

**Senate Bill No. 411**

(By Senator Stollings)

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[Introduced March 1, 2013; referred to the Committee on Banking  
and Insurance; and then to the Committee on the Judiciary.]

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A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto six new sections, designated §48-14-1101,  
§48-14-1102, §48-14-1103, §48-14-1104, §48-14-1105 and  
§48-14-1106, all relating to establishing a child support  
insurance match program that will assist the Bureau for Child  
Support Enforcement in determining whether a claimant has a  
child support obligation; requiring certain insurance  
companies to notify the bureau of nonrecurring insurance  
settlements; providing exemptions; setting forth additional  
information insurance companies must provide; setting forth  
the bureau's and the insurance companies' respective  
obligations; requiring health insurance companies to  
participate in a data matching program with the bureau to  
assist in determining the availability of sources of health  
care insurance or coverage for beneficiaries of the child

1 support program; setting forth what information is to be  
2 supplied by the insurance companies and providing exceptions;  
3 exempting insurance companies from liability for providing the  
4 requested information; granting the bureau enforcement  
5 responsibilities; establishing monetary penalties; and  
6 authorizing rulemaking.

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

8 That the Code of West Virginia, 1931, as amended, be amended  
9 by adding thereto six new sections, designated §48-14-1101,  
10 §48-14-1102, §48-14-1103, §48-14-1104, §48-14-1105 and §48-14-1106,  
11 all to read as follows:

12 PART XI. CHILD SUPPORT INSURANCE MATCH.

13 **ARTICLE 14. CHILD SUPPORT INSURANCE MATCH PROGRAM.**

14 **§48-14-1101. Applicability; definitions.**

15 (a) This article applies to insurance companies authorized to  
16 issue policies in this state for liability insurance or workers'  
17 compensation coverage. For the purposes of this article an  
18 insurance company authorized to issue policies in this state for  
19 workers' compensation coverage includes employers that have been  
20 approved pursuant to section nine, article two, chapter  
21 twenty-three of this code to self-insure their workers'  
22 compensation risk and to third party administrators that administer  
23 claims for those employers.

24 (b) As used in this article:

1 "Bureau" means the Bureau for Child Support Enforcement within  
2 the West Virginia Department of Health and Human Resources created  
3 by article eighteen, chapter forty-eight of this code.

4 "Claimant" means a person who has filed a claim for personal  
5 injury, personal damages, workers compensation, wrongful or  
6 accidental death, lost wages or disability under a liability  
7 insurance or workers' compensation policy.

8 "Health insurance company" or "insurance company" means any  
9 insurance company or other entity that is authorized to transact  
10 health insurance business and is currently transacting health  
11 insurance business in this state pursuant to any article under  
12 chapter thirty-three of this code, including, but not limited to,  
13 self-insured plans, group health plans as defined in Section 607(1)  
14 of the Employee Retirement Income Security Act of 1974 (29 U.S.C.  
15 §1167(1)), service benefit plans, mutual insurance companies,  
16 managed care organizations, health care corporations, health  
17 maintenance organizations, pharmacy benefit managers, third-party  
18 administrators and any other parties that are, by statute,  
19 contract, or agreement, legally responsible for payment of a claim  
20 for a health care item or service.

21 "Past-due support" or "arrearages" means the total of any  
22 matured, unpaid installments of child support required to be paid  
23 by an order entered or modified by a court of competent  
24 jurisdiction as described in section two hundred four, article one,

1 chapter forty-eight of this code.

2 "Secretary" means the Secretary of the West Virginia  
3 Department of Health and Human Resources.

4 **§48-14-1102. General provisions.**

5 (a) Insurance companies licensed to do business in the State  
6 of West Virginia that are authorized to issue liability insurance  
7 or workers' compensation coverage shall participate in an  
8 information data match program with the bureau.

9 (b) Insurance companies that participate in the federal Office  
10 of Child Support Enforcement's Federal Case Registry Insurance  
11 match program, the Child Support Lien Network operated by the State  
12 of Rhode Island or any other similar program approved by the  
13 secretary by rule meet the reporting requirements of this section.

