

E N G R O S S E D

COMMITTEE SUBSTITUTE

FOR

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FOR

Senate Bill No. 420

(By Senators Plymale, Kessler (Mr. President), Beach, Cann, Chafin, Cookman, Facemire, Edgell, Kirkendoll, Laird, McCabe, Miller, Palumbo, Prezioso, Snyder, Stollings, Tucker, Williams, Wells and Barnes)

[Originating in the Committee on Finance;
reported February 12, 2014.]

A BILL to amend and reenact §18B-1D-10 of the Code of West Virginia, 1931, as amended, relating to adding the Bureau for Children and Families, WorkForce West Virginia and the West Virginia Supreme Court of Appeals to the existing entities that are to enter into a state data-sharing compact; adding child care and workforce data to the data that is to be

included in the P-20W Longitudinal Data System; revising legislative findings; adding definitions; creating a governing board of the P-20W Longitudinal Data System; setting forth membership of the board; setting forth authority and duties of the board; adding requirements for the Bureau for Children and Families, the State Board of Education, the Higher Education Policy Commission, the Council for Community and Technical College Education and WorkForce West Virginia; requiring the data warehouse to be housed within the West Virginia Network for Educational Telecomputing; and adding components to the state data-sharing compact.

Be it enacted by the Legislature of West Virginia:

That §18B-1D-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1D. HIGHER EDUCATION ACCOUNTABILITY.

§18B-1D-10. State data sharing compact; legislative intent; findings; definitions.

- 1 (a) The intent of the Legislature in enacting this section
- 2 is to direct the commission, council, ~~and~~ State Board of

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3 Education, the Bureau for Children and Families,
4 WorkForce West Virginia and the West Virginia Supreme
5 Court of Appeals to enter into a state compact, consistent
6 with the provisions of section six of this article, on or
7 before ~~July 1, 2009~~ July 1, 2014, to develop and maintain
8 a P-20W Longitudinal ~~education~~ Data System and to share
9 ~~educational~~ child care, education and workforce
10 information.

11 (b) The Legislature makes the following findings:

12 (1) Sound data collection, reporting and analysis are
13 critical to building an education system capable of ensuring
14 that all West Virginia students are adequately prepared for
15 college and the global workforce. Elementary schools,
16 middle schools, secondary schools and higher education
17 institutions can improve instructional and educational
18 decisionmaking using data that are collected and made
19 available to them.

20 (2) State education policymaking benefits from
21 partnerships between state education agencies, the Bureau for

22 Children and Families, WorkForce West Virginia, the West
23 Virginia Supreme Court of Appeals and entities with
24 expertise in child care, education and workforce research. It
25 is beneficial for West Virginia to establish systems and
26 processes that permit qualified researchers to assist with state
27 evaluation and research functions in a manner that is
28 consistent with privacy protection laws.

29 (3) West Virginia is committed to establishing and
30 maintaining a longitudinal child care, student and
31 workforce unit record data system that educators and
32 policymakers can use to analyze and assess student
33 progress beginning with early learning care and education
34 programs and continuing through post-secondary education
35 and into employment. The commission, council, ~~and~~ State
36 Board of Education and WorkForce West Virginia have
37 designed, built and deployed some of the fundamental
38 components of a longitudinal data system and have
39 engaged in extensive efforts to link and use available
40 education data effectively. Now, it is necessary to integrate

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41 and manage the various child care, education and workforce
42 data components in a cooperative manner to establish a
43 data-driven, decision-making environment for this state's
44 child care, education ~~system~~ and workforce systems.

45 (4) Students will achieve improved learning and
46 workforce outcomes because of the P-20W Longitudinal
47 Data System established through the state compact mandated
48 by this section.

49 (5) Examples of research that can be conducted using
50 child care, education and workforce data include:

51 (A) The impact of state and federal education programs;

52 (B) The impact of child care programs;

53 (C) The performance of educator preparation programs;

54 (D) Best practices for classroom instruction, education
55 programs and curriculum; and

56 (E) Gauging success in preparing students for the 21st
57 century workforce.

