

HOUSE BILL 768

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1998 Regular Session
8lr0254
CF 8lr2058

By: **Delegates Hubbard, Proctor, Mandel, and Crumlin**

Introduced and read first time: February 11, 1998

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Professional Counselors - Licensing**

3 FOR the purpose of establishing requirements for the licensing of clinical professional
4 counselors, clinical marriage and family therapists, and clinical alcohol and
5 drug counselors; requiring the State Board of Examiners of Professional
6 Counselors (Board) to waive certain requirements for licensing of certain
7 individuals under specified circumstances; requiring the Board to issue certain
8 licenses; authorizing certain individuals to render certain diagnoses;
9 establishing requirements for the renewal of certain licenses; establishing
10 certain prohibitions and conditions relating to the surrender of certain licenses;
11 prohibiting certain individuals from engaging in certain actions or making
12 certain representations in the State or using certain titles unless licensed by the
13 Board; establishing certain criminal penalties; defining certain terms;
14 mandating the development of certain regulations between the Board and the
15 Board of Examiners of Psychologists; and generally relating to the licensing of
16 clinical professional counselors, clinical marriage and family therapists, and
17 clinical alcohol and drug counselors in the State.

18 BY repealing and reenacting, with amendments,
19 Article - Health Occupations
20 Section 17-101(c), 17-202, and 17-205(c)
21 Annotated Code of Maryland
22 (1994 Replacement Volume and 1997 Supplement)

23 BY adding to
24 Article - Health Occupations
25 Section 17-3A-01 through 17-3A-11, inclusive, to be under the new subtitle
26 "Subtitle 3A. Licensing"
27 Annotated Code of Maryland
28 (1994 Replacement Volume and 1997 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
30 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Health Occupations

2 17-101.

3 (c) "Appraisal" means:

4 (1) Selecting, administering, scoring, and interpreting instruments
5 designed to assess an individual's aptitudes, attitudes, abilities, achievements,
6 interests, and personal characteristics; and

7 (2) Using nonstandardized methods and techniques for understanding
8 human behavior in relation to coping with, adapting to, or changing life situations.

9 (3) THE INSTRUMENTS REFERENCED IN § 17-101(C)(1) MAY NOT
10 INCLUDE INSTRUMENTS WHICH REQUIRE SPECIALIZED PSYCHOLOGICAL TRAINING
11 FOR ADMINISTRATION AND INTERPRETATION UNLESS THE LICENSED OR CERTIFIED
12 PROFESSIONAL COUNSELOR HAS COMPLETED TRAINING DEEMED BY THE BOARD OF
13 EXAMINERS OF PSYCHOLOGISTS AND THE BOARD OF PROFESSIONAL COUNSELORS
14 TO BE EQUIVALENT TO THAT OF A LICENSED PSYCHOLOGIST WHO IS QUALIFIED TO
15 ADMINISTER THE SAME TYPES OF INSTRUMENTS.

16 17-202.

17 (a) (1) The Board consists of nine members appointed by the Governor with
18 the advice of the Secretary.

19 (2) Of the nine Board members:

20 (i) Five shall be certified as professional counselors, LICENSED
21 UNDER SUBTITLE 3A OF THIS SECTION, including:

22 1. One who is primarily engaged in professional counselor
23 education;

24 2. One who is employed in the private sector;

25 3. One who is employed in the public sector; and

26 4. Two professional counselors at large;

27 (ii) One shall be a certified professional counselor-marriage and
28 family therapist;

29 (iii) One shall be a certified professional counselor-alcohol and
30 drug; and

31 (iv) Two shall be consumer members.

32 (3) The composition of the Board as to the race and sex of its members
33 shall reflect the composition of the population of the State.

1 (4) The Governor shall appoint the professional counselors from a list
2 submitted to the Governor by the Secretary. Any association representing professional
3 counselors may submit recommendations for Board members to the Secretary.