14 (c) Any insurance company required by subsection (a) of this  
15 section to participate in the information data match program that  
16 does not utilize any of the options set forth in subsection (b) of  
17 this section shall participate in the following manner:

18 (1) The insurance company shall notify the bureau in a manner  
19 specified by the bureau by legislative rule of any settlement for  
20 a nonrecurring payment of insurance proceeds that are not otherwise  
21 exempt from the requirements of this article in an amount equal to  
22 or in excess of \$2,500. Notice shall be provided to the bureau at  
23 least thirty days prior to making the payment or as soon as the  
24 payment is authorized, whichever is sooner.

1           (2) The insurance company shall provide to the bureau all  
2 available identifying information that will assist the bureau in  
3 determining whether the claimant has a child support obligation.  
4 The secretary shall promulgate legislative rules pursuant to  
5 article three, chapter twenty-nine-a of this code, the information  
6 required for identification and matching purposes. This information  
7 shall include, at a minimum, the claimant's name, address, social  
8 security number and date of birth. The identifying information  
9 shall be submitted in a manner and format specified in the  
10 legislative rule.

11           (3) If payment of the claim is in the form of a structured  
12 settlement or annuity, the insurance company is responsible for  
13 reporting to the bureau the information required by this article  
14 prior to placing any funds in the settlement or annuity.

15           (d) The bureau shall notify the insurance company if the  
16 payment is subject to withholding pursuant to article fourteen,  
17 chapter forty-eight of this code, for unpaid child support or  
18 spousal support and provide the insurance company the amount of any  
19 support arrearage or obligation that must be withheld from the  
20 settlement proceeds.

21           (e) Upon notice from the bureau, the insurance company shall  
22 remit to the bureau the funds otherwise payable to the claimant up  
23 to the amount of the past-due support.

24           (f) The income withholding notice for past-due child support

1 has priority over all other liens or levies upon the payment with  
2 the exception of:

3 (1) Legal services and medical services guaranteed pursuant to  
4 such representation provided by a third party in relation to the  
5 claim;

6 (2) Security interests in lost or damaged property covered by  
7 the claim to the extent that such security interest would otherwise  
8 have precedence over the income withholding; and

9 (3) One half of any payments made for lost wages under a  
10 liability or workers compensation policy.

11 (g) If an income withholding notice is not received from the  
12 bureau within thirty days of the insurance company's notification  
13 of intent to disburse funds, the insurance company shall disburse  
14 the payment to the claimant in accordance with the contract of  
15 insurance and is not liable to the claimant or the bureau for any  
16 failure to withhold child support obligations as set forth by this  
17 article.

18 **§48-14-1103. Exemptions.**

19 (a) This article does not apply to insurance payments made for  
20 claims for property damage, surgical or medical bills and expenses  
21 paid on a liability claim; nonliability first-party claims for  
22 health, hospital surgical or other medical insurance; or claims for  
23 life insurance, long-term care, disability insurance, credit  
24 disability income or mortgage disability income.

1           (b) Upon request from an insurance company, the secretary may  
2 grant further exemptions to the requirements of this article upon  
3 a showing of undue hardship, financial burdens or other factors  
4 that the secretary, in his or her discretion, determines to be  
5 appropriate.

6 **§48-14-1104. Medical insurance reporting.**

7           (a) In order to fulfill the state's obligations imposed by  
8 state and federal law, rule or regulation regarding the  
9 establishment and enforcement of medical support for children in  
10 this state, the Legislature finds that it is necessary for certain  
11 health insurance policy information be released to the bureau.

12           (b) Health insurance companies in this state shall participate  
13 in a data matching program with the bureau to assist in determining  
14 the availability of sources of health care insurance or coverage  
15 for beneficiaries of the child support program.

16           (c) The bureau may send to health insurance companies a  
17 request for review of policies to determine whether specifically  
18 designated individuals are covered under any medical or health  
19 insurance policy. This request shall be sent in a manner specified  
20 by legislative rule. The request shall be limited to only those  
21 individuals who have been ordered by a court of competent  
22 jurisdiction to provide health insurance coverage to their children  
23 or dependents. The health insurance company shall provide to the  
24 bureau or a vendor under contract to the bureau, electronic reports

1 of those individuals, if any, who are covered by any health  
2 insurance policy issued by the company. These reports shall  
3 include at a minimum the nature of coverage provided, the policy  
4 holder's social security number, address, date of birth, policy  
5 holder name, policy identification number, group number, effective  
6 dates and any other information requested by the secretary that  
7 will assist in identifying coverage for establishing, modifying and  
8 enforcing medical child support orders administered by the bureau.  
9 The information, if available, shall be provided in a format  
10 suitable for electronic data matches conducted under the direction  
11 of the bureau and in a manner specified by the bureau by  
12 legislative rule.