58 (6) State use and management of child care, education
59 and workforce data shall be in accordance with all legal

60 requirements protecting student privacy and shall protect
61 personal information from intentional or accidental release to
62 unauthorized persons and from intentional or accidental use
63 for unauthorized purposes.

64 (c) Definitions:

65 ~~(1) “Longitudinal Data System” means a student unit~~
66 ~~record data system that links student records beginning with~~
67 ~~early learning programs and continuing through~~
68 ~~post-secondary education, entry into the workforce and~~
69 ~~beyond. The system may consist of separate student unit~~
70 ~~record systems integrated through agreement and data~~
71 ~~transfer mechanisms.~~

72 (1) “Child care data” means data relating to enrollment,
73 attendance, demographics, the quality of child care received
74 and any other nonconfidential data necessary for furthering
75 the state’s child care, education and workforce systems and
76 agreed to in the state compact required by this section.

77 (2) “Confidential information” means data relating to a
78 person’s Social Security number or other identification

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79 number issued by a state or federal agency except for a
80 unique identifier generated as part of the system mandated by
81 this section, email address, religious affiliation, whether the
82 person or a member of their household owns or possesses a
83 firearm, whether the person or their family are or were
84 recipients of financial assistance from a state or federal
85 agency, medical, psychological or behavioral diagnoses,
86 criminal history, criminal history of parents, siblings or any
87 members of the person’s household, IP address, vehicle
88 registration number, driver’s license number, biometric
89 information, handwriting sample, credit card numbers,
90 consumer credit history, credit score, or genetic
91 information.

92 (3) “Governing board” means the governing board of the
93 P20-W Longitudinal Data System.

94 (4) “P-20W Longitudinal Data System” means a child
95 care, student and workforce unit record data system that links
96 child care, student and workforce records beginning with
97 early care and education programs and continuing through

98 post-secondary education, entry into the workforce and
99 beyond. The system may consist of separate unit record
100 systems integrated through agreement and data transfer
101 mechanisms.

102 (5) “Personally identifiable information” means
103 information that can be used on its own or with other
104 information to identify, contact or locate a single person, or
105 to identify an individual within the context of other
106 information disclosed pursuant to this section.

107 ~~(2)~~ (6) “Privacy protection laws” means the federal
108 Family Educational Rights and Privacy Act of 1974 (20 U. S.
109 C. 1232g) and any other state or federal laws relating to the
110 confidentiality and protection of personally identifiable
111 information.

112 ~~(3)~~ (7) “Research organization” means a governmental
113 entity, institution of higher education, public policy
114 organization or other person or entity conducting educational
115 research that meets the following conditions:

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116 (i) Qualified to perform ~~educational~~ child care, education
117 and workforce research and protect the privacy of ~~student~~
118 data;

119 (ii) Seeks to perform research for a noncommercial
120 purpose authorized by privacy protection laws; and

121 (iii) Agrees to perform the research pursuant to a written
122 agreement meeting the requirements of privacy protection
123 laws and best research practices.

124 (8) “Student data” means data relating to student
125 performance, and includes: State and national assessments;
126 course taking and completion; grade point average;
127 remediation; retention; degree, diploma or credential
128 attainment; enrollment; attendance; demographic data; and
129 any other nonconfidential data necessary for furthering the
130 state’s child care, education and workforce systems and
131 agreed to in the state compact required by this section.

132 (9) “Workforce data” means data relating to
133 employment status and includes: Wage information;
134 geographic location of employment; employer information;

135 and any other nonconfidential data necessary for furthering
136 the state's child care, education and workforce systems and
137 agreed to in the state compact required by this section.

138 (d) There is a governing board of the P-20W
139 Longitudinal Data System which shall include the
140 following members:

141 (1) A designee agreed to by the Chancellor for Higher
142 Education and the Chancellor for Community and
143 Technical College Education;

144 (2) The State Superintendent of Schools or designee;

145 (3) A representative of the Office of Data Management
146 and Analysis within the Department of Education to be
147 appointed by the State Superintendent of Schools;

148 (4) The Executive Director of WorkForce West
149 Virginia or designee;

150 (5) The Chief Justice of the West Virginia Supreme
151 Court of Appeals or designee;

152 (6) The Director of the West Virginia Network for
153 Educational Computing or designee; and

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154 (7) The state administrator responsible for the federal
155 Child Care and Development Block Fund.