4 (b) The consumer members of the Board:

5 (1) Shall be members of the general public;

6 (2) May not be or ever have been a certified professional counselor or in
7 training to become a certified professional counselor;

8 (3) May not have a household member who is a certified professional
9 counselor or in training to become a certified professional counselor;

10 (4) May not participate or ever have participated in a commercial or
11 professional field related to professional counseling;

12 (5) May not have a household member who participates in a commercial
13 or professional field related to professional counseling;

14 (6) May not have had within 2 years before appointment a substantial
15 financial interest in a person regulated by the Board; and

16 (7) While members of the Board, may not have a substantial financial
17 interest in a person regulated by the Board.

18 (c) The certified professional counselor-marriage and family therapy member
19 of the Board shall:

20 (1) Have a master's or doctoral degree in a marriage and family therapy
21 field; and

22 (2) Meet the educational and supervised experience requirements of §
23 17-302 of this title.

24 (d) The certified professional counselor-alcohol and drug member of the Board
25 shall:

26 (1) Have a master's or doctoral degree in a health and human services
27 counseling field; and

28 (2) Meet the educational and supervised experience requirements of §
29 17-302.3 of this title.

30 (e) A certified associate counselor-alcohol and drug or a certified supervised
31 counselor-alcohol and drug shall be appointed by the Governor to serve as an advisor
32 to the Board.

33 (f) Before taking office, each appointee to the Board shall take the oath
34 required by Article I, § 9 of the State Constitution.

1 (g) (1) The term of a member is 4 years.

2 (2) The terms of the members of the Board are staggered as required by
3 the terms of the members of the Board serving on July 1, 1988.

4 (3) At the end of a term, a member continues to serve until a successor is
5 appointed and qualifies.

6 (4) A member may not serve more than 2 consecutive full terms.

7 (5) To the extent practicable, the Governor shall fill any vacancy on the
8 Board within 60 days of the date of the vacancy.

9 (h) (1) The governor may remove a member for incompetency, misconduct, or
10 neglect of duty.

11 (2) Upon the recommendation of the Secretary, the Governor may
12 remove a member whom the Secretary finds to have been absent from 2 successive
13 Board meetings without adequate reason.

14 17-205.

15 (c) (1) The Board may not take action regarding certified professional
16 counselors-marriage and family therapists without the approval of the Board
17 member who is a certified professional counselor-marriage and family therapist.

18 (2) The Board may not take action regarding alcohol and drug counselors
19 without the approval of the Board member who is a certified professional
20 counselor-alcohol and drug.

21 (3) THE BOARD SHALL INVESTIGATE ALL COMPLAINTS FILED AGAINST
22 LICENSED PROFESSIONAL COUNSELORS IF, AT THE TIME OF THE VIOLATION, THE
23 LICENSED PROFESSIONAL COUNSELOR HAS ALSO REGISTERED AND QUALIFIED FOR
24 PSYCHOLOGY ASSOCIATE STATUS BY VIRTUE OF HOLDING A MASTER'S DEGREE
25 UNDER TITLE 18 (MARYLAND PSYCHOLOGISTS ACT) OF THIS ARTICLE.

26 (4) THE BOARD SHALL NOTIFY THE BOARD OF EXAMINERS OF
27 PSYCHOLOGISTS OF THE COMPLAINT IN WRITING WITHIN 60 DAYS OF RECEIPT OF
28 THE COMPLAINT IF AN INVESTIGATION OF THE SUPERVISING LICENSED
29 PSYCHOLOGISTS IS WARRANTED.

30 (5) THE BOARD SHALL INITIATE DISCIPLINARY ACTION AGAINST ANY
31 LICENSED PROFESSIONAL COUNSELOR WHO ALSO REGISTERS AS A PSYCHOLOGY
32 ASSOCIATE AND VIOLATES ANY PORTION OF THIS STATUTE.

SUBTITLE 3A. LICENSING.

17-3A-01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "LICENSE" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A LICENSE ISSUED BY THE BOARD TO PRACTICE CLINICAL PROFESSIONAL COUNSELING, CLINICAL MARRIAGE AND FAMILY THERAPY, OR CLINICAL ALCOHOL AND DRUG COUNSELING.

