the provider was not entitled,  
112 regardless of whether the incorrect payment was the result of department error, fraud, or other  
113 cause. A demand for repayment or termination of agreement for provision of services shall be  
114 subject to the due process procedures pursuant to §29A-5-1 *et seq.* of this code. The provisions of  
115 this subsection do not apply to fraud in the Medicaid program.

116 (22) Develop a data analytics pilot program to identify potential fraud and help guide policy  
117 objectives to eliminate future fraud. The secretary shall submit a report containing the pilot  
118 program's results and recommendations to the Joint Committee on Government and Finance no  
119 later than December 31, 2020.

120           (23) The secretary shall direct the Bureau for Behavioral Health to engage the following  
121 stakeholders: behavioral health and substance use disorder providers; municipal leaders; and  
122 county government leaders to study a breakdown of homeless demographic information  
123 throughout West Virginia. The study shall be responsible for: (A) presenting a breakdown of  
124 homeless demographic information throughout West Virginia and regionally; (B) quantifying and  
125 inventory of homelessness resources by region; (C) epidemiological analysis of homeless  
126 populations in West Virginia; (D) identification of key metrics to measure homelessness across  
127 West Virginia in a more consistent manner; (E) analysis of whether West Virginia homeless  
128 populations concentrate in certain counties or municipalities and why; (F) determination if state  
129 policy causes this state's homeless population to relocate to certain counties or municipalities; (G)  
130 determination of percentage of homeless individuals that lived in another state or jurisdiction in the  
131 past three years or are from another state or jurisdiction; and (H) analysis of whether any health  
132 and human service benefits offered in West Virginia attract populations that are homeless or at risk  
133 of homelessness. Upon completion of the study, the secretary shall submit a report of the findings  
134 of the study to the President of the Senate, Speaker of the House of Delegates, and the Joint  
135 Committee on Government and Finance for consideration of legislation that may be appropriate  
136 relating to the homeless in West Virginia.

137           (b) The secretary shall annually allocate Child Protective Services workers by districts of  
138 the Bureau for Social Services and report the allocation process to the Legislative Oversight  
139 Commission on Health and Human Resources Accountability by July 1 each year.

NOTE: The purpose of this bill is to require the Secretary of Health and Human Resources to engage behavioral health and substance use disorder providers, municipal leaders, and county government leaders to study a breakdown of homeless demographic information throughout West Virginia; and report the findings of the study to the President of the Senate, Speaker of the House of Delegates, and the Joint Committee of Finance and Finance.

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