

# WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 2006**

BY DELEGATES SUMMERS, TONEY, PINSON, GEARHEART, MALLOW,

W. HALL, ROHRBACH, HITE, HONAKER, LUCAS AND WESTFALL

[Passed February 22, 2023; in effect ninety days from passage.]

HB 2006

OFFICE OF THE WEST VIRGINIA  
SECRETARY OF STATE

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FILED

# WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

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OFFICE OF THE CLERK  
WEST VIRGINIA  
2023 MAR -11 P 12:49  
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W. HALL, ROHRBACH, HITE, HONAKER, LUCAS AND WESTFALL

[Passed February 22, 2023; in effect ninety days from passage.]

1 AN ACT to amend and reenact §5F-1-2 of the Code of West Virginia, 1931, as amended; to  
2 amend and reenact §5F-2-1 and §5F-2-2 of said code; to amend said code by adding  
3 thereto a new section designated §5F-2-1a; to repeal §9-1-1 of said code; to amend and  
4 reenact §9-1-2 of said code; to amend and reenact §9-2-1 of said code; to repeal §9-2-1a  
5 of said code; to amend and reenact §9-2-2, §9-2-5 and §9-2-6, of said code; to repeal §9-  
6 2-9 of said code; to amend and reenact §9-2-9a of said code; to repeal §9-2-13 of said  
7 code; to repeal §9-5-8, §9-5-8a and §9-5-8b of said code; to amend and reenact §16-1-1,  
8 §16-1-2, §16-1-3, §16-1-5 and §16-1-6 of said code; to amend said code by adding thereto  
9 new sections designated, §16-1-22, §16-1-22a, §16-1-22b and §16-1-22c of said code; to  
10 amend and reenact §16-29A-4 of said code; to amend and reenact §26-1-1, §26-1-2 and  
11 §26-1-3 of said code; to amend said code by adding thereto a new section, designated  
12 §26-1-4 of said code; to repeal §26-3-1, §26-3-2, §26-3-3, §26-3-4 and §26-3-5 of said  
13 code; to repeal §26-5-1 of said code; to repeal §26-5A-5a of said code; to repeal §26-8-1,  
14 §26-8-2 and §26-8-3 of said code; to repeal §26-9-1 and §26-9-2 of said code; to repeal  
15 §26-10-1 of said code; to repeal §26-11-1, §26-11-2, §26-11-3 and §26-11-4 of said code;  
16 to amend and reenact §48-14-401 of said code; to amend and reenact §48-18-101 of said  
17 code; and to amend and reenact §49-1-106 of said code, all relating to reorganizing the  
18 Department of Health and Human Resources; creating new agencies; creating new  
19 secretaries; setting forth qualifications for secretaries; setting forth salaries; setting forth  
20 an organizational structure; providing legislative intent; codifying the Office of Shared  
21 Administration; setting forth powers of agencies; requiring coordination and cooperating  
22 between agencies; rearranging the code to reflect the reorganization of the departments;  
23 defining terms; set forth the qualifications of the inspector general; providing the Office of  
24 the Inspector General is an independent agency within the department; exempting the  
25 Department of Health Facilities from certain laws; removing specific health facilities from  
26 the code; requiring reporting; and providing internal effective dates.

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

## **CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.**

### **ARTICLE 1. GENERAL PROVISIONS.**

#### **§5F-1-2. Executive departments created.**

1           (a) There are created, within the executive branch of the state government, the following  
2 departments:

3           (1) Department of Administration;

4           (2) Department of Environmental Protection;

5           (3) Department of Health and Human Resources: *Provided*, That the Department of  
6 Health and Human Resources is terminated beginning January 1, 2024;

7           (4) Department of Homeland Security;

8           (5) Department of Revenue;

9           (6) Department of Transportation;

10          (7) Department of Commerce;

11          (8) Department of Veterans' Assistance;

12          (9) Department of Economic Development;

13          (10) Department of Tourism;

14          (11) Beginning January 1, 2024, the following:

15           (A) Department of Human Services; and

16           (B) Department of Health; and

17           (C) Department of Health Facilities.

18          (b) Each department will be headed by a secretary appointed by the Governor with the  
19 advice and consent of the Senate. Each secretary serves at the will and pleasure of the Governor.

**ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.**

**§5F-2-1. Transfer and incorporation of agencies and boards; funds.**

1 (a) The following agencies and boards, including all of the allied, advisory, affiliated, or  
2 related entities and funds associated with any agency or board, are incorporated in and  
3 administered as a part of the Department of Administration:

- 4 (1) Public Employees Insurance Agency provided in §5-16-1 *et seq.* of this code;
- 5 (2) Governor's Mansion Advisory Committee provided in §5A-5-1 *et seq.* of this code;
- 6 (3) Commission on Uniform State Laws provided in §29-1A-1 *et seq.* of this code;
- 7 (4) West Virginia Public Employees Grievance Board provided in §6C-3-1 *et seq.* of this  
8 code;
- 9 (5) Board of Risk and Insurance Management provided in §29-12-1 *et seq.* of this code;
- 10 (6) Boundary Commission provided in §29-23-1 *et seq.* of this code;
- 11 (7) Public Defender Services provided in §29-21-1 *et seq.* of this code;
- 12 (8) Division of Personnel provided in §29-6-1 *et seq.* of this code;
- 13 (9) West Virginia Ethics Commission provided in §6B-2-1 *et seq.* of this code;
- 14 (10) Consolidated Public Retirement Board provided in §5-10D-1 *et seq.* of this code; and
- 15 (11) Real Estate Division provided in §5A-10-1 *et seq.* of this code.

16 (b) The following agencies and boards, including all of the allied, advisory, affiliated, or  
17 related entities and funds associated with any agency or board, are incorporated in and  
18 administered as a part of the Department of Commerce:

- 19 (1) Division of Labor provided in §21-1-1 *et seq.* of this code, which includes:
  - 20 (A) Occupational Safety and Health Review Commission provided in §21-3A-1 *et seq.* of  
21 this code; and
  - 22 (B) Board of Manufactured Housing Construction and Safety provided in §21-9-1 *et seq.*  
23 of this code.

24 (2) Office of Miners' Health, Safety, and Training provided in §22A-1-1 *et seq.* of this code.

25 The following boards are transferred to the Office of Miners' Health, Safety, and Training for  
26 purposes of administrative support and liaison with the Office of the Governor:

27 (A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review  
28 Committee provided in §22A-6-1 *et seq.* of this code;

29 (B) Board of Miner Training, Education, and Certification provided in §22A-7-1 *et seq.* of  
30 this code; and

31 (C) Mine Inspectors' Examining Board provided in §22A-9-1 *et seq.* of this code.

32 (3) Division of Natural Resources and Natural Resources Commission provided in §20-1-  
33 1 *et seq.* of this code;

34 (4) Division of Forestry provided in §19-1A-1 *et seq.* of this code;

35 (5) Geological and Economic Survey provided in §29-2-1 *et seq.* of this code;

36 (6) Workforce West Virginia provided in chapter 21A of this code, which includes:

37 (A) Division of Unemployment Compensation;

38 (B) Division of Employment Service;

39 (C) Division of Workforce Development;

40 (D) Division of Research, Information and Analysis; and

41 (7) Division of Rehabilitation Services provided in §18-10A-1 *et seq.* of this code.

42 (c) The Economic Development Authority provided in §31-15-1 *et seq.* of this code is  
43 continued as an independent agency within the executive branch.

44 (d) The Water Development Authority and the Water Development Authority Board  
45 provided in §22C-1-1 *et seq.* of this code is continued as an independent agency within the  
46 executive branch.

47 (e) The West Virginia Educational Broadcasting Authority provided in §10-5-1 *et seq.* of  
48 this code is continued as a separate independent agency within the Department of Arts, Culture,  
49 and History, which shall provide administrative support for the authority.

50 (f) The Division of Culture and History as established in §29-1-1 *et seq.* of this code is  
51 continued as a separate independent agency within the Executive Branch as the Department of  
52 Arts, Culture, and History. All references throughout this code to the “Division of Culture and  
53 History” means the “Department of Arts, Culture, and History”.

54 (g) The following agencies and boards, including all of the allied, advisory, and affiliated  
55 entities, are transferred to the Department of Environmental Protection for purposes of  
56 administrative support and liaison with the Office of the Governor:

57 (1) Air Quality Board provided in §22B-2-1 *et seq.* of this code;

58 (2) Solid Waste Management Board provided in §22C-3-1 *et seq.* of this code;

59 (3) Environmental Quality Board, or its successor board, provided in §22B-3-1 *et seq.* of  
60 this code;

61 (4) Surface Mine Board provided in §22B-4-1 *et seq.* of this code;

62 (5) Oil and Gas Inspectors' Examining Board provided in §22C-7-1 *et seq.* of this code;

63 (6) Shallow Gas Well Review Board provided in §22C-8-1 *et seq.* of this code; and

64 (7) Oil and Gas Conservation Commission provided in §22C-9-1 *et seq.* of this code.

65 (h) Subject to the provisions of §5F-2-1a of this code, the following agencies and boards,  
66 including all of the allied, advisory, affiliated, or related entities and funds associated with any  
67 agency or board, are incorporated in and administered as a part of the Department of Health and  
68 Human Resources:

69 (1) Human Rights Commission provided in §5-11-1 *et seq.* of this code;

70 (2) Bureau for Public Health provided in §16-1-1 *et seq.* of this code;

71 (3) Office of Emergency Medical Services and the Emergency Medical Service Advisory  
72 Council provided in §16-4C-1 *et seq.* of this code;

73 (4) Health Care Authority provided in §16-29B-1 *et seq.* of this code;

74 (5) The Developmental Disabilities Council established by Executive Order No. 6-88 and  
75 continued by Executive Order No. 15-99;

76 (6) Women's Commission provided in §29-20-1 *et seq.* of this code; and

77 (7) Bureau for Child Support Enforcement provided in §48-1-1 *et seq.* of this code.