(C) "PRACTICE CLINICAL ALCOHOL AND DRUG COUNSELING" MEANS TO ENGAGE PROFESSIONALLY AND FOR COMPENSATION IN ALCOHOL AND DRUG COUNSELING AND APPRAISAL ACTIVITIES WHILE REPRESENTING ONESELF TO BE A LICENSED CLINICAL ALCOHOL AND DRUG COUNSELOR.

(D) "PRACTICE CLINICAL MARRIAGE AND FAMILY THERAPY" MEANS TO ENGAGE PROFESSIONALLY AND FOR COMPENSATION IN MARRIAGE AND FAMILY THERAPY AND APPRAISAL ACTIVITIES WHILE REPRESENTING ONESELF TO BE A LICENSED CLINICAL MARRIAGE AND FAMILY THERAPIST.

(E) "PRACTICE CLINICAL PROFESSIONAL COUNSELING" MEANS TO ENGAGE PROFESSIONALLY AND FOR COMPENSATION IN COUNSELING AND APPRAISAL ACTIVITIES WHILE REPRESENTING ONESELF TO BE A LICENSED CLINICAL PROFESSIONAL COUNSELOR.

17-3A-02.

(A) TO QUALIFY FOR LICENSING, AN APPLICANT SHALL BE AN INDIVIDUAL WHO MEETS THE APPLICABLE REQUIREMENTS OF THIS SECTION.

(B) THE APPLICANT SHALL BE OF GOOD MORAL CHARACTER.

(C) THE APPLICANT SHALL BE AT LEAST 18 YEARS OLD.

(D) FOR A LICENSE TO PRACTICE CLINICAL ALCOHOL AND DRUG COUNSELING, THE APPLICANT SHALL HAVE:

(1) MET THE REQUIREMENTS OF § 17-302.3 OF THIS ARTICLE; AND

(2) PROVIDED DOCUMENTATION TO THE BOARD EVIDENCING THE COMPLETION OF 60 HOURS OF GRADUATE COURSE WORK, INCLUDING TRAINING IN PERSONALITY DEVELOPMENT, DIAGNOSIS AND TREATMENT OF MENTAL AND EMOTIONAL DISORDERS, PSYCHOPATHOLOGY, AND PSYCHOTHERAPY IN ALCOHOL AND DRUG DISORDERS FROM AN ACCREDITED COLLEGE OR UNIVERSITY APPROVED BY THE BOARD.

(E) FOR A LICENSE TO PRACTICE CLINICAL MARRIAGE AND FAMILY THERAPY, THE APPLICANT SHALL HAVE:

1 (1) MET THE REQUIREMENTS OF § 17-302.1 OF THIS ARTICLE; AND

2 (2) PROVIDED DOCUMENTATION TO THE BOARD EVIDENCING THE
3 COMPLETION OF 60 HOURS OF GRADUATE COURSE WORK, INCLUDING TRAINING IN
4 PERSONALITY DEVELOPMENT, DIAGNOSIS AND TREATMENT OF MENTAL AND
5 EMOTIONAL DISORDERS, PSYCHOPATHOLOGY, FAMILY THERAPY, AND
6 PSYCHOTHERAPY FROM AN ACCREDITED COLLEGE OR UNIVERSITY APPROVED BY
7 THE BOARD.

8 (F) FOR A LICENSE TO PRACTICE CLINICAL PROFESSIONAL COUNSELING, THE
9 APPLICANT SHALL HAVE:

10 (1) MET OR PREVIOUSLY MET AT THE TIME OF CERTIFICATION THE
11 REQUIREMENTS OF § 17-302 OF THIS ARTICLE; AND

12 (2) PROVIDED DOCUMENTATION TO THE BOARD EVIDENCING THE
13 COMPLETION OF 60 HOURS OF GRADUATE COURSE WORK IN THE LICENSEE'S
14 RESPECTIVE AREA OF PRACTICE, INCLUDING TRAINING IN PERSONALITY
15 DEVELOPMENT, DIAGNOSIS, AND TREATMENT OF MENTAL AND EMOTIONAL
16 DISORDERS, PSYCHOPATHOLOGY, AND PSYCHOTHERAPY FROM AN ACCREDITED
17 COLLEGE OR UNIVERSITY PROGRAM APPROVED BY THE BOARD.