13 (d) The bureau shall send, at least annually, requests for  
14 policy reviews to health insurance companies. Requests may also be  
15 made on a periodic basis or as prescribed by the secretary by rule.  
16 The health insurer shall respond within thirty working days after  
17 receipt of a written request for enrollment data from the bureau or  
18 its designee.

19 (e) This section does not apply to limited benefit health and  
20 accident insurance, fixed indemnity insurance, long-term care  
21 insurance, Medicare supplement insurance and Medicare Advantage  
22 insurance.

23 (f) The bureau, after obtaining information from a health  
24 insurer, may disclose that health insurance policy information to



1 another party solely for the purpose of, and to the extent  
2 necessary, to establish, modify or enforce a medical support  
3 obligation for a minor child.

4 **§48-14-1105. Liability and penalties.**

5 (a) Notwithstanding any other provision of this code to the  
6 contrary, an insurance company, including any agent of an insurer,  
7 is not liable under any federal or state law, rules or regulations  
8 to the bureau, a claimant or any other interested party for:

9 (1) Disclosing any insurance record of an individual, as  
10 required by this article, to the bureau, the federal Office of  
11 Child Support Enforcement's Federal Case Registry insurance match,  
12 the Child Support Lien Network operated by the State of Rhode  
13 Island or any other data matching program approved by the  
14 secretary;

15 (2) Disclosing health insurance policy information to the  
16 bureau or a vendor under contract with the bureau;

17 (3) Encumbering or surrendering assets held by such insurance  
18 company as required by this section;

19 (4) The sufficiency of payments made based upon information  
20 provided through an intercept matching system, regardless of the  
21 accuracy of the information;

22 (5) Any delay in payment that results from compliance with  
23 this article; or

24 (6) Any other action taken in good faith to comply with this

1 article.

2 (b) The bureau is solely responsible for the enforcement of  
3 the requirements of this article and may file a petition in any  
4 circuit court to seek relief and damages against any insurance  
5 company that fails to participate in the data matching program or  
6 make any required payment. An insurance company that fails or  
7 refuses to provide information as required by this article may have  
8 a civil penalty assessed of \$500 per violation by the bureau. Per  
9 violation means per person not reported.

10 (c) If an insurance company has received notice of a child  
11 support income withholding obligation from the bureau and fails or  
12 refuses to surrender property subject to the income withholding,  
13 the insurance company is liable to the bureau for the amount of  
14 support included in the notice.

15 (d) Information provided by the bureau to an insurance company  
16 under this article may only be used for the purpose of assisting  
17 the bureau in collecting past-due child support and in  
18 establishing, modifying or enforcing a medical support order. Any  
19 individual or company who uses such information for any other  
20 purpose is subject to a penalty of up to \$1,000 per violation to be  
21 assessed by the bureau. Per violation means per person not  
22 reported.

23 (e) A delay in payment of insurance proceeds to a claimant as  
24 a result of an insurance company's compliance with this article is

1 not an unfair or deceptive act or practice defined in section four,  
2 article eleven, chapter thirty-three of this code or to chapter  
3 twenty-three relating to workers' compensation claims handling or  
4 related administrative rules.

5 **§48-14-1106. Rule-making.**

6 The secretary may propose rules in accordance with article  
7 three, chapter twenty-nine-a of this code that are necessary to  
8 effectuate the requirements and purposes of this article.

NOTE: The purpose of this bill is to establish a child support insurance match program that will assist the Bureau for Child Support Enforcement in determining whether a claimant has a child support obligation. The bill provides exemptions. The bill sets forth additional information insurance companies must provide. The bill sets forth the bureau's and the insurance companies' respective obligations. The bill requires health insurance companies to participate in a data matching program with the bureau to assist in determining the availability of sources of health care insurance or coverage for beneficiaries of the child support program. The bill sets forth what information is to be supplied by the insurance companies and provides exceptions. The bill exempts insurance companies from liability for providing the requested information. The bill grants the bureau enforcement responsibilities. The bill establishes monetary penalties. The bill authorizes rule-making.

§48-14-1101, §48-14-1102, §48-14-1103, §48-14-1104, §48-14-1105 and §48-14-1106 are new; therefore, strike-throughs and underscoring have been omitted.