78 (i) The following agencies and boards, including all of the allied, advisory, affiliated, or  
79 related entities and funds associated with any agency or board, are incorporated in and  
80 administered as a part of the Department of Homeland Security:

81 (1) West Virginia State Police;

82 (2) Division of Emergency Management provided in §15-5-1 *et seq.* of this code and  
83 Emergency Response Commission provided in §15-5A-1 *et seq.* of this code: *Provided*, That  
84 notwithstanding any other provision of this code to the contrary, whenever in this code, or a rule  
85 promulgated thereunder, a reference is made to the Division of Homeland Security and  
86 Emergency Management, it shall be construed to mean the Division of Emergency Management;

87 (3) Division of Administrative Services;

88 (4) Division of Corrections and Rehabilitation;

89 (5) Fire Commission;

90 (6) State Fire Marshal;

91 (7) Board of Probation and Parole;

92 (8) The West Virginia Fusion Center;

93 (9) Division of Protective Services; and

94 (10) Any other agency or entity hereinafter established within the Department of Homeland  
95 Security by an act of the Legislature.

96 (j) The following agencies and boards, including all of the allied, advisory, affiliated, or  
97 related entities and funds associated with any agency or board, are incorporated in and  
98 administered as a part of the Department of Revenue:

99 (1) Tax Division provided in §11-1-1 *et seq.* of this code;

100 (2) Racing Commission provided in §19-23-1 *et seq.* of this code;



101 (3) Lottery Commission and position of Lottery Director provided in §29-22-1 *et seq.* of this  
102 code;

103 (4) Insurance Commissioner provided in §33-2-1 *et seq.* of this code;

104 (5) West Virginia Alcohol Beverage Control Commissioner provided in §11-16-1 *et seq.* of  
105 this code and §60-2-1 *et seq.* of this code;

106 (6) Board of Banking and Financial Institutions provided in §31A-3-1 *et seq.* of this code;

107 (7) Lending and Credit Rate Board provided in §47A-1-1 *et seq.* of this code;

108 (8) Division of Financial Institutions provided in §31A-2-1 *et seq.* of this code;

109 (9) The State Budget Office provided in §11B-2-1 *et seq.* of this code;

110 (10) The Municipal Bond Commission provided in §13-3-1 *et seq.* of this code;

111 (11) The Office of Tax Appeals provided in §11-10A-1 *et seq.* of this code; and

112 (12) The State Athletic Commission provided in §29-5A-1 *et seq.* of this code.

113 (k) The following agencies and boards, including all of the allied, advisory, affiliated, or  
114 related entities and funds associated with any agency or board, are incorporated in and  
115 administered as a part of the Department of Transportation:

116 (1) Division of Highways provided in §17-2A-1 *et seq.* of this code;

117 (2) Parkways Authority provided in §17-16A-1 *et seq.* of this code;

118 (3) Division of Motor Vehicles provided in §17A-2-1 *et seq.* of this code;

119 (4) Driver's Licensing Advisory Board provided in §17B-2-1 *et seq.* of this code;

120 (5) Aeronautics Commission provided in §29-2A-1 *et seq.* of this code;

121 (6) State Rail Authority provided in §29-18-1 *et seq.* of this code; and

122 (7) Public Port Authority provided in §17-16B-1 *et seq.* of this code.

123 (l) Effective July 1, 2011, the Veterans' Council provided in §9A-1-1 *et seq.* of this code,  
124 including all of the allied, advisory, affiliated, or related entities and funds associated with it, is  
125 incorporated in and administered as a part of the Department of Veterans' Assistance.

126 (m) Except for powers, authority, and duties that have been delegated to the secretaries  
127 of the departments by §5F-2-2 of this code, the position of administrator and the powers, authority,  
128 and duties of each administrator and agency are not affected by the enactment of this chapter.

129 (n) Except for powers, authority, and duties that have been delegated to the secretaries  
130 of the departments by §5F-2-2 of this code, the existence, powers, authority, and duties of boards  
131 and the membership, terms, and qualifications of members of the boards are not affected by the  
132 enactment of this chapter. All boards that are appellate bodies or are independent decision  
133 makers may not have their appellate or independent decision-making status affected by the  
134 enactment of this chapter.

135 (o) Any department previously transferred to and incorporated in a department by prior  
136 enactment of this section means a division of the appropriate department. Wherever reference is  
137 made to any department transferred to and incorporated in a department created in §5F-1-2 of  
138 this code, the reference means a division of the appropriate department and any reference to a  
139 division of a department so transferred and incorporated means a section of the appropriate  
140 division of the department.

141 (p) When an agency, board, or commission is transferred under a bureau or agency other  
142 than a department headed by a secretary pursuant to this section, that transfer is solely for  
143 purposes of administrative support and liaison with the Office of the Governor, a department  
144 secretary, or a bureau. Nothing in this section extends the powers of department secretaries  
145 under §5F-2-2 of this code to any person other than a department secretary and nothing limits or  
146 abridges the statutory powers and duties of statutory commissioners or officers pursuant to this  
147 code.

148 (q) The Department of Economic Development as established in §5B-2-1 *et seq.* of this  
149 code is continued as a separate independent agency within the Executive Branch.

150 (r) The Department of Tourism as established in §5B-2I-1 *et seq.* of this code is continued  
151 as a separate independent agency within the Executive Branch.

**§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.**

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

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

29 (A) Bureau for Social Services;

30 (B) Bureau for Medical Services;

31 (C) Bureau for Child Support Enforcement;

32 (D) Bureau for Family Assistance;

33 (E) Bureau for Behavioral Health; and

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

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

40 (c) (1) The Department of Health created under §5F-1-2 of this code, beginning January  
41 1, 2024, is a separate and distinct department of the executive branch. Beginning January 1,  
42 2024, the following agencies and boards, including all of the allied, advisory, affiliated, or related  
43 entities and funds associated with any agency or board, are transferred to, incorporated in and  
44 administered as a part of the Department of Health:

45 (A) Bureau for Public Health;

46 (B) Office of Emergency Medical Services;

47 (C) Office of the Chief Medical Examiner;

48 (D) Center for Threat Preparedness;

49 (E) Health Care Authority;

- 50 (F) Office of the Inspector General, which shall include:
- 51 (i) Office of Health Facility Licensure and Certification;
- 52 (ii) Board of Review;
- 53 (iii) Foster Care Ombudsman;
- 54 (iv) Olmstead Office;
- 55 (v) Investigations and Fraud Management;
- 56 (vi) Quality Control;
- 57 (vii) Mental Health Ombudsman;
- 58 (viii) WV Clearance for Access: Registry and Employment Screening; and
- 59 (ix) Human Rights Commission; and
- 60 (G) Any other agency or entity hereinafter established within the Department of Health by
- 61 an act of the Legislature.

62 (2) Beginning January 1, 2024, when, as used in this code, it appears from the context of

63 the terms "Department of Health and Human Resources" or "department" in lieu thereof that the

64 term refers to the entity exercising the powers or duties of the entities specified in subdivision (1)

65 of this subsection, those terms shall mean the Department of Health.

66 (d) (1) The Department of Health Facilities created under §5F-1-2 of this code, beginning

67 January 1, 2024, is a separate and distinct department of the executive branch. Beginning

68 January 1, 2024, the following state facilities, including all of the allied, advisory, affiliated, or

69 related entities and funds associated with any state facility, are transferred to, incorporated in and

70 administered as a part of the Department of Health Facilities:

- 71 (A) Hopemont Hospital;
- 72 (B) Jackie Withrow Hospital;
- 73 (C) John Manchin, Sr. Health Care Center;
- 74 (D) Lakin Hospital;
- 75 (E) Mildred Mitchell-Bateman Hospital;

76 (F) Welch Community Hospital;

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

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

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

84 (3) Notwithstanding any other provision of this code to the contrary, before December 1,  
85 2023, the Department of Health and Human Resources shall create and present to the Legislative  
86 Oversight Commission on Health and Human Resources Accountability a long-term sustainability  
87 plan for each state health facility.

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

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

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

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

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

**§5F-2-2. Power and authority of secretary of each department.**

1 (a) Notwithstanding any other provision of this code to the contrary, the secretary of each  
2 department shall have plenary power and authority within and for the department to:

3 (1) Employ and discharge within the office of the secretary employees as may be  
4 necessary to carry out the functions of the secretary, which employees shall serve at the will and  
5 pleasure of the secretary;

6 (2) Cause the various agencies and boards to be operated effectively, efficiently, and  
7 economically and develop goals, objectives, policies, and plans that are necessary or desirable  
8 for the effective, efficient, and economical operation of the department;

9 (3) Eliminate or consolidate positions, other than positions of administrators or positions  
10 of board members and name a person to fill more than one position;

11 (4) Transfer permanent state employees between departments in accordance with the  
12 provisions of §5F-2-7 of this code;

13 (5) Delegate, assign, transfer, or combine responsibilities or duties to or among  
14 employees, other than administrators or board members;

15 (6) Reorganize internal functions or operations;

16 (7) Formulate comprehensive budgets for consideration by the Governor;

17 (8) Enter into contracts or agreements requiring the expenditure of public funds and  
18 authorize the expenditure or obligation of public funds as authorized by law: *Provided*, That the  
19 powers granted to the secretary to enter into contracts or agreements and to make expenditures  
20 or obligations of public funds under this provision shall not exceed or be interpreted as authority  
21 to exceed the powers granted by the Legislature to the various commissioners, directors, or board  
22 members of the various departments, agencies, or boards that comprise and are incorporated  
23 into each secretary's department under this chapter;

24 (9) Acquire by lease or purchase property of whatever kind or character and convey or  
25 dispose of any property of whatever kind or character as authorized by law: *Provided*, That the  
26 powers granted to the secretary to lease, purchase, convey, or dispose of such property shall be  
27 exercised in accordance with §5A-3-1 *et seq.*, §5A-10-1 *et seq.*, and §5A-3-11 *et seq.* of this code:  
28 *Provided, however*, That the powers granted to the secretary to lease, purchase, convey, or  
29 dispose of such property shall not exceed or be interpreted as authority to exceed the powers  
30 granted by the Legislature to the various commissioners, directors, or board members of the  
31 various departments, agencies, or boards that comprise and are incorporated into each  
32 secretary's department under this chapter;

33 (10) Conduct internal audits;

34 (11) Supervise internal management;

35 (12) Promulgate rules, as defined in §29A-1-2 of this code, to implement and make  
36 effective the powers, authority, and duties granted and imposed by the provisions of this chapter  
37 in accordance with the provisions of chapter 29A of this code;

38 (13) Grant or withhold written consent to the proposal of any rule, as defined in §29A-1-2  
39 of this code, by any administrator, agency, or board within the department. Without written  
40 consent, no proposal for a rule shall have any force or effect;



41           (14) Delegate to administrators the duties of the secretary as the secretary may deem  
42 appropriate, from time to time, to facilitate execution of the powers, authority, and duties delegated  
43 to the secretary;

44           (15) Enter into memoranda of understanding; and

45           (16) Take any other action involving or relating to internal management not otherwise  
46 prohibited by law.