18 (G) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE APPLICANT SHALL
19 PASS AN EXAMINATION APPROVED BY THE BOARD.

20 (H) THE APPLICANT SHALL PROVIDE DOCUMENTATION EVIDENCING THE
21 COMPLETION OF 2 YEARS OF POSTGRADUATE SUPERVISED CLINICAL EXPERIENCE
22 AS REQUIRED BY THE BOARD.

23 17-3A-03.

24 (A) THE BOARD SHALL WAIVE THE REQUIREMENTS FOR LICENSING OF ANY
25 PERSON UNDER § 17-3A-02 OF THIS SUBTITLE FOR ANY PERSON WHO HAS FILED A
26 LETTER OF INTENT WITH THE BOARD BY OCTOBER 1, 1999, AND WHO BY OCTOBER 1,
27 2001:

28 (1) HAS BEEN CERTIFIED BY THE BOARD AS A CERTIFIED
29 PROFESSIONAL COUNSELOR, CERTIFIED PROFESSIONAL COUNSELOR-MARRIAGE
30 AND FAMILY THERAPIST, OR A CERTIFIED PROFESSIONAL COUNSELOR-ALCOHOL
31 AND DRUG OR IS A PERSON WITH A MASTERS' DEGREE OR DOCTORAL DEGREE WHO IS
32 DESIGNATED BY THE BOARD AS ELIGIBLE FOR A LICENSE AS A LICENSED CLINICAL
33 PROFESSIONAL COUNSELOR, LICENSED CLINICAL MARRIAGE AND FAMILY
34 THERAPIST, OR LICENSED CLINICAL ALCOHOL AND DRUG COUNSELOR; AND

35 (2) HAS PROVIDED DOCUMENTATION TO THE BOARD EVIDENCING THE
36 COMPLETION OF 3 YEARS OF FULL-TIME EXPERIENCE PROVIDING PSYCHOTHERAPY
37 SERVICES FOR COMPENSATION, AS A CERTIFIED PROFESSIONAL COUNSELOR,
38 CERTIFIED PROFESSIONAL COUNSELOR-MARRIAGE AND FAMILY THERAPIST, OR
39 CERTIFIED PROFESSIONAL COUNSELOR-ALCOHOL AND DRUG OR THEIR
40 EQUIVALENT AS DETERMINED BY THE BOARD.

1 (B) A LICENSE ISSUED UNDER THIS SUBTITLE SHALL BE VALID FOR 2 YEARS.

2 17-3A-04.

3 TO APPLY FOR A LICENSE, AN APPLICANT SHALL:

4 (1) SUBMIT AN APPLICATION ON THE FORM THAT THE BOARD
5 REQUIRES; AND

6 (2) PAY TO THE BOARD THE APPLICATION FEE SET BY THE BOARD.

7 17-3A-05.

8 (A) THE BOARD SHALL ISSUE A LICENSE TO ANY APPLICANT WHO MEETS THE
9 REQUIREMENTS OF THIS SUBTITLE.

10 (B) THE BOARD SHALL INCLUDE ON EACH LICENSE THAT THE BOARD ISSUES:

11 (1) THE KIND OF LICENSE;

12 (2) THE FULL NAME OF THE LICENSEE;

13 (3) A SERIAL NUMBER;

14 (4) THE SIGNATURES OF THE CHAIRMAN AND THE SECRETARY OF THE
15 BOARD; AND

16 (5) THE SEAL OF THE BOARD.

17 (C) THE BOARD MAY ISSUE A LICENSE TO REPLACE A LOST, DESTROYED, OR
18 MUTILATED LICENSE IF THE LICENSEE PAYS THE LICENSE REPLACEMENT FEE SET
19 BY THE BOARD.

