

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Enrolled

Committee Substitute

for

Committee Substitute

for

Senate Bill 273

By Senators Trump, Woelfel, Plymale, Rucker,

Barrett, and Deeds

[Passed March 11, 2023; in effect from passage]

1 AN ACT to amend and reenact §49-2-101, §49-2-102, and §49-2-809 of the Code of West
2 Virginia, 1931, as amended; to amend said code by adding thereto a new article,
3 designated §49-10-101, §49-10-102, and §49-10-103; to amend said code by adding
4 thereto a new article, designated §49-11-101, all relating to child welfare; continuing the
5 Bureau for Social Services; providing authority to the bureau; providing how the
6 commissioner shall allocate child protective service workers; requiring reporting; requiring
7 the department to have a redundancy centralized intake system; setting forth requirements
8 for data submission in the event a system exists; providing that the Bureau for Social
9 Services shall develop a merit-based system; providing legislative findings; providing that
10 the merit-based system is not subject to the grievance process; providing that for existing
11 employees there is no grievance procedure for a regional pay disparity for the same job
12 classification and establishing time frames for implementation; and updating the child
13 welfare dashboard.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-101. Authorization and responsibility; Bureau for Social Services.

1 (a) The Bureau for Social Services is continued within the department. The bureau is under
2 the immediate supervision of a commissioner.

3 (b) The Bureau for Social Services is authorized to provide care, support, and protective
4 services for children who are handicapped by dependency, neglect, single parent status, mental or
5 physical disability, or who for other reasons are in need of public service. The bureau is also
6 authorized to accept children for care from their parent or parents, guardian, custodian, or
7 relatives, and to accept the custody of children committed to its care by courts. The bureau or any
8 county office of the department is also authorized to accept temporary custody of children for care
9 from any law-enforcement officer in an emergency situation.

10 (c) The bureau is responsible for the care of the infant child of an unmarried mother who

11 has been committed to the custody of the department while the infant is placed in the same
12 licensed child welfare agency as his or her mother. The bureau provides care for those children in
13 family homes meeting required standards, at board or otherwise, through a licensed child welfare
14 agency, or in a state institution providing care for dependent or neglected children. If practical,
15 when placing any child in the care of a family or a child welfare agency, the bureau shall select a
16 family holding the same religious belief as the parents or relatives of the child, or a child welfare
17 agency conducted under religious auspices of the same belief as the parents or relatives.

§49-2-102. Staffing Allocation for Child Protective Services Workers.

1 Notwithstanding any other provision of this code to the contrary, effective July 1, 2024, the
2 commissioner shall allocate and station child protective services workers by county based on
3 population, referrals, and average caseload. The allocation may not decrease below the bureau's
4 allocation of January 1, 2023. The county population shall be based on the United States Census.
5 The bureau shall report the allocation to the Legislative Oversight Commission on Health and
6 Human Resources Accountability by July 1 each year.

§49-2-809. Reporting procedures.

2 (a) Reports of child abuse and neglect pursuant to this article shall be made immediately to the
3 department of child protective services by a method established by the Bureau for Social Services:
4 *Provided*, That if the method for reporting is web-based, the Bureau for Social Services shall
5 maintain a system for addressing emergency situations that require immediate attention and shall
6 be followed by a written report within 48 hours if so requested by the receiving agency. The Bureau
7 for Social Services shall establish and maintain a 24-hour, seven-day-a-week telephone number
8 to receive calls reporting suspected or known child abuse or neglect.

9 (b) The department shall have a redundancy for its system in the event of an outage to receive
10 reports. This redundancy system shall be transparent, meaning that it shall allow for reporting in
11 the same means as if the outage had not occurred and no time delay shall occur from when the
12 outage occurs to when the redundancy system begins to operate. This redundancy system shall

13 be operational no later than July 1, 2023. If the department contends that it currently has a
14 redundancy system, it shall describe the system, provide an operational date for the system, and
15 explain why calls to centralized intake were unanswered to the Joint Committee on Government
16 and Finance by July 1, 2023.