47           (b) The secretaries of the departments shall engage in a comprehensive review of the  
48 practices, policies, and operations of the agencies and boards within their departments to  
49 determine the feasibility of cost reductions and increased efficiency which may be achieved  
50 therein, including, but not limited to, the following:

51           (1) The elimination, reduction, and restriction of the state's vehicle or other transportation  
52 fleet;

53           (2) The elimination, reduction, and restriction of state government publications, including  
54 annual reports, informational materials, and promotional materials;

55           (3) The termination or rectification of terms contained in lease agreements between the  
56 state and private sector for offices, equipment, and services;

57           (4) The adoption of appropriate systems for accounting, including consideration of an  
58 accrual basis financial accounting and reporting system;

59           (5) The adoption of revised procurement practices to facilitate cost-effective purchasing  
60 procedures, including consideration of means by which domestic businesses may be assisted to  
61 compete for state government purchases; and

62           (6) The computerization of the functions of the state agencies and boards.

63           (c) Notwithstanding the provisions of subsections (a) and (b) of this section, none of the  
64 powers granted to the secretaries shall be exercised by the secretary if to do so would violate or  
65 be inconsistent with the provisions of any federal law or regulation, any federal-state program or  
66 federally delegated program or jeopardize the approval, existence, or funding of any program.

67 (d) The layoff and recall rights of employees within the classified service of the state as  
68 provided in §29-6-10(5) and §29-6-10(6) of this code shall be limited to the organizational unit  
69 within the agency or board and within the occupational group established by the classification and  
70 compensation plan for the classified service of the agency or board in which the employee was  
71 employed prior to the agency or board's transfer or incorporation into the department: *Provided,*  
72 That the employee shall possess the qualifications established for the job class. The duration of  
73 recall rights provided in this subsection shall be limited to two years or the length of tenure,  
74 whichever is less. Except as provided in this subsection, nothing contained in this section shall  
75 be construed to abridge the rights of employees within the classified service of the state as  
76 provided in §29-6-10 and §29-6-10a of this code.

77 (e) Notwithstanding any other provision of this code to the contrary, the secretary of each  
78 department shall cooperate with the State Resiliency Office to the fullest extent practicable to  
79 assist that office in fulfilling its duties.

## **CHAPTER 9. HUMAN SERVICES.**

### **ARTICLE 1. DEFINITIONS.**

#### **§9-1-1. Legislative purpose.**

1 [Repealed.]

#### **§9-1-2. Definitions.**

1 The following words and terms when used in this chapter have the meanings indicated:

2 "Department" means the state division of human services: *Provided,* That beginning  
3 January 1, 2024, "department" means the Department of Human Services.

4 "Commissioner" means the commissioner of human services: *Provided,* That beginning  
5 January 1 2024, "commissioner" means the secretary of the Department of Human Services.

6 "Federal-state assistance" means and includes: (1) All forms of aid, care, assistance and  
7 services to or on behalf of persons, which are authorized by, and who are authorized to receive

8 the same under and by virtue of, subchapters one, four, five, ten, fourteen, sixteen, eighteen and  
9 nineteen, chapter seven, Title 42, United States Code, as those subchapters have heretofore  
10 been and may hereafter be amended, supplemented and revised by acts of Congress, and as  
11 those subchapters so amended, supplemented and revised have heretofore been and may  
12 hereafter be supplemented by valid rules and regulations promulgated by authorized federal  
13 agents and agencies, and as those subchapters so amended, supplemented and revised have  
14 heretofore been and may hereafter be supplemented by rules promulgated by the state division  
15 of human services or by the Department of Human Services, which rules shall be consistent with  
16 federal laws, rules and regulations, but not inconsistent with state law; and (2) all forms of aid,  
17 care, assistance and services to persons, which are authorized by, and who are authorized to  
18 receive the same under and by virtue of, any act of Congress, other than the federal social security  
19 act, as amended, for distribution through the state division of human services or the Department  
20 of Human Services to recipients of any form of aid, care, assistance and services to persons  
21 designated or referred to in (1) of this definition and to recipients of state assistance, including by  
22 way of illustration, surplus food and food stamps, which Congress has authorized the secretary  
23 of agriculture of the United States to distribute to needy persons.

24 "Federal assistance" means and includes all forms of aid, care, assistance and services  
25 to or on behalf of persons, which are authorized by, and who are authorized to receive the same  
26 under and by virtue of, any act of Congress for distribution through the state division of human  
27 services or the Department of Human Services, the cost of which is paid entirely out of federal  
28 appropriations.

29 "State assistance" means and includes all forms of aid, care, assistance, services and  
30 general relief made possible solely out of state, county and private appropriations to or on behalf  
31 of indigent persons, which are authorized by, and who are authorized to receive the same under  
32 and by virtue of, state division of human services' or Department of Human Services' rules.

33 "Assistance" means the three classes of assistance, namely: Federal-state assistance,  
34 federal assistance and state assistance.

35 "Indigent person" means any person who is domiciled in this state and who is actually in  
36 need as defined by division or department rules and has not sufficient income or other resources  
37 to provide for such need as determined by the state division of human services or the Department  
38 of Human Services.

39 "Domiciled in this state" means being physically present in West Virginia accompanied by  
40 an intention to remain in West Virginia for an indefinite period of time, and to make West Virginia  
41 his or her permanent home. The state division of human services or the Department of Human  
42 Services may by rules supplement the foregoing definition of the term "domiciled in this state",  
43 but not in a manner as would be inconsistent with federal laws, rules, and regulations applicable  
44 to and governing federal-state assistance.

45 "Medical services" means medical, surgical, dental and nursing services, and other  
46 remedial services recognized by law, in the home, office, hospital, clinic and any other suitable  
47 place, provided or prescribed by persons permitted or authorized by law to give such services;  
48 the services to include drugs and medical supplies, appliances, laboratory, diagnostic and  
49 therapeutic services, nursing home and convalescent care and such other medical services and  
50 supplies as may be prescribed by the persons.

51 "Secretary" means the secretary of the Department of Health and Human Resources:  
52 *Provided*, That beginning January 1, 2024, "secretary" means the secretary of the Department of  
53 Human Services.

54 "Estate" means all real and personal property and other assets included within the  
55 individual's estate as defined in the state's probate law.

56 "Services" means nursing facility services, home and community-based services, and  
57 related hospital and prescription drug services for which an individual received Medicaid medical  
58 assistance.

59 "State Medicaid agency" means the Bureau for Medical Services that is the federally  
60 designated single state agency charged with administration and supervision of the state Medicaid  
61 program.

## **ARTICLE 2. SECRETARY OF HUMAN SERVICES.**

### **§9-2-1. Department of Human Services.**

1 Until January 1, 2024, the division of human services within the Department of Health and  
2 Human Resources shall have those powers and duties respecting the administration of the  
3 assistance programs as authorized, granted and imposed by this chapter and elsewhere by law.

4 Beginning January 1, 2024, the Department of Human Services is comprised of the  
5 agencies as provided in §5F-2-1a of this code, is charged with the administration of this chapter,  
6 and shall have those powers and duties respecting the administration of the assistance programs  
7 as authorized, granted and imposed by this chapter and elsewhere by law.

### **§9-2-1a. Department of Health and Human Resources.**

1 [Repealed.]

### **§9-2-2. Secretary to be administrative head of department; appointment; not to hold other office or engage in political activity.**

1 The Secretary of the Department of Human Services is the chief executive officer of that  
2 department and beginning January 1, 2024, is charged with the administration of this chapter.  
3 The Governor shall appoint the secretary, by and with the advice and consent of the Senate, for  
4 the term for which the Governor is elected, and the secretary shall serve at the will and pleasure  
5 of the Governor. The Secretary shall be paid an annual salary not to exceed \$175,000. Upon his  
6 or her initial appointment, which may be at any time after the effective date of this act, the  
7 Secretary shall take the oath of office described in this section and commence his or her duties.  
8 If appointed before January 1, 2024, the Secretary shall take the oath of office described in this  
9 section and commence such duties as determined by the Secretary to be necessary to prepare  
10 for the administration of this chapter.

11 Before entering upon the duties of his or her office, the secretary shall take and subscribe  
12 to the oath of office prescribed by section five, article four of the state Constitution.

13 The secretary shall not be a candidate for, or hold, any other public office or public  
14 employment under the federal government or under the government of this state or any of its  
15 political subdivisions, or be a member or officer of any political party committee, or serve as an  
16 election official, or engage in any political activity, other than to vote, in behalf of, or in opposition  
17 to, any candidate, political party or public issue involved in an election. Any violation by the  
18 secretary of the provisions of this section shall automatically vacate his or her appointment as  
19 secretary.