20 17-3A-06.

21 A LICENSE AUTHORIZES THE LICENSEE TO PRACTICE CLINICAL ALCOHOL AND
22 DRUG COUNSELING, CLINICAL MARRIAGE AND FAMILY THERAPY, OR CLINICAL
23 PROFESSIONAL COUNSELING WHILE THE LICENSE IS EFFECTIVE.

24 17-3A-07.

25 AN INDIVIDUAL MAY RENDER A DIAGNOSIS BASED ON A RECOGNIZED MANUAL
26 OF MENTAL AND EMOTIONAL DISORDER AND USE PSYCHOTHERAPY TO TREAT A
27 DISORDER IF THE INDIVIDUAL HAS RECEIVED A LICENSE FROM THE BOARD.

28 17-3A-08.

29 (A) (1) A LICENSE EXPIRES ON THE DATE SET BY THE BOARD, UNLESS THE
30 LICENSE IS RENEWED FOR AN ADDITIONAL TERM AS PROVIDED IN THIS SECTION.

1 (2) A LICENSE MAY NOT BE RENEWED FOR A TERM LONGER THAN 2
2 YEARS.

3 (B) AT LEAST 1 MONTH BEFORE THE LICENSE EXPIRES, THE BOARD SHALL
4 SEND TO THE LICENSEE, BY FIRST CLASS MAIL TO THE LAST KNOWN ADDRESS OF
5 THE LICENSEE, A RENEWAL NOTICE THAT STATES:

6 (1) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;

7 (2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE
8 RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE
9 THE LICENSE EXPIRES; AND

10 (3) THE AMOUNT OF THE RENEWAL FEE.

11 (C) EACH LICENSEE SHALL NOTIFY THE BOARD OF ANY CHANGE IN THE
12 ADDRESS OF THE LICENSEE.

13 (D) BEFORE THE LICENSE EXPIRES, THE LICENSEE PERIODICALLY MAY
14 RENEW IT FOR AN ADDITIONAL 2-YEAR TERM, IF THE LICENSEE:

15 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

16 (2) PAYS TO THE BOARD THE RENEWAL FEE SET BY THE BOARD;

17 (3) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM
18 THAT THE BOARD REQUIRES; AND

19 (4) SUBMITS SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY
20 CONTINUING EDUCATION REQUIREMENTS SET FORTH UNDER THIS SECTION FOR
21 LICENSE RENEWAL.

22 (E) (1) THE BOARD SHALL RENEW THE LICENSE OF AND ISSUE A RENEWAL
23 CERTIFICATE TO EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS
24 SECTION.

25 (2) THE BOARD SHALL INCLUDE THE TERM OF THE RENEWAL ON EACH
26 RENEWAL CERTIFICATE THAT THE BOARD ISSUES.

27 17-3A-09.

28 (A) (1) THE BOARD SHALL PLACE A LICENSEE ON INACTIVE STATUS, IF THE
29 LICENSEE:

30 (I) SUBMITS TO THE BOARD AN APPLICATION FOR INACTIVE
31 STATUS ON THE FORM REQUIRED BY THE BOARD; AND

32 (II) PAYS THE INACTIVE STATUS FEE SET BY THE BOARD.

33 (2) THE BOARD SHALL ISSUE A LICENSE TO AN INDIVIDUAL WHO IS ON
34 INACTIVE STATUS IF THE INDIVIDUAL COMPLIES WITH THE RENEWAL

1 REQUIREMENTS THAT ARE IN EFFECT WHEN THE INDIVIDUAL REQUESTS THE
2 RENEWAL OF THE LICENSE.

3 (B) THE BOARD, IN ACCORDANCE WITH ITS REGULATIONS, MAY REINSTATE
4 THE LICENSE OF A LICENSE HOLDER WHO:

5 (1) HAS NOT PLACED THE LICENSE ON INACTIVE STATUS; AND

6 (2) HAS FAILED TO RENEW THE LICENSE FOR ANY REASON.

7 17-3A-10.