156 (e) The governing board shall elect a chair from among its
157 members.

158 (f) The governing board may:

159 (1) Propose rules for legislative approval in accordance
160 with article three-a, chapter twenty-nine-a of this code to
161 implement the provisions of this section;

162 (2) Create a working group responsible for the strategic
163 direction of the P-20W Longitudinal Data System; and

164 (3) Create a user forum responsible for carrying out the
165 day-to-day tasks identified by the working group.

166 (g) The governing board shall:

167 (1) Develop an implementation plan to phase in the
168 establishment and operation of the P-20W Longitudinal
169 Data System in accordance with the requirements of this
170 section and the compact entered into pursuant to this
171 section by September 1, 2014;

172 (2) Provide general oversight and direction over the
173 P-20W Longitudinal Data System in accordance with this
174 section and the compact entered into pursuant to this
175 section;

176 (3) Approve the annual budget for the P-20W
177 Longitudinal Data System;

178 (4) Create an inventory of the individual child care,
179 student and workforce data to be maintained in the system
180 and the data required to be reported by state and federal
181 education mandates;

182 (5) Propose rules for legislative approval in accordance
183 with article three-a, chapter twenty-nine-a of this code to
184 comply with privacy protection laws and the governing
185 board's detailed data security and safeguarding plan;

186 (6) Develop a detailed data security and safeguarding
187 plan that includes:

188 (i) Authorized access and authentication for authorized
189 access;

190 (ii) Privacy compliance standards;

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191 (iii) Privacy and security audits;

192 (iv) Breach notification and procedures; and

193 (v) Data retention and disposition policies;

194 (7) Oversee routine and ongoing compliance with privacy
195 protection laws and the governing board's detailed data
196 security and safeguarding plan;

197 (8) Ensure that all data reside within the State of West
198 Virginia including any data stored as backup;

199 (9) Ensure that any contracts entered into on or after the
200 effective date of the amendments to this section during the
201 2014 regular session of the Legislature that govern databases
202 and that are outsourced to private vendors include express
203 provisions that safeguard privacy and security and include
204 penalties for noncompliance;

205 (10) Designate a standard and compliance timeline for
206 electronic transcripts that includes the use of the State Board
207 of Education's unique identifier for all students who have
208 attended public schools in West Virginia to ensure the

209 uniform and efficient transfer of student data between local
210 education agencies and institutions of higher education;

211 (11) Review research requirements and set policies for
212 the approval of data requests from state and local agencies,
213 the West Virginia Legislature and the public;

214 (12) Report the following to the Governor and the Legislative
215 Oversight Commission on Education Accountability by
216 November 15 of each year:

217 (A) An update on the implementation of the P-20W
218 Longitudinal Data System;

219 (B) A list of all data sharing arrangements entered into
220 with research organizations pursuant to this section, and a
221 summary of each data sharing arrangement;

222 (C) A list of currently warehoused data that are
223 determined to be no longer necessary;

224 (D) Any proposed or planned expansion of data
225 maintained in the database; and

226 (E) Any other recommendations made by the governing
227 board; and

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228 (13) Prohibit the collection of confidential information as
229 defined in this section.

230 (h) The Bureau for Children and Families, the State Board
231 of Education, the Higher Education Policy Commission, the
232 Council for Community and Technical College Education and
233 WorkForce West Virginia shall:

234 (1) Make every effort to comply with the data requirements
235 and implementation schedule for the P-20W Longitudinal Data
236 System; and

237 (2) Transfer child care data, student data and workforce data
238 to the P-20W Longitudinal Data System in accordance with the
239 data security and safeguarding plan developed pursuant to this
240 section.