**§9-2-5. Administering the state assistance programs; information and data to be supplied  
by other agencies.**

1 (a) The department shall administer the state assistance programs, for which responsibility  
2 it shall have:

3 (1) All powers, not inconsistent with state law, as may be necessary for this state to obtain  
4 maximum federal funds made available for federal-state assistance within whatever limits or  
5 restrictions may be imposed by, or may exist by reason of the amount of state funds appropriated  
6 for the assistance; and

7 (2) All powers, not inconsistent with state law, as may be necessary for the disbursement  
8 and distribution of assistance in as prompt, fair, orderly, efficient and economical manner as  
9 possible.

10 (b) Notwithstanding any other provision of this code to the contrary, each, agency,  
11 commission or board of state government shall make available to the department information and  
12 data it collects about any applicant for or recipient of any type assistance to determine if an  
13 applicant or recipient is qualified or eligible for any such assistance.

**§9-2-6. Secretary of Department of Human Services; powers and duties.**

1 In addition to the authority provided in §5F-2-2 of this code, the secretary shall:

2 (1) Coordinate efforts with the Secretary of Health and the Secretary of Health Facilities,  
3 including authority to share the expense of administrative services through a memorandum of  
4 understanding established by agreement of the secretaries as required under §5F-2-1a of this  
5 code;

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

13 (3) Obtain by purchase or lease grounds, buildings, office, or other space, equipment,  
14 facilities, and services as may be necessary for the execution and administration of the secretary's  
15 powers: *Provided*, That the provisions of §5A-10-1 *et seq.* of this code are followed;

16 (4) Contract with the federal government or its agencies, other states, political subdivisions  
17 of this state, corporations, associations, partnerships, or individuals: *Provided*, That the provisions  
18 of §5A-3-1 *et seq.* of this code are followed;

19 (5) Contract to implement professional health care, managed care, actuarial and health  
20 care-related monitoring, quality review/utilization, claims processing, and independent  
21 professional consultant contracts for the Medicaid program: *Provided*, That the provisions of §5A-  
22 3-1 *et seq.* of this code are followed.

23 (6) Accept gifts or grants, whether in money, land, services, or materials, which gift or gifts,  
24 if in the form of moneys, shall be placed in a separate fund and expended solely for the purpose  
25 of public assistance programs. No part of this special fund may revert to the general revenue  
26 funds of this state. No expenses incurred pursuant to this special fund may be a charge against  
27 the general funds of this state;

28           (7) Establish within the department an Office of Inspector General for the purpose of  
29 conducting and supervising investigations, performing inspections, evaluations, and review, and  
30 providing quality control for the programs of the department. The Office of Inspector General shall  
31 be headed by the Inspector General who shall report directly to the secretary. Neither the  
32 secretary nor any employee of the department may prevent, inhibit, or prohibit the Inspector  
33 General or his or her employees from initiating, carrying out, or completing any investigation,  
34 inspection, evaluation, review, or other activity oversight of public integrity by the Office of the  
35 Inspector General. The secretary shall place within the Office of Inspector General any function  
36 he or she deems necessary. Qualification, compensation, and personnel practice relating to the  
37 employees of the Office of the Inspector General, including that of the position of Inspector  
38 General, shall be governed by the classified service provisions of §29-6-1 *et seq.* of this code and  
39 rules promulgated thereunder. The Inspector General shall supervise all personnel of the Office  
40 of Inspector General: *Provided*, That beginning January 1, 2024, the provisions of this subdivision  
41 expire and shall be superseded by the provisions of §16-1-22 of this code.

42           (8) Provide at department expense a program of continuing professional, technical, and  
43 specialized instruction for the personnel of the department;

44           (9) Pay from available funds all or part of the reasonable expenses incurred by a person  
45 newly employed by the department in moving his household furniture, effects, and immediate  
46 family from his or her place of residence in this state to his or her place of employment in this  
47 state; and to pay from available funds all or part of the reasonable expenses incurred by a  
48 department employee in moving his or her household furniture, effects, and immediate family as  
49 a result of a reassignment of the employee which is considered desirable, advantageous to and  
50 in the best interests of the state, but no part of the moving expenses of any one such employee  
51 may be paid more frequently than once in 12 months or for any movement other than from one  
52 place of employment in this state to another place of employment in this state;



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

58           (11) Prepare and submit state plans which will meet the requirements of federal laws,  
59 rules governing federal-state assistance, and federal assistance, and which are not inconsistent  
60 with state law;

61           (12) Organize within the department a board of review, consisting of a chairman appointed  
62 by the secretary and as many assistants or employees of the department as may be determined  
63 by the secretary and as may be required by federal laws and rules respecting state assistance,  
64 federal-state assistance, and federal assistance, the board of review to have such powers of a  
65 shall review nature and such additional powers as may be granted to it by the secretary and as  
66 may be required by federal laws and rules respecting federal-state assistance and federal  
67 assistance: *Provided*, That beginning January 1, 2024, the provisions of this subdivision expire  
68 and shall be superseded by the provisions of §16-1-22 of this code.

69           (13) Provide by rules, review and appeal procedures within the department of Health and  
70 Human Resources as may be required by applicable federal laws and rules respecting state  
71 assistance, federal-state assistance, and federal assistance, and as will provide applicants for,  
72 and recipients of, all classes of welfare assistance an opportunity to be heard by the board of  
73 review, a member thereof, or individuals designated by the board, upon claims involving denial,  
74 reduction, closure, delay, or other action or inaction pertaining to public assistance: *Provided*,  
75 That beginning January 1, 2024, the provisions of this subdivision expire and shall be superseded  
76 by the provisions of §16-1-22 of this code.

77           (14) Provide by rules, consistent with requirements of applicable federal laws and rules,  
78 application forms and application procedures for public assistance;

79 (15) Provide locations for making applications for public assistance;

80 (16) Provide a citizen or group of citizens an opportunity to file objections and to be heard  
81 upon objections to the grant of public assistance;

82 (17) Delegate to the personnel of the department all powers and duties vested in the  
83 secretary;

84 (18) Make reports as may be required by applicable federal laws and rules respecting  
85 assistance;

86 (19) Invoke any legal, equitable, or special remedies for the enforcement of the provisions  
87 of this chapter;

88 (20) Require a provider, subgrantee, or other entity performing services on behalf of the  
89 department to comply with all applicable laws, rules, and written procedures pertaining to the  
90 program for which the entity is providing or coordinating services, including, but not limited to,  
91 policy manuals, statements of work, program instructions, or other similar agreements. When  
92 submitting a claim for payment, the entity shall certify that it has complied with all material  
93 conditions for payment. Knowingly and intentionally submitting a claim or billing for services  
94 performed in material violation of any law, rule, policy, or other written agreement shall constitute  
95 fraud and the agreement for provision of services shall terminate. The entity shall be required to  
96 repay the department for any payment under the program for which the provider was not entitled,  
97 regardless of whether the incorrect payment was the result of department error, fraud, or other  
98 cause. A demand for repayment or termination of agreement for provision of services shall be  
99 subject to the due process procedures pursuant to §29A-5-1 *et seq.* of this code. The provisions  
100 of this subdivision do not apply to fraud in the Medicaid program;

101 (21) Develop a data analytics pilot program to identify potential fraud and help guide policy  
102 objectives to eliminate future fraud;

103 (22) Cooperate with the Office of the Inspector General and take action on its findings;  
104 and

105 (23) Annually allocate Child Protective Services workers by districts of the Bureau for  
106 Social Services and report the allocation process to the Legislative Oversight Commission on  
107 Health and Human Resources Accountability by July 1 each year.

**§9-2-9. Secretary to develop Medicaid monitoring and case management.**

1 [Repealed.]

**§9-2-9a. Agreements between the Secretary and three higher education institutions.**

1 Any contract, agreement or memorandum of understanding between the secretary and  
2 West Virginia University, West Virginia School of Osteopathic Medicine or Marshall University for  
3 services is exempt from the provisions of §5A-3-1 *et seq.*, of this code: *Provided*, That any contract  
4 entered into under the provisions of subdivision five, section six of this article, for the provision of  
5 Medicaid services by a risk-bearing entity is not exempt from the provisions of §5A-3-1 *et seq.*, of  
6 this code.

**§9-2-13. Judicial review of decisions of contested cases.**

1 [Repealed.]

**ARTICLE 5. MISCELLANEOUS PROVISIONS.**

**§9-5-8. Authority to examine witnesses, administer oaths and take affidavits.**

1 [Repealed.]

**§9-5-8a. Authority to subpoena witnesses and documents when investigating the provision  
of medical assistance programs.**

1 [Repealed.]

**§9-5-8b. Authority of Investigations and Fraud Management Division to subpoena  
witnesses and documents.**

1 [Repealed.]

**CHAPTER 16. PUBLIC HEALTH.**

**ARTICLE 1. DEPARTMENT OF HEALTH.**

**§16-1-1. Purpose.**

1           It is the policy of this state to promote the physical and mental health of all of its citizens  
2 and to prevent disease, injury, and disability whenever possible. The state recognizes its  
3 responsibility to assist in the provision of essential public health services and establishes by this  
4 article a state public health system to work in conjunction with local boards of health to provide  
5 basic public health services that encourage healthy people in healthy communities. Until January  
6 1, 2024, the Bureau for Public Health and the Department of Health and Human Resources shall  
7 have those powers and duties respecting the administration of the state public health system as  
8 authorized, granted and imposed by this chapter and elsewhere by law.

9           Beginning January 1, 2024, the Department of Health is comprised of the agencies as  
10 provided in §5F-2-1a of this code, is charged with the administration of this chapter, and shall  
11 have those powers and duties respecting the administration of the state public health system as  
12 authorized, granted and imposed by this chapter and elsewhere by law.

**§16-1-2. Definitions.**

1           As used in this article:

2           (1) "Basic public health services" means those services that are necessary to protect the  
3 health of the public;

4           (2) "Bureau" means the Bureau for Public Health in the department;

5           (3) "Combined local board of health" means one form of organization for a local board of  
6 health and means a board of health serving any two or more counties or any county or counties  
7 and one or more municipalities within or partially within the county or counties;

8           (4) "Commissioner" means the commissioner of the bureau, who may be designated as  
9 the state health officer;

10           (5) "County board of health" means one form of organization for a local board of health  
11 and means a local board of health serving a single county;

12 (6) "Department" means the West Virginia Department of Health and Human Resources:  
13 *Provided*, That beginning January 1, 2024, as used in this chapter, "department" and "Department  
14 of Health and Human Resources" means the Department of Health.