8 (A) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER OF A LICENSE,
9 A LICENSED CLINICAL ALCOHOL AND DRUG COUNSELOR, A LICENSED CLINICAL
10 MARRIAGE AND FAMILY THERAPIST, OR A LICENSED CLINICAL PROFESSIONAL
11 COUNSELOR MAY NOT SURRENDER THE LICENSE NOR MAY THE LICENSE LAPSE BY
12 OPERATION OF LAW WHILE THE LICENSEE IS UNDER INVESTIGATION OR WHILE
13 CHARGES ARE PENDING AGAINST THE LICENSE HOLDER.

14 (B) THE BOARD MAY SET CONDITIONS ON ITS AGREEMENT WITH THE
15 LICENSED CLINICAL ALCOHOL AND DRUG COUNSELOR, LICENSED CLINICAL
16 MARRIAGE AND FAMILY THERAPIST, OR LICENSED CLINICAL PROFESSIONAL
17 COUNSELOR UNDER INVESTIGATION OR AGAINST WHOM CHARGES ARE PENDING TO
18 ACCEPT SURRENDER OF THE LICENSE.

19 17-3A-11.

20 (A) AN INDIVIDUAL MAY NOT PRACTICE, ATTEMPT TO PRACTICE, OR OFFER
21 TO PRACTICE CLINICAL ALCOHOL AND DRUG COUNSELING, CLINICAL MARRIAGE
22 AND FAMILY THERAPY, OR CLINICAL PROFESSIONAL COUNSELING IN THE STATE
23 UNLESS LICENSED BY THE BOARD.

24 (B) UNLESS AN INDIVIDUAL IS LICENSED TO PRACTICE CLINICAL ALCOHOL
25 AND DRUG COUNSELING, CLINICAL MARRIAGE AND FAMILY THERAPY, OR CLINICAL
26 PROFESSIONAL COUNSELING, AN INDIVIDUAL MAY NOT:

27 (1) REPRESENT TO THE PUBLIC BY TITLE, BY DESCRIPTION OF
28 SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL IS
29 LICENSED BY THE BOARD TO PROVIDE CLINICAL ALCOHOL AND DRUG COUNSELING
30 SERVICES, CLINICAL MARRIAGE AND FAMILY THERAPY SERVICES, OR CLINICAL
31 PROFESSIONAL COUNSELING SERVICES IN THE STATE;

32 (2) USE ANY TITLE, ABBREVIATION, SIGN, CARD, OR OTHER
33 REPRESENTATION THAT THE INDIVIDUAL IS A LICENSED CLINICAL ALCOHOL AND
34 DRUG COUNSELOR, LICENSED CLINICAL MARRIAGE AND FAMILY THERAPIST, OR
35 LICENSED CLINICAL PROFESSIONAL COUNSELOR; OR

36 (3) USE THE TITLE "L.C.A.D.C.", "L.C.M.F.T.", OR "L.C.P.C." OR THE WORDS
37 "LICENSED CLINICAL ALCOHOL AND DRUG COUNSELOR", "LICENSED CLINICAL
38 MARRIAGE AND FAMILY THERAPIST", OR "LICENSED CLINICAL PROFESSIONAL

1 COUNSELOR" WITH THE INTENT TO REPRESENT THAT THE INDIVIDUAL PRACTICES
2 CLINICAL ALCOHOL AND DRUG COUNSELING, CLINICAL MARRIAGE AND FAMILY
3 THERAPY, OR CLINICAL PROFESSIONAL COUNSELING.

4 (C) (1) ANY INDIVIDUAL WHO VIOLATES ANY PROVISION OF THIS SECTION
5 IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
6 EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

7 (2) EACH VIOLATION OF THIS SECTION IS A SEPARATE OFFENSE.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Board of Examiners
9 of Professional Counselors and the Board of Examiners of Psychologists shall develop
10 regulations by October 1, 2000 that articulate the minimum training standards for
11 the administration and interpretation of psychological testing by professional
12 counselors licensed or certified by the Board of Examiners of Professional Counselors.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 1998.