

WEST VIRGINIA CODE: §5F-2-1A

§5F-2-1a. Termination of the department of health and human resources; transfer and incorporation of agencies and boards legislative intent; creation of new departments.

(a) It is the intent of the Legislature to devolve the functions of the Department of Health and Human Resources into three new and separate departments of the executive branch as provided in this Act over a period of transition that concludes with the termination of the Department of Health and Human Resources. It is the intent of the Legislature that the provisions of this Act be construed to achieve the restructuring and reallocation of the powers, duties and functions of the Department of Health and Human Resources to the three new departments created in this section in an orderly manner designed to maintain the delivery of services that have heretofore been provided by the Department of Health and Human Resources by the new departments during the transition and beyond the termination of the Department of Health and Human Resources without disruption and to streamline and, where possible, to share administrative and operative expenses where common to each of the new departments. To that end, the Secretary of the Department of Health and Human Resources, the Secretary of the Department of Human Services, the Secretary of the Department of Health and the Secretary of the Department of Health Facilities shall enter into a memorandum of understanding to effect the provisions of this Act that shall, at a minimum, create a Office of Shared Administration mutually administered by the secretaries that shall coordinate efforts with the Department of Administration to maximize efficiencies and function of services in an effort to contain expenses within the Department of Human Services, the Department of Health and the Department of Health Facilities. The Office of Shared Administration shall implement a plan to maximize function and efficiency administrative services for the purpose of streamlining administrative services and reducing expenses within the departments. The Office of Shared Administration shall complete implementation by June 30, 2024, and shall provide quarterly updates to the Legislative Oversight Commission on Health and Human Resources Accountability.

(b) (1) The Department of Human Services created under §5F-1-2 of this code, beginning January 1, 2024, is a separate and distinct department of the executive branch. Beginning January 1, 2024, the following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are transferred to, incorporated in and administered as a part of the Department of Human Services:

- (A) Bureau for Social Services;
- (B) Bureau for Medical Services;
- (C) Bureau for Child Support Enforcement;
- (D) Bureau for Family Assistance;

(E) Bureau for Behavioral Health; and

(F) Any other agency or entity hereinafter established within the Department of Human Services by an act of the Legislature.

(2) Beginning January 1, 2024, when, as used in this code, it appears from the context of the terms “Department of Health and Human Resources” or “department” in lieu thereof that the term refers to the entity exercising the powers or duties of the entities specified in subdivision (1) of this subsection, those terms shall mean the Department of Human Services.

(c) (1) The Department of Health created under §5F-1-2 of this code, beginning January 1, 2024, is a separate and distinct department of the executive branch. Beginning January 1, 2024, the following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are transferred to, incorporated in and administered as a part of the Department of Health:

(A) Bureau for Public Health;

(B) Office of Emergency Medical Services;

(C) Office of the Chief Medical Examiner;

(D) Center for Threat Preparedness;

(E) Health Care Authority;

(F) Office of the Inspector General, which shall include:

(i) Office of Health Facility Licensure and Certification;

(ii) Board of Review;

(iii) Foster Care Ombudsman;

(iv) Olmstead Office;

(v) Investigations and Fraud Management;

(vi) Quality Control;

(vii) Mental Health Ombudsman;

(viii) WV Clearance for Access: Registry and Employment Screening; and

(ix) Human Rights Commission; and

(G) Any other agency or entity hereinafter established within the Department of Health by an act of the Legislature.

(2) Beginning January 1, 2024, when, as used in this code, it appears from the context of the terms "Department of Health and Human Resources" or "department" in lieu thereof that the term refers to the entity exercising the powers or duties of the entities specified in subdivision (1) of this subsection, those terms shall mean the Department of Health.

(d) (1) The Department of Health Facilities created under §5F-1-2 of this code, beginning January 1, 2024, is a separate and distinct department of the executive branch. Beginning January 1, 2024, the following state facilities, including all of the allied, advisory, affiliated, or related entities and funds associated with any state facility, are transferred to, incorporated in and administered as a part of the Department of Health Facilities:

(A) Hopemont Hospital;

(B) Jackie Withrow Hospital;

(C) John Manchin, Sr. Health Care Center;

(D) Lakin Hospital;

(E) Mildred Mitchell-Bateman Hospital;

(F) Welch Community Hospital;

(G) William R. Sharpe Jr. Hospital; and

(H) Any other agency or entity hereinafter established within the Department of Health Facilities by an act of the Legislature.

(2) Beginning January 1, 2024, when, as used in this code, it appears from the context of the terms "Department of Health and Human Resources" or "department" in lieu thereof that the term refers to the entity exercising the powers or duties of the entities specified in subdivision (1) of this subsection, those terms shall mean the Department of Health Facilities.

(3) Notwithstanding any other provision of this code to the contrary, before December 1, 2023, the Department of Health and Human Resources shall create and present to the Legislative Oversight Commission on Health and Human Resources Accountability a long-term sustainability plan for each state health facility.

(e) Any secretary may recommend that a bureau, office, board, commission or other state entity be included or excluded from the organization of the departments created in this section to the Joint Committee on Government and Finance and the Legislative Commission on Health and Human Resources Accountability.

(f) Except for powers, authority, and duties that have been delegated to the secretaries of the departments created under this section and §5F-2-2 of this code, the position of administrator and the powers, authority, and duties of each administrator and agency are not affected by this act.

(g) Except for powers, authority, and duties that have been delegated to the secretaries of the departments under this section and §5F-2-2 of this code, the existence, powers, authority, and duties of boards, commissions and councils and the membership, terms, and qualifications of members of the boards, commissions and councils are not affected by this act. All boards, commissions and councils that are appellate bodies or are independent decision makers may not have their appellate or independent decision-making status affected by this act.

(h) Nothing in this section extends the powers of department secretaries to any person other than a department secretary and nothing limits or abridges the statutory powers and duties of statutory commissioners or officers pursuant to this code.

(i) All programs, orders, determinations, rules, permits, grants, contracts, certificates, bonds, authorizations and privileges which have been issued, promulgated, made, granted or allowed to become pursuant to authority provided by this code to the Department of Health and Human Resources or the Secretary of that Department that are in effect on the dates of the creation of the new departments as provided in this section shall continue in effect according to their terms until modified, terminated, superseded, set aside or revoked by the department or secretary that assumes authority over the subject matter of the same under the provisions of this Act.