17 (c) A copy of any report of serious physical abuse, sexual abuse, or assault shall be
18 forwarded by the department to the appropriate law-enforcement agency, the prosecuting
19 attorney, or the coroner or medical examiner's office. All reports under this article are confidential.
20 Reports of known or suspected institutional child abuse or neglect shall be made and received as
21 all other reports made pursuant to this article.

22 (d) The department shall annually submit a report in an electronic format, via the legislative
23 webpage, on July 1 to the Joint Committee on Government and Finance, which shall contain: How
24 many calls were made to centralized intake on a per county basis, how many calls were referred to
25 centralized intake on a per county basis, how many calls were screened out centralized intake on
26 a per county basis, and the time from referral to investigation on a per county basis.

ARTICLE 10. EXEMPTION FROM WEST VIRGINIA DIVISION OF PERSONNEL.

§49-10-101. Legislative findings.

1 The Legislature finds the State of West Virginia is experiencing a child welfare crisis. From
2 2016 to 2020, the child protective service vacancy rate has increased from 9.7 percent to 33
3 percent. This significant lack of staffing has caused a delay in response times to begin
4 investigations. During the same time period, the average hours to start a child protective service
5 investigation after referral went from 119.1 hours in 2016 to now averaging 428.1 hours in 2020.
6 This significant failure to begin the investigation can and has cost lives. The Legislature finds that
7 the Bureau for Social Services is having extreme difficulty recruiting and retaining child protective
8 service workers, youth service workers, adult protective service workers, and other related
9 workers, including necessary casework support personnel and managers at the county level, who
10 assist in the provision of services to vulnerable populations.

§49-10-102. Bureau for Social Service employees exempt from Division of Personnel.

1 (a) The Commissioner of the Bureau for Social Services shall develop a merit-based
2 system policy for the bureau. The procedure shall include classification specifications, and may
3 include compensation adjustments, retention incentives, and hiring approval by the commissioner.
4 The commissioner shall have the full authority to evaluate applicants for employment or promotion
5 or make classification determinations for positions within the merit-based system. The pay rates
6 and employment requirements shall be put into effect on or before January 1, 2024. This merit-
7 based system shall apply to new employees in the above referenced job classifications and for
8 existing employees who elect, in writing to enter the merit-based system. The merit-based system
9 is exempt from the Division of Personnel and all requirements of §29-6-1 *et seq.* of this code and
10 any related rules. There is no requirement for uniformity regarding the pay scale for the same
11 classification between regions of the state to account for market rates and demand for specific
12 positions. The provisions of §6C-2-1 *et seq.* of this code are not applicable.

13 (b) Funding for the pay rates and employment requirements shall be provided from the
14 appropriation to the bureau.

15 (c) The commissioner may conduct periodic wage and compensation analysis of identified
16 market rates for the above positions as determined by the commissioner.

17 (d) The commissioner shall report to Legislative Oversight Commission of Health and
18 Human Resources accountability by January 1, 2024.

§49-10-103. Bureau for Social Service employees no requirement uniformity in pay scale.

1 The Legislature finds that the Bureau for Social Services is having extreme difficulty
2 retaining child protective service workers, youth service workers, adult protective service workers,
3 and other related workers, including necessary casework support personnel and managers at the
4 county level, who assist in the provision of services to vulnerable populations. To retain qualified
5 employees in these crucial positions, there is no requirement for uniformity regarding the pay scale
6 for the same classification between regions of the state to account for market rates and demand

7 for specific positions. The provisions of §6C-2-1 *et seq.* of this code shall be applicable to the
8 employees of the merit-based system as set forth in §49-10-102 of this code, however, there is no
9 right to a grievance for any such regional pay disparity for the same job classification.

ARTICLE 11. SYSTEM REPORTING.

§49-11-101. Systemic reporting transparency; rulemaking.

1 The commissioner shall change the existing child welfare data dashboard by July 1, 2023,
2 to report on system-wide issues, including, but not limited to, system-level performance indicators,
3 intake hotline performance indicators, field investigation performance indicators, open case
4 performance indicators, out-of-home placement performance indicators, and federally mandated
5 performance indicators.