

H. B. 3123

(By Delegates Hatfield, Mahan, Frazier,
Hartman, Marshall, Canterbury, Moore
and Guthrie)

[Introduced February 14, 2011; referred to the
Committee on Health and Human Resources then the
Judiciary.]

A BILL to amend and reenact §30-21-3 of the Code of West Virginia,
1931, as amended; and to amend said code by adding thereto a
new section, designated §49-7-36, all relating to encouraging
the use of telemedicine, telepsychology and video conferencing
in order to make child welfare system more effective and
efficient; defining telepsychology and specifying it is
considered to be practicing psychology for licensing
requirements.

Be it enacted by the Legislature of West Virginia:

That §30-21-3 of the Code of West Virginia, 1931, as amended,
be amended and reenacted; and that said code be amended by adding
thereto a new section, designated §49-7-36, all to read as follows:

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 21. PSYCHOLOGISTS; SCHOOL PSYCHOLOGISTS.

**§30-21-3. License required; firms, associations and corporations
engaging in the practice of psychology.**

(a) (1) No person ~~shall~~ may engage in, offer to engage in, or
hold himself or herself out to the public as being engaged in, the
practice of psychology in this state, nor ~~shall~~ may any person use

1 in connection with any trade, business, profession or occupation,
2 except in those instances specifically excluded from the definition
3 of the practice of psychology by subparagraphs (1), (2), (3), (4)
4 and (6), subdivision (e), section two of this article, the word
5 "psychologist," "psychology," "psychological" or any other title,
6 word or abbreviation which induces or tends to induce the belief
7 that ~~such~~ the person is qualified to engage or is engaged in the
8 practice of psychology, unless and until he or she ~~shall~~ has first
9 ~~obtain~~ obtained a license or temporary permit to engage in the
10 practice of psychology in accordance with the provisions of this
11 article, which license or temporary permit remains unexpired,
12 unsuspended and unrevoked: *Provided, That* ~~such~~ the license or
13 temporary permit ~~shall~~ is not ~~be~~ required for an individual who is
14 the holder of a school psychology certificate or permit issued by
15 the West Virginia Department of Education and who is engaged in the
16 practice of school psychology solely within the scope of employment
17 as a school board employee: *Provided, however, That* no such
18 license or temporary permit ~~shall be~~ is required for a psychologist
19 who is not a resident of this state, who is the holder of a license
20 or certificate to engage in the practice of psychology issued by a
21 state with licensing or certification requirements determined by
22 the board to be at least as great as those provided in this
23 article, who has no regular place of practice in this state and who
24 engages in the practice of psychology in this state for a period of
25 not more than ten days in any calendar year.

26 (2) (A) A person engaged in the practice of telepsychology is

1 considered to be engaged in the practice of psychology within this
 2 state and is subject to the licensure requirements of this article.

3 (B) As used in this section, the term "practice of
 4 telepsychology" means the use of electronic information and
 5 communication technologies to provide psychological services when
 6 distance separates participants and includes one or both of the
 7 following:

8 (i) The diagnosis or evaluation of a patient within this state
 9 by a psychologist located outside this state as a result of the
 10 transmission of individual patient data, specimens or other
 11 material by electronic or other means from within this state to the
 12 psychologist or his or her agent; or

13 (ii) The rendering of treatment or counseling to a patient
 14 within this state by a psychologist located outside this state as
 15 a result of transmission of individual patient data, specimens or
 16 other material by electronic or other means from within this state
 17 to the psychologist or his or her agent.

18 (b) No firm, association or corporation ~~shall~~ may, except
 19 through a licensee or licensees, render any service or engage in
 20 any activity which if rendered or engaged in by any individual
 21 would constitute the practice of psychology.

22 **CHAPTER 49. CHILD WELFARE.**

23 **ARTICLE 7. GENERAL PROVISIONS.**

24 **§49-7-36. Use of telemedicine, telepsychology, and video**
 25 **conferencing in order to make child welfare system**
 26 **more effective and efficient.**

1 The Department of Health and Human Resources, the court
2 system, multidisciplinary teams and any other persons or entities
3 involved in or participating in any child welfare activity
4 contemplated under this chapter shall, to the extent available and
5 practical, use telemedicine, telepsychology, video conferencing and
6 other means of remote video communication to facilitate the
7 effective and efficient functioning of the child welfare system.

NOTE: The purpose of this bill is to encourage the use of telemedicine, telepsychology and video conferencing in order to make the child welfare system more effective and efficient. The bill also defines telepsychology and specifies it is considered to be practicing psychology for licensing requirements.

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