

# Senate Bill No. 623

(By Senators Plymale, Chafin, Cole, Stollings,  
Cookman, Cann and Jenkins)

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[Introduced March 22, 2013;  
referred to the Committee on Education;  
and then to the Committee on Finance.]

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A BILL to amend and reenact §18-20-5 of the Code of West Virginia, 1931, as amended, relating to allowing certain funding for supporting children with high acuity needs to also be used to fund probation officer positions needed to address truancy; and making technical corrections.

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

That §18-20-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

## **ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.**

### **§18-20-5. Powers and duties of state superintendent.**

- 1       (a) The State Superintendent of Schools shall organize,
- 2       promote, administer and be responsible for:

3       (1) Stimulating and assisting county boards of education  
4     in establishing, organizing and maintaining special schools,  
5     classes, regular class programs, home-teaching and  
6     visiting-teacher services.

7       (2) Cooperating with all other public and private  
8     agencies engaged in relieving, caring for, curing, educating  
9     and rehabilitating exceptional children, and in helping  
10    coordinate the services of such agencies.

11      (3) (A) Preparing the necessary rules, policies, formula  
12    for distribution of available appropriated funds, reporting  
13    forms and procedures necessary to define minimum standards  
14    in providing suitable facilities for education of exceptional  
15    children and ensuring the employment, certification and  
16    approval of qualified teachers and therapists subject to  
17    approval by the state ~~Board of Education~~ board: *Provided*,  
18    That no state rule, policy or standard under this article or any  
19    county board rule, policy or standard governing special  
20    education may exceed the requirements of federal law or  
21    regulation.

22 (B) The state superintendent annually shall ~~annually~~  
23 review the rules, policies and standards of the state and  
24 federal law for serving the needs of exceptional children  
25 enrolled in the public schools and shall report to the  
26 Legislative Oversight commission on education  
27 accountability by December 1, or as soon thereafter as  
28 requested by the commission, 2008, and in each year  
29 thereafter, the findings of the review along with an  
30 accounting of the services provided and the costs thereof for  
31 exceptional children enrolled in the public schools of this  
32 state during the latest available school year. An appropriation  
33 shall be made to the Department of Education to be  
34 distributed to county boards to support children with high  
35 acuity needs that exceed the capacity of the county to provide  
36 with funds available and to fund probation officer positions  
37 that are needed to address truancy. Each county board shall  
38 apply to the state superintendent for receipt of this funding in  
39 a manner set forth by the state superintendent that assesses  
40 and takes into account varying acuity levels of the

41 exceptional students and the need for additional probation  
42 officer positions to address truancy. Any remaining funds at  
43 the end of a fiscal year from the appropriation shall be carried  
44 over to the next fiscal year. When possible, federal funds  
45 shall be distributed to county boards for ~~this purpose~~ these  
46 purposes before any of the state appropriation is distributed:  
47 Provided, That if the state board determines that using any  
48 federal funds to fund probation officer positions that are  
49 needed to address truancy would be contrary to federal law,  
50 those federal funds for which the finding is made only may  
51 be used to support children with high acuity needs that  
52 exceed the capacity of the county to provide with funds  
53 available. The state board shall promulgate a rule in  
54 accordance with the provisions of article three-b, chapter  
55 twenty-nine-a of this code that implements the provisions of  
56 this subdivision relating to distributing the funds to the  
57 county boards. The rule at least shall include a definition for  
58 “children with high acuity needs”.

59       (4) Receiving from county boards ~~of education~~ their  
60 applications, annual reports and claims for reimbursement  
61 from such moneys as are appropriated by the Legislature,  
62 auditing such claims and preparing vouchers to reimburse  
63 said counties the amounts reimbursable to them.

64       (5) Assuring that all exceptional children in the state,  
65 including children in mental health facilities, residential  
66 institutions, private schools and correctional facilities as  
67 provided in section thirteen-f, article two of this chapter  
68 receive an education in accordance with state and federal  
69 laws: *Provided*, That the state superintendent also shall ~~also~~  
70 assure that adults in correctional facilities and regional jails  
71 receive an education to the extent funds are provided  
72 therefor.

73       (6) Performing other duties and assuming other  
74 responsibilities in connection with this program as needed.

75       (7) ~~Receive~~ Receiving the county plan for integrated  
76 ~~classroom~~-classrooms submitted by the county boards ~~of~~  
77 ~~education~~ and submit a state plan, approved by the state

78 board, ~~of Education~~ to the Legislative Oversight Commission  
79 on Education Accountability no later than December 1, 1995.

80 (b) Nothing contained in this section ~~shall~~ may be  
81 construed to prevent any county board ~~of education~~ from  
82 establishing and maintaining special schools, classes, regular  
83 class programs, home-teaching or visiting-teacher services  
84 out of funds available from local revenue.

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(NOTE: The purpose of this bill is to allow certain funding for the support of children with high acuity needs to also be used to fund probation officers needed to address truancy.

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