15 (7) "Director" or "director of health" means the state health officer. Administratively within  
16 the department, the bureau through its commissioner carries out the public health functions of the  
17 department, unless otherwise assigned by the secretary;

18 (8) "Essential public health services" means the core public health activities necessary to  
19 promote health and prevent disease, injury, and disability for the citizens of the state. The services  
20 include:

- 21 (A) Monitoring health status to identify community health problems;
- 22 (B) Diagnosing and investigating health problems and health hazards in the community;
- 23 (C) Informing, educating, and empowering people about health issues;
- 24 (D) Mobilizing community partnerships to identify and solve health problems;
- 25 (E) Developing policies and plans that support individual and community health efforts;
- 26 (F) Enforcing laws and rules that protect health and ensure safety;
- 27 (G) Uniting people with needed personal health services and assuring the provision of  
28 health care when it is otherwise not available;
- 29 (H) Promoting a competent public health and personal health care workforce;
- 30 (I) Evaluating the effectiveness, accessibility, and quality of personal and population-  
31 based health services; and
- 32 (J) Researching for new insights and innovative solutions to health problems;

33 (9) "Local board of health", "local board", or "board" means a board of health serving one  
34 or more counties or one or more municipalities or a combination thereof;

35 (10) "Local health department" means the staff of the local board of health;

36 (11) "Local health officer" has the meaning ascribed in §16-2-2 of this code.

37 (12) "Municipal board of health" means one form of organization for a local board of health  
38 and means a board of health serving a single municipality;

39 (13) "Performance-based standards" means generally accepted, objective standards such  
40 as rules or guidelines against which public health performance can be measured;

41 (14) "Potential source of significant contamination" means a facility or activity that stores,  
42 uses, or produces substances or compounds with potential for significant contaminating impact if  
43 released into the source water of a public water supply;

44 (15) "Public groundwater supply source" means a primary source of water supply for a  
45 public water system which is directly drawn from a well, underground stream, underground  
46 reservoir, underground mine, or other primary source of water supplies which is found underneath  
47 the surface of the state;

48 (16) "Public surface water supply source" means a primary source of water supply for a  
49 public water system which is directly drawn from rivers, streams, lakes, ponds, impoundments, or  
50 other primary sources of water supplies which are found on the surface of the state;

51 (17) "Public surface water influenced groundwater supply source" means a source of  
52 water supply for a public water system which is directly drawn from an underground well,  
53 underground river or stream, underground reservoir, or underground mine, and the quantity and  
54 quality of the water in that underground supply source is heavily influenced, directly or indirectly,  
55 by the quantity and quality of surface water in the immediate area;

56 (18) "Public water system" means:

57 (A) Any water supply or system which regularly supplies or offers to supply water for  
58 human consumption through pipes or other constructed conveyances, if serving at least an  
59 average of 25 individuals per day for at least 60 days per year, or which has at least 15 service  
60 connections, and shall include:

61 (i) Any collection, treatment, storage, and distribution facilities under the control of the  
62 owner or operator of the system and used primarily in connection with the system; and

63 (ii) Any collection or pretreatment storage facilities not under such control which are used  
64 primarily in connection with the system;

65 (B) A public water system does not include a system which meets all of the following  
66 conditions:

67 (i) Consists only of distribution and storage facilities and does not have any collection and  
68 treatment facilities;

69 (ii) Obtains all of its water from, but is not owned or operated by, a public water system  
70 which otherwise meets the definition;

71 (iii) Does not sell water to any person; and

72 (iv) Is not a carrier conveying passengers in interstate commerce;

73 (19) "Public water utility" means a public water system which is regulated by the West  
74 Virginia Public Service Commission pursuant to the provisions of §24-1-1 *et seq.* of this code;

75 (20) "Secretary" means the secretary of the Department of Health and Human Resources:  
76 *Provided*, That beginning January 1, 2024, as used in this chapter, "secretary" means the  
77 secretary of the Department of Health;

78 (21) "Service area" means the territorial jurisdiction of a local board of health; and

79 (22) "Zone of critical concern" for a public surface water supply is a corridor along streams  
80 within a watershed that warrant more detailed scrutiny due to its proximity to the surface water  
81 intake and the intake's susceptibility to potential contaminants within that corridor. The zone of  
82 critical concern is determined using a mathematical model that accounts for stream flows,  
83 gradient, and area topography. The length of the zone of critical concern is based on a five-hour  
84 time-of-travel of water in the streams to the water intake, plus an additional one-fourth mile below  
85 the water intake. The width of the zone of critical concern is 1000 feet measured horizontally from  
86 each bank of the principal stream and 500 feet measured horizontally from each bank of the  
87 tributaries draining into the principal stream.

**§16-1-3. Powers and duties of the Secretary.**

1 (a) The secretary may establish a state public health system.

2 (b) As necessary for the effective, efficient, and economical operation of the system, the  
3 secretary may from time to time delegate, assign, transfer, or combine responsibilities or duties  
4 to or among employees of the department.

5 (c) Within the limits of applicable federal law, the secretary may require every applicant  
6 for a license, permit, certificate of registration, or registration under this chapter to place his or her  
7 social security number on the application.

8 (d) The secretary may appoint advisory councils.

9 (e) (1) The Secretary of the Department of Health is the chief executive officer of that  
10 department and beginning January 1, 2024, is charged with the administration of this chapter.  
11 The Governor shall appoint the secretary, by and with the advice and consent of the Senate, for  
12 the term for which the Governor is elected, and the secretary shall serve at the will and pleasure  
13 of the Governor. The Secretary shall be paid an annual salary not to exceed \$175,000. Upon his  
14 or her initial appointment, which may be at any time after the effective date of this act, the  
15 Secretary shall take the oath of office described in this section and commence his or her duties.  
16 If appointed before January 1, 2024, the Secretary shall take the oath of office described in this  
17 section and commence such duties as determined by the Secretary to be necessary to prepare  
18 for the administration of this chapter.

19 (2) Before entering upon the duties of his or her office, the secretary shall take and  
20 subscribe to the oath of office prescribed by section five, article four of the state Constitution.

21 (3) The secretary shall not be a candidate for, or hold, any other public office or public  
22 employment under the federal government or under the government of this state or any of its  
23 political subdivisions, or be a member or officer of any political party committee, or serve as an  
24 election official, or engage in any political activity, other than to vote, in behalf of, or in opposition  
25 to, any candidate, political party or public issue involved in an election. Any violation by the  
26 secretary of the provisions of this section shall automatically vacate his or her appointment as  
27 secretary.

28 (4) In addition to the authority provided in §5F-2-2 of this code, the secretary shall:



29 (A) Coordinate efforts with the Secretary of Human Services and the Secretary of Health  
30 Facilities, including authority to share the expense of administrative services through a  
31 memorandum of understanding established by agreement of the secretaries as required under  
32 §5F-2-1a of this code;

33 (B) Establish a state public health system; and

34 (C) Cooperate with the Office of the Inspector General and take action on its findings;

35 (5) The secretary may:

36 (1) Within the limits of applicable federal law, the secretary may require every applicant  
37 for a license, permit, certificate of registration, or registration under this chapter to place his or her  
38 social security number on the application; and

39 (2) Appoint advisory councils.

40 (f) Any contract, agreement or memorandum of understanding between the secretary and  
41 West Virginia University, West Virginia School of Osteopathic Medicine or Marshall University for  
42 services is exempt from the provisions of §5A-3-1 *et seq.*, of this code.

**§16-1-5. State health officer; Commissioner of the Bureau for Public Health; appointment;  
qualifications; term.**

1 The Commissioner of the Bureau for Public Health may be designated the state health  
2 officer. The commissioner and the state health officer shall be appointed by the secretary. The  
3 commissioner shall be a person holding a doctorate degree in public health administration unless  
4 designated the state health officer. The state health officer shall be licensed under the laws of this  
5 state to practice medicine. The commissioner and the state health officer serve at the will and  
6 pleasure of the secretary and shall not be actively engaged or employed in any other business,  
7 vocation, or employment, serving full-time in the duties of the office as prescribed by this article.

**§16-1-6. Commissioner of the Bureau for Public Health; powers and duties.**

1 (a) The commissioner is the chief executive, administrative and fiscal officer of the Bureau  
2 for Public Health and has the following powers and duties:

3           (1) To supervise and direct the fiscal and administrative matters of the bureau, and in that  
4 regard and in accordance with law, employ, fix the compensation of, and discharge all persons  
5 necessary for the proper execution of the public health laws of this state and the efficient and  
6 proper discharge of the duties imposed upon, and execution of powers vested in the  
7 commissioner by law and as directed by the secretary;

8           (2) To enforce all laws of this state concerning public health.

9           (3) To investigate the cause of disease, especially of epidemics and endemic conditions,  
10 and the means of prevention, suppression, or control of those conditions; the source of sickness  
11 and mortality, the effects of environment, employment, habits, and circumstances of life on the  
12 public health.