241 ~~(d)~~ (i) The state data-sharing compact entered into by the
242 commission, council, and State Board of Education, Bureau for
243 Children and Families, WorkForce West Virginia and West
244 Virginia Supreme Court of Appeals shall contain the following:

245 (1) A plan to establish and maintain a P-20W
246 Longitudinal Data System that links child care, early

247 learning, elementary, middle and secondary school student
248 unit records with higher education institution student unit
249 records and WorkForce West Virginia records;

250 (2) A plan to establish a data warehouse that:

251 (A) Integrates data from multiple child care, student and
252 workforce unit record systems; and

253 (B) Supports all of the uses and functions of the P-20W
254 Longitudinal Data System; and

255 (C) Is housed within the West Virginia Network for
256 Educational Telecomputing (WVNET);

257 (3) A list of areas for collaborative research and a
258 preliminary plan for conducting that research;

259 (4) A system for entering into data sharing arrangements
260 with each other and with research organizations consistent
261 with subsection ~~(f)~~ (k) of this section; ~~and~~

262 (5) A provision that allows another party to the compact to
263 review any draft report or study generated using that party's data
264 at least ten days before the report or study is released publicly.
265 During that ten-day period, each party shall be given the

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266 opportunity to submit comments regarding the accuracy,
267 conclusions and recommendations of the report or study;

268 (6) A P-20W data dictionary in which all data within the
269 P-20W Longitudinal Data System will be defined. The
270 P-20W data dictionary shall minimally include the data
271 element's definition, agency ownership, contact information
272 for information about the data and the reason for collection
273 of the data; and

274 (7) A determination of which data are available to each
275 party of the compact based on ensuring that data are only
276 shared when necessary to further the state's child care,
277 education and workforce systems.

278 ~~(e)~~ (j) To facilitate implementation of the requirements of
279 this section:

280 (1) The commission, council, ~~and~~ State Board of
281 Education, Bureau for Children and Families and WorkForce
282 West Virginia are authorized to disclose data to the P-20W
283 Longitudinal Data System and to each other consistent with
284 the purposes of this section;

285 (2) With the assistance of the ~~state~~ State Board of
286 Education, the commission, council, state institutions of
287 higher education and WorkForce West Virginia shall collect
288 the State Board of Education's unique identifier for all
289 students who have attended public schools in West Virginia
290 to facilitate better matching of student unit record data; and

291 (3) The commission, council, ~~and~~ State Board of
292 Education, Bureau for Children and Families and WorkForce
293 West Virginia shall collect, use, maintain, disclose and share
294 data in accordance with personal privacy laws and shall
295 develop security measures and procedures that protect
296 personal information from intentional or accidental release to
297 unauthorized persons and from intentional or accidental use
298 for unauthorized purposes.

299 (⊕) (k) A data sharing arrangement entered into with a
300 research organization pursuant to this section shall meet the
301 following criteria:

302 (1) Permitted by and undertaken in accordance with
303 privacy protection laws;

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304 (2) Receives prior approval from the State Superintendent
305 of Schools or designee, the Chancellor for Higher Education
306 or designee, ~~and~~ the Chancellor for Community and
307 Technical College Education or designee, the state
308 administrator responsible for the federal Child Care and
309 Development Block Fund and the Executive Director of
310 WorkForce West Virginia or designee, as appropriate, if data
311 from that entity are being ~~utilized~~ used in the research;

312 (3) Prohibits the personal identification of any person by
313 individuals other than authorized representatives of the
314 research organization who have legitimate interests in the
315 information;

316 (4) Ensures the destruction or return of the data when no
317 longer needed for the authorized purposes under the data
318 sharing arrangement; and

319 (5) Performed pursuant to a written agreement with the
320 research organization that does the following:

321 (A) Specifies the purpose, scope and duration of the data
322 sharing arrangement;

323 (B) Requires the recipient of the data to use personally
324 identifiable information from education records only to meet
325 the purpose or purposes of the data sharing arrangement
326 stated in the written agreement;

327 (C) Describes specific data access, use and security
328 restrictions that the recipient will undertake; and

329 (D) Contains such other terms and provisions as the
330 commission, council, ~~and~~ State Board of Education, Bureau
331 for Children and Families and WorkForce West Virginia, as
332 appropriate, consider necessary or appropriate.

333 ~~(g)~~ (l) As a condition of participating in state-level
334 financial aid programs provided for in chapter eighteen-c of
335 this code, the commission may require nonpublic institutions
336 of higher education to provide data for the P-20W
337 Longitudinal Data System and data warehouse.