13           (4) To inspect and examine food, drink, and drugs offered for sale or public consumption  
14 in the manner the commissioner considers necessary to protect the public health and shall report  
15 all violations of laws and rules relating to the law to the prosecuting attorney of the county in which  
16 the violations occur;

17           (5) To make complaint or cause proceedings to be instituted against any person,  
18 corporation, or other entity for the violation of any public health law before any court or agency,  
19 without being required to give security for costs; the action may be taken without the sanction of  
20 the prosecuting attorney of the county in which the proceedings are instituted or to which the  
21 proceedings relate;

22           (6) To promote the provision of essential public health services to citizens of this state;

23           (7) To monitor the operation and coordination of the local boards of health and local health  
24 officers;

25           (8) To develop and maintain a state plan of operation that sets forth the needs of the state  
26 in the areas of public health; goals and objectives for meeting those needs; methods for achieving  
27 the stated goals and objectives; and needed personnel, funds, and authority for achieving the  
28 goals and objectives;

29           (9) To collect data as may be required to foster knowledge on the citizenry's health status,  
30 the health system, and costs of health care;

31           (10) To delegate to any appointee, assistant, or employee any and all powers and duties  
32 vested in the commissioner, including, but not limited to, the power to execute contracts and  
33 agreements in the name of the bureau: *Provided*, That the commissioner is responsible for the  
34 acts of his or her appointees, assistants, and employees;

35           (11) To transfer any patient or resident between hospitals and facilities and, by agreement  
36 with the state Commissioner of Corrections and Rehabilitation and otherwise in accord with law,  
37 accept a transfer of a resident of a facility under the jurisdiction of the state Commissioner of  
38 Corrections and Rehabilitation;

39           (12) To make periodic reports to the Governor and to the Legislature relative to specific  
40 subject areas of public health, or other matters affecting the public health of the people of the  
41 state;

42           (13) To accept and use for the benefit of the health of the people of this state, any gift or  
43 devise of any property or thing which is lawfully given: *Provided*, That if any gift is for a specific  
44 purpose shall be used as specified. Any profit which may arise from any gift or devise of any  
45 property or thing shall be deposited in a special revenue fund with the State Treasurer and shall  
46 be used only as specified by the donor or donors;

47           (14) To inspect and enforce rules to control the sanitary conditions of and license all  
48 institutions and health facilities as set forth in this chapter, including, but not limited to, schools,  
49 whether public or private, public conveyances, dairies, slaughterhouses, workshops, factories,  
50 labor camps, places of entertainment, hotels, motels, tourist camps, all other places open to the  
51 general public and inviting public patronage or public assembly, or tendering to the public any  
52 item for human consumption and places where trades or industries are conducted;

53           (15) To make inspections, conduct hearings, and to enforce the legislative rules  
54 concerning occupational and industrial health hazards, the sanitary condition of streams, sources

55 of water supply, sewerage facilities, and plumbing systems, and the qualifications of personnel  
56 connected with the supplies, facilities or systems without regard to whether they are publicly or  
57 privately owned; and to make inspections, conduct hearings and enforce the legislative rules  
58 concerning the design of chlorination and filtration facilities and swimming pools;

59 (16) To provide in accordance with this subdivision for a program for the care, treatment,  
60 and rehabilitation of the parents of sudden infant death syndrome victims; for the training and  
61 employment of personnel to provide the requisite rehabilitation of parents of sudden infant death  
62 syndrome victims; for the education of the public concerning sudden infant death syndrome; for  
63 the education of police, employees, and volunteers of all emergency services concerning sudden  
64 infant death syndrome; and for requesting appropriation of funds in both federal and state budgets  
65 to fund the sudden infant death syndrome program;

66 (17) To establish and maintain a state hygienic laboratory as an aid in performing the  
67 duties imposed upon the commissioner, and to employ employees that may be necessary to  
68 properly operate the laboratory. The commissioner may establish branches of the state laboratory  
69 within the state that are necessary in the interest of the public health;

70 (18) To expend, for the purpose of performing the public health duties imposed on the  
71 bureau, or authorized by law, any sums appropriated by the Legislature. The commissioner may  
72 make advance payments to public and nonprofit health services providers when the commissioner  
73 determines it is necessary for the initiation or continuation of public health services. The advance  
74 payments, being in derogation of the principle of payment only after receipt of goods or services,  
75 shall be authorized only after serious consideration by the commissioner of the necessity of the  
76 advance payments and shall be for a period no greater than 90 days in advance of rendition of  
77 service or receipt of goods and continuation of health services; and

78 (19) To exercise all other powers delegated to the commissioner by the secretary or by  
79 this chapter or otherwise in this code, to enforce all health laws, and to pursue all other activities

80 necessary and incident to the authority and area of concern entrusted to the bureau or the  
81 commissioner.

82 (b) The commissioner shall establish within the Bureau for Public Health, a Center for  
83 Local Public Health. The center shall:

84 (1) Enhance the quality and availability of essential public health services throughout the  
85 state provided by local boards of health;

86 (2) Provide technical assistance and consultation to a local board of health agency;

87 (3) Allocate and distribute funding based upon performance based standards;

88 (4) Provide technical assistance to the local public health workforce;

89 (5) Facilitate bi-directional communication;

90 (6) Establish a uniform state-wide computer system for the reporting of public health data;

91 (7) Inventory the services provided by a local boards of health;

92 (8) Support sharing of services between local boards of health;

93 (9) Create a performance-based evaluation system based on standards established by  
94 legislative rule;

95 (10) Provide a quarterly training to ensure consistency in the application of state laws,  
96 legislative rules, and local health department rules; and

97 (11) Enforce compliance with performance standards.

**§16-1-22. Office of the Inspector General.**

1 (a) Beginning January 1, 2024, the Office of the Inspector General is continued within the  
2 Department of Health. The Office of Inspector General shall be headed by the Inspector General  
3 and is comprised of the offices as provided in §5F-2-1a of this code.

4 (b) (1) The Inspector General shall be appointed by the Governor, subject to the advice  
5 and consent of the Senate.

6 (A) The term of the Inspector General is 5 years.

7 (B) At the end of a term, the Inspector General is eligible to be reappointed for one  
8 additional term. The Inspector General shall continue to serve until a successor is appointed.

9 (C) If a vacancy occurs in the office, an interim Inspector General may be appointed as  
10 successor to serve for the remainder of the unexpired term.

11 (2) The Inspector General may be removed by the Governor only for:

12 (A) Misconduct in office;

13 (B) Persistent failure to perform the duties of the Office; or

14 (C) Conduct prejudicial to the proper administration of justice.

15 (c) The Inspector General shall be professionally qualified through experience or  
16 education in at least two of the following areas:

17 (1) Law;

18 (2) Auditing;

19 (3) Government operations;

20 (4) Financial management; or

21 (5) Health policy.

22 (d) The Inspector General shall be paid an annual salary not to exceed \$175,000.

23 (e) Funding for the office shall be as provided in the state budget.

24 (f) The Inspector General:

25 (1) Shall conduct and supervise investigations, perform inspections, evaluations, and  
26 review, and provide quality control for the programs of the Department of Human Services, the  
27 Department of Health and the Department of Health Facilities.

28 (2) Shall investigate fraud, waste, abuse of departmental funds, and behavior in the  
29 Department of Human Services, the Department of Health and the Department of Health Facilities  
30 that threatens public safety or demonstrates negligence, incompetence, or malfeasance;

31 (3) Shall cooperate with and coordinate investigative efforts with the Medicaid Fraud  
32 Control Unit, and where a preliminary investigation establishes a sufficient basis to warrant  
33 referral, shall refer such matters to the Medicaid Fraud Control Unit;

34 (4) Shall cooperate with and coordinate investigative efforts with departmental programs  
35 and other state and federal agencies to ensure a provider is not subject to duplicative audits; and

36 (5) Shall be empowered to consult with the Legislature for policy development;

37 (6) (A) Organize a board of review, consisting of a chairman appointed by the Inspector  
38 General and as many assistants or employees of the department as may be determined by the  
39 Inspector General and as may be required by federal laws and rules respecting assistance, the  
40 board of review to have such powers of a review nature and such additional powers as may be  
41 granted to it by the Inspector General and as may be required by federal laws and rules respecting  
42 assistance.

43 (B) Provide by rules, review and appeal procedures within the office as may be required  
44 by applicable federal laws and rules respecting assistance, and as will provide applicants for, and  
45 recipients of, all classes of assistance an opportunity to be heard by the board of review, a  
46 member thereof, or individuals designated by the board, upon claims involving denial, reduction,  
47 closure, delay, or other action or inaction pertaining to public assistance.

48 (7) (A) May subpoena any person or evidence, administer oaths, take and certify  
49 affidavits, and take depositions and other testimony for the purpose of investigating fraud, waste,  
50 abuse of departmental funds, or behavior in the departments that threatens public safety or  
51 demonstrates negligence, incompetence, or malfeasance.

52 (B) If a person fails to comply with a lawful order or subpoena issued under this subsection,  
53 on petition of the Inspector General or a designated Assistant Inspector General, a court of  
54 competent jurisdiction may compel:

55 (i) Compliance with the order or subpoena; or

56 (ii) Testimony or the production of evidence.

57 (C) Within 30 business days after receiving a complaint or allegation, the Inspector  
58 General shall respond to the individual who filed the complaint or allegation with:

59 (i) A preliminary indication of whether the Office of the Inspector General is able to  
60 investigate the complaint or allegation; and

61 (ii) If the Office of the Inspector General is unable to investigate the complaint or allegation  
62 because of a conflict of interest, the Office of the Inspector General shall refer the complaint or  
63 allegation to another unit of government or law enforcement.

64 (g) Neither the secretary nor any employee of the Department of Human Services,  
65 Department of Health or the Department of Health Facilities may prevent, inhibit, or prohibit the  
66 Inspector General or his or her employees from initiating, carrying out, or completing any  
67 investigation, inspection, evaluation, review, or other activity oversight of public integrity by the  
68 Office of the Inspector General.

69 (h) The Inspector General approves and submits his or her budget.

70 (i) The Inspector General shall supervise all personnel of the Office of the Inspector  
71 General. Qualification, compensation, and personnel practice relating to the employees of the  
72 Office of the Inspector General, shall be governed by the classified service.

**§16-1-22a. Judicial review of decisions of contested cases.**

1 (a) For purposes of this section:

2 (1) "Agency" means the Board of Review or the Bureau for Medical Services, as the case  
3 may be, that has been named as a party to any proceeding on appeal made pursuant to the  
4 provisions of this section.

5 (2) "Board of Review" or "Board" means the Board of Review operating pursuant to the  
6 provisions of §16-1-22 of this code.

7 (3) "Bureau" means the Bureau for Medical Services.

8 (b) The board shall provide a fair, impartial and expeditious grievance and appeal process  
9 to applicants or recipients of assistance as defined in §9-1-1 *et seq.* of this code. The bureau shall



10 provide a fair, impartial and expeditious grievance and appeal process to providers of Medicaid  
11 services.

12 (c) Any party adversely affected or aggrieved by a final decision or order of the agency  
13 may seek judicial review of that decision by filing an appeal to the Intermediate Court of Appeals  
14 as provided in §29A-5-4 *et seq.*, of this code.

15 (d) The process established by this section is the exclusive remedy for judicial review of  
16 final decisions of the Board of Review and the Bureau for Medical Services.

**§16-1-22b. Authority to subpoena witnesses and documents when investigating the  
provision of medical assistance programs.**

1 The Inspector General and every duly appointed hearing examiner shall have the power  
2 to apply, on behalf of any party, to the circuit court of the county in which the hearing is to be held,  
3 or the circuit court in which the subpoena or subpoena duces tecum is to be served, or the judge  
4 of either such court in vacation, for the issuance of a subpoena or subpoena duces tecum to  
5 compel the attendance of witnesses or the production of documents, before any hearing or  
6 administrative tribunal convened to consider suspension or termination of any person or  
7 corporation from providing services under the medical assistance programs. The application for  
8 a subpoena duces tecum shall state with particularity any papers or documents requested and  
9 upon hearing, the applicant or party shall notify the court or judge, as the case may be, of the  
10 necessity therefor in such hearing. The court or judge thereof, prior to issuing the requested  
11 subpoena or subpoena duces tecum, may make any order which justice requires to protect a  
12 party or person from annoyance, embarrassment, oppression or undue burden or expense. The  
13 party who applies for the subpoena or subpoena duces tecum shall pay the sheriff's fees required  
14 for service of these documents.

**§16-1-22c. Authority of Investigations and Fraud Management Division to subpoena  
witnesses and documents.**

1 (a) When the Investigations and Fraud Management Division of the Office of the Inspector  
2 General, which is charged with investigating welfare fraud and intra-agency employee

3 misconduct, has credible information that indicates a person has engaged in an act or activity  
4 related to the Department of Human Services, the Department of Health and the Department of  
5 Health Facilities programs, benefits or intra-agency employee misconduct which is subject to  
6 prosecution, it may conduct an investigation to determine if the act has been committed. To the  
7 extent necessary to the investigation, the Inspector General or an employee of the Office of the  
8 Inspector General may administer oaths or affirmations and issue subpoenas for witnesses and  
9 documents relevant to the investigation, including information concerning the existence,  
10 description, nature, custody, condition and location of any book, record, documents or other  
11 tangible thing and the identity and location of persons having knowledge of relevant facts or any  
12 matter reasonably calculated to lead to the discovery of admissible evidence.

13           When the Investigations and Fraud Management Division has probable cause to believe  
14 that a person has engaged in an act or activity which is subject to prosecution relating to the  
15 Department of Human Services, the Department of Health and the Department of Health Facilities  
16 programs, benefits or intra-agency employee misconduct, the Inspector General or an employee  
17 of the Office of the Inspector General may request search warrants and present and swear or  
18 affirm criminal complaints.

19           (b) If documents necessary to an investigation of the Investigations and Fraud  
20 Management Division appear to be located outside the state, the documents shall be made  
21 available by the person or entity within the jurisdiction of the state having control over such  
22 documents either at a convenient location within the state or, upon payment of necessary  
23 expenses to the division for transportation and inspection, at the place outside the state where  
24 these documents are maintained.

25           (c) Upon failure of a person to comply with a subpoena or a subpoena for the production  
26 of evidence or failure of a person to give testimony without lawful excuse and upon reasonable  
27 notice to all persons affected thereby, the Investigations and Fraud Management Division may

28 apply to the circuit court of the county in which compliance is sought for appropriate orders to  
29 compel obedience with the provisions of this section.

30 (d) The Investigations and Fraud Management Division may not make public the name or  
31 identity of a person whose acts or conduct is investigated pursuant to this section or the facts  
32 disclosed in an investigation except as the same may be used in any legal action or enforcement  
33 proceeding brought pursuant to this code or federal law.

## **ARTICLE 29A. WEST VIRGINIA HOSPITAL FINANCE AUTHORITY ACT.**

### **§16-29A-4. Creation of authority and board; status and members of board.**

1 The West Virginia hospital finance authority is continued. The authority is a body corporate  
2 and a governmental instrumentality of the state. The exercise by the authority of the powers  
3 conferred by this article and the carrying out of its purposes and duties shall be deemed and held  
4 to be, and are determined to be, essential governmental functions and for a public purpose.

5 The authority shall be controlled, managed and operated by the seven-member board  
6 known as the West Virginia Hospital Finance Board, which is continued. The board shall consist  
7 of the secretary and the State Treasurer as members ex officio of the board. The other five  
8 members of the board shall be appointed by the Governor, by and with the advice and consent of  
9 the Senate, and shall serve terms of two, three, four, five and six years, respectively. The  
10 successor of each such appointed member shall be appointed for a term of six years in the same  
11 manner as the original appointments were made, except that any person appointed to fill a  
12 vacancy occurring prior to the expiration of the term for which his or her predecessor was  
13 appointed shall be appointed only for the remainder of such term. No more than three of the  
14 appointed board members shall at any one time belong to the same political party. Appointed  
15 board members may be reappointed to serve additional terms.

16 All members of the board shall be citizens of the state. Each appointed member of the  
17 board, before entering upon his or her duties, shall comply with the requirements of article one,  
18 chapter six of this code and give bond in the sum of \$25,000 in the manner provided in article

19 two, chapter six of this code. The Governor may remove any board member for cause as provided  
20 in article six, chapter six of this code. The secretary and the State Treasurer may each appoint a  
21 deputy to serve as a member of the board in their respective absences. Such deputy shall serve  
22 at his or her pleasure.

23 Four members of the board shall constitute a quorum, and the affirmative vote of four  
24 members shall be necessary for any action taken by vote of the board. No vacancy in the  
25 membership of the board shall impair the rights of a quorum by such vote to exercise all the rights  
26 and perform all the duties of the board and the authority.

27 Annually, the board shall elect one of its appointed members as chairman and another as  
28 vice chairman and shall appoint a secretary-treasurer, who need not be a member of the board.  
29 The person appointed as secretary-treasurer, including a board member if he or she is so  
30 appointed, shall give bond in the sum of \$50,000 in the manner provided in §6-2-1 *et seq.*, of this  
31 code.

32 Members of the board shall not receive compensation for services but shall be entitled to  
33 the necessary expenses, including traveling expenses, incurred in the discharge of their duties.  
34 Any payments for compensation and expenses shall be paid from the funds of the authority, after  
35 appropriations and authorization by the Legislature, and no liability or obligation shall be incurred  
36 by the authority beyond the extent to which moneys are available from funds of the authority.

37 There shall also be a director of the authority appointed by the board.

## **CHAPTER 26. STATE HEALTH FACILITIES.**

### **ARTICLE 1. DEPARTMENT OF HEALTH FACILITIES.**

#### **§26-1-1. Department of Health Facilities.**

1 (a) Beginning January 1, 2024, the Department of Health Facilities is comprised of the  
2 agencies as provided in §5F-2-1a of this code, is charged with the administration of this chapter,  
3 and shall have those powers and duties respecting the administration of the assistance programs  
4 as authorized, granted and imposed by this chapter and elsewhere by law.

5 (b) The department is not subject to the requirements of §5A-3-1 *et seq.* and §5A-10-1 *et*  
6 *seq.* of this code.

7 (c) Employees hired on or after January 1, 2024, are not eligible for civil service as  
8 provided in §29-6-1 *et seq.*, of this code.

9 (d) Beginning January 1, 2024, as used in this chapter, “department” and “Department of  
10 Health and Human Resources” means the Department of Health Facilities.

**§26-1-2. Secretary to be administrative head of department; appointment, qualifications,  
etc.; not to hold other office or engage in political activity.**

1 (a) (1) The Secretary of the Department of Health Facilities is the chief executive officer  
2 of that department and beginning January 1, 2024, is charged with the administration of this  
3 chapter. The Governor shall appoint the secretary, by and with the advice and consent of the  
4 Senate, for the term for which the Governor is elected, and the secretary shall serve at the will  
5 and pleasure of the Governor. The Secretary shall be paid an annual salary not to exceed  
6 \$175,000. Upon his or her initial appointment, which may be at any time after the effective date  
7 of this act, the Secretary shall take the oath of office described in this section and commence his  
8 or her duties. If appointed before January 1, 2024, the Secretary shall take the oath of office  
9 described in this section and commence such duties as determined by the Secretary to be  
10 necessary to prepare for the administration of this chapter.

11 (2) Before entering upon the duties of his or her office, the secretary shall take and  
12 subscribe to the oath of office prescribed by section five, article four of the state Constitution.

13 (3) The secretary shall not be a candidate for, or hold, any other public office or public  
14 employment under the federal government or under the government of this state or any of its  
15 political subdivisions, or be a member or officer of any political party committee, or serve as an  
16 election official, or engage in any political activity, other than to vote, in behalf of, or in opposition  
17 to, any candidate, political party or public issue involved in an election. Any violation by the

18 secretary of the provisions of this section shall automatically vacate his or her appointment as  
19 secretary.

20 (b) Beginning January 1, 2024, as used in this chapter, "secretary" means the secretary  
21 of the Department of Health Facilities.

**§26-1-3. Secretary of Department of Health Facilities; powers and duties.**

1 (a) In addition to the authority provided in §5F-2-2 of this code, the secretary shall:

2 (1) Coordinate efforts with the Secretary of Human Services and the Secretary of Health,  
3 including authority to share the expense of administrative services through a memorandum of  
4 understanding established by agreement of the secretaries as required under §5F-2-1a of this  
5 code;

6 (2) Manage, direct, control, and govern state owned health facilities;

7 (3) Operate state health facilities and adopt rules pertaining to their operation;

8 (4) Protect the rights of clients served by state health facilities;

9 (5) Develop and implement critical performance indicators to be used to hold state  
10 hospitals accountable. The performance system indicators shall be implemented no later than  
11 January 1, 2025; and

12 (6) Cooperate with the Office of the Inspector General and take action on its findings.

13 (b) The Secretary may:

14 (1) Acquire by condemnation or otherwise any interest, right, privilege, land, or  
15 improvement and hold title to the land or improvement, for the use or benefit of the state or a state  
16 hospital or facility, to sell, exchange or otherwise convey any interest, right, privilege, land, or  
17 improvement acquired or held by the state, state hospital, or state facility Any condemnation  
18 proceedings shall be conducted pursuant to §54-1-1 *et seq.* of this code;

19 (2) Receive donations;

20 (3) Accept, allocate, and spend any federal funds that may be made available to the state  
21 by the federal government; and

22 (4) Transfer residents between the facilities. The clinical director may accept transfer of  
23 residents from correctional institutions, subject to the provisions of §28-1-1 *et seq.* of this code.

24 (c) Any contract, agreement or memorandum of understanding between the secretary and  
25 West Virginia University, West Virginia School of Osteopathic Medicine or Marshall University for  
26 services is exempt from the provisions of §5A-3-1 *et seq.*, of this code.

**§26-1-4. Supervision of each facility by administrator and clinical director.**

1 Each facility shall have a chief executive officer denominated an "administrator." The  
2 administrator shall have the fiscal responsibility for the facility and the authority to manage and  
3 administer the financial, business, and personnel affairs of the facility under the direction of the  
4 secretary.

5 Each facility shall have a clinical director who shall have the responsibility for decisions  
6 involving clinical and medical treatment of patients.

**ARTICLE 3. HOME FOR AGED AND INFIRM MEN AND WOMEN.**

**§26-3-1. Establishment; name; management; superintendent.**

1 [Repealed.]

**§26-3-2. Admission of inmates.**

1 [Repealed.]

**§26-3-3. Transfer of inmates of state hospitals.**

1 [Repealed.]

**§26-3-4. Transfer of inmates from the industrial school for boys.**

1 [Repealed.]

**§26-3-5. How expenses to be paid.**

1 [Repealed.]

**ARTICLE 5. JACKIE WITHROW HOSPITAL.**

**§26-5-1. Continuation; management; superintendent; qualifications of superintendent; division of fiscal, administrative and clinical duties; certain persons exempted from qualification requirements.**

1 [Repealed.]

**ARTICLE 5A. TUBERCULOSIS CONTROL.**

**§26-5A-5a. Return of escapees from state tuberculosis institutions.**

1 [Repealed.]

**ARTICLE 8. EMERGENCY HOSPITALS.**

**§26-8-1. Continuation; management; superintendent; qualifications of superintendent; division of fiscal, administrative and clinical duties; certain persons exempted from qualification requirements.**

1 [Repealed.]

**§26-8-2. Patients; expenses; disposition of receipts.**

1 [Repealed.]

**§26-8-3. Admission of deformed, crippled or defective children.**

1 [Repealed.]

**ARTICLE 9. HOPEMONT STATE HOSPITAL.**

**§26-9-1. Establishment and continuation; name and location; management; superintendent; qualifications of superintendent; division of fiscal, administrative and clinical duties; certain persons exempted from qualification requirements.**

1 [Repealed.]

**§26-9-2. Eligibility for admission of patients.**

1 [Repealed.]



**ARTICLE 10. HOSPITALS, HOMES AND SANITARIA FEES.**

**§26-10-1. Authority of commissioner of public institutions to establish; exonerating persons from payment.**

1 [Repealed.]

**ARTICLE 11. STATE EXTENDED CARE AND EMERGENCY FACILITIES.**

**§26-11-1. Management by director of health.**

1 [Repealed.]

**§26-11-2. Supervision of each facility by administrator; qualifications of administrator; clinical director.**

1 [Repealed.]

**§26-11-3. Guidelines for admissions; fees for the maintenance of persons.**

1 [Repealed.]

**§26-11-4. Transfer of residents; rules and regulations for maintenance of patients.**

1 [Repealed.]

**CHAPTER 48. DOMESTIC RELATIONS.**

**ARTICLE 14. REMEDIES FOR THE ENFORCEMENT OF SUPPORT OBLIGATIONS.**

**PART 4. WITHHOLDING FROM INCOME OF AMOUNTS PAYABLE AS SUPPORT.**

**§48-14-401. Support orders to provide for withholding from income.**

1 (a) Every order entered or modified under the provisions of this article that requires the  
2 payment of child support or spousal support must include a provision for automatic withholding  
3 from income of the obligor in order to facilitate income withholding as a means of collecting  
4 support.

5 (b) Every support order heretofore or hereafter entered by a court of competent jurisdiction  
6 is considered to provide for an order of income withholding, notwithstanding the fact that the  
7 support order does not in fact provide for an order of withholding. Income withholding may be

8 instituted under this part for any arrearage without the necessity of additional judicial or legal  
9 action.

10 (c) Every such order as described in subsection (a) of this section shall contain language  
11 authorizing income withholding for both current support and for any arrearages to commence  
12 without further court action as follows:

13 The order shall provide that income withholding shall begin immediately, without regard to  
14 whether there is an arrearage;

15 (A) When a child for whom support is ordered is included or becomes included in a grant  
16 of assistance from the division of human services, its successor the Department of Human  
17 Services beginning January 1, 2024, or a similar agency of a sister state for temporary assistance  
18 for needy families benefits, medical assistance only benefits or foster care benefits and is referred  
19 to the Bureau for Child Support Enforcement; or

20 (B) When the support obligee has applied for services from the Bureau for Child Support  
21 Enforcement created pursuant to §48-18-101 *et seq.*, of this code, or the support enforcement  
22 agency of another state or is otherwise receiving services from the Bureau for Child Support  
23 Enforcement as provided for in this chapter. In any case where one of the parties demonstrates,  
24 and the court finds, that there is good cause not to require immediate income withholding, or in  
25 any case where there is filed with the court a written agreement between the parties which  
26 provides for an alternative arrangement, such order shall not provide for income withholding to  
27 begin immediately, pursuant to §48-14-403 of this code.

## **ARTICLE 18. BUREAU FOR CHILD SUPPORT ENFORCEMENT.**

### **§48-18-101. Continuation of the bureau for child support enforcement.**

1 (a) There is continued in the Department of Health and Human Resources the Bureau for  
2 Child Support Enforcement: *Provided*, That beginning January 1, 2024, for purposes of this article,  
3 the bureau is continued in the Department of Human Services, and the terms “department” and  
4 “Department of Health and Human Resources” means Department of Human Services. The

5 bureau is under the immediate supervision of the commissioner, who is responsible for the  
6 exercise of the duties and powers assigned to the bureau under the provisions of this chapter.  
7 The bureau is designated as the single and separate organizational unit within this state to  
8 administer the state plan for child and spousal support according to 42 U.S.C. §654(3).

9 (b) The department shall cooperate with the Bureau for Child Support Enforcement. At a  
10 minimum, such cooperation shall require that the department:

11 (1) Notify the Bureau for Child Support Enforcement when the department proposes to  
12 terminate or provide public assistance payable to any obligee;

13 (2) Receive support payments made on behalf of a former or current recipient to the extent  
14 permitted by Title IV-D, Part D of the Social Security Act; and

15 (3) Accept the assignment of the right, title or interest in support payments and forward a  
16 copy of the assignment to the Bureau for Child Support Enforcement.

## **CHAPTER 49. CHILD WELFARE.**

### **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

#### **§49-1-106. Location of child welfare services; state and federal cooperation; juvenile services.**

1 (a) The child welfare service of the state shall be located within and administered by the  
2 Bureau for Social Services. The Division of Corrections and Rehabilitation of the Department of  
3 Homeland Security shall administer the secure predispositional juvenile detention and juvenile  
4 correctional facilities of the state. Notwithstanding any other provision of this code to the contrary,  
5 the administrative authority of the Division of Corrections and Rehabilitation over any child or  
6 juvenile in this state extends only to those detained or committed to a secure detention facility or  
7 secure correctional facility operated and maintained by the division by an order of a court of  
8 competent jurisdiction during the period of actual detention or confinement in the facility.

9           (b) The Department of Health and Human Resources is designated as the state entity to  
10 cooperate with the United States Department of Health and Human Services and United States  
11 Department of Justice in extending and improving child welfare services, to comply with federal  
12 regulations, and to receive and expend federal funds for these services: *Provided*, That beginning  
13 January 1, 2024, the Department of Human Services is designated as the state entity to cooperate  
14 with the United States Department of Health and Human Services and United States Department  
15 of Justice in extending and improving child welfare services, to comply with federal regulations,  
16 and to receive and expend federal funds for these services. The Division of Corrections and  
17 Rehabilitation of the Department of Homeland Security is designated as the state entity to  
18 cooperate with the United States Department of Health and Human Services and United States  
19 Department of Justice in operating, maintaining and improving juvenile correction facilities and  
20 centers for the predispositional detention of children, to comply with federal regulations, and to  
21 receive and expend federal funds for these services.

22           (c) The Division of Corrections and Rehabilitation of the Department of Homeland Security  
23 is authorized to operate and maintain centers for juveniles needing detention pending disposition  
24 by a court having juvenile jurisdiction or temporary care following that court action.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

*Steve Harris*  
.....  
Clerk of the House of Delegates

*Joe Linn*  
.....  
Clerk of the Senate

FILED  
2023 MAR -4 P 12:49  
OFFICE OF THE CLERK OF THE SENATE  
SECOND FLOOR OF STATE

Originated in the House of Delegates.

In effect ninety days from passage.

*Greg Jenks*  
.....  
Speaker of the House of Delegates

*Gregory P. ...*  
.....  
President of the Senate

The within is *is approved* this the *4th*  
*March*  
Day of ....., 2023.

*James ...*  
.....  
Governor

PRESENTED TO THE GOVERNOR

FEB 27 2023

Time 4:50pm