

COMMITTEE SUBSTITUTE

FOR

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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.**

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

10 (b) The Legislature makes the following findings:

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

19 (2) State education policymaking benefits from
20 partnerships between state education agencies, the Bureau
21 for Children and Families, WorkForce West Virginia, the
22 West Virginia Supreme Court of Appeals and entities with
23 expertise in child care, education and workforce research.
24 It is beneficial for West Virginia to establish systems and
25 processes that permit qualified researchers to assist with
26 state evaluation and research functions in a manner that is
27 consistent with privacy protection laws.

28 (3) West Virginia is committed to establishing and
29 maintaining a longitudinal child care, student and
30 workforce unit record data system that educators and
31 policymakers can use to analyze and assess student
32 progress beginning with early learning care and education
33 programs and continuing through post-secondary
34 education and into employment. The commission,
35 council, ~~and~~ State Board of Education and WorkForce
36 West Virginia have designed, built and deployed some of

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37 the fundamental components of a longitudinal data system
38 and have engaged in extensive efforts to link and use
39 available education data effectively. Now, it is necessary to
40 integrate and manage the various child care, education and
41 workforce data components in a cooperative manner to
42 establish a data-driven, decision-making environment for this
43 state's child care, education system and workforce systems.

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

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

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

52 (B) The impact of child care programs;

53 (C) The performance of educator preparation
54 programs;

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

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

59 (6) State use and management of child care, education
60 and workforce data shall be in accordance with all legal
61 requirements protecting student privacy and shall protect
62 personal information from intentional or accidental release
63 to unauthorized persons and from intentional or accidental
64 use for unauthorized purposes.

65 (c) Definitions:

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

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

79 (2) “Confidential information” means data relating to
80 a person’s Social Security number or other identification
81 number issued by a state or federal agency except for a
82 unique identifier generated as part of the system
83 mandated by this section, email address, religious
84 affiliation, whether the person or their family are or were
85 recipients of financial assistance from a state or federal
86 agency, medical, psychological or behavioral diagnoses,
87 criminal history, criminal history of parents, siblings or
88 any members of the person’s household, IP address,
89 vehicle registration number, driver’s license number,
90 biometric information, handwriting sample, credit card

91 numbers, consumer credit history, credit score or genetic
92 information.

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

95 (4) “P-20W Longitudinal Data System” means a
96 child care, student and workforce unit record data
97 system that links child care, student and workforce
98 records beginning with early care and education
99 programs and continuing through post-secondary
100 education, entry into the workforce and beyond. The
101 system may consist of separate unit record systems
102 integrated through agreement and data transfer
103 mechanisms.

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

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

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

119 (i) Qualified to perform ~~educational~~ child care,
120 education and workforce research and protect the privacy
121 of ~~student~~ data;

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

124 (iii) Agrees to perform the research pursuant to a
125 written agreement meeting the requirements of privacy
126 protection laws and best research practices.

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

135 (9) “Workforce data” means data relating to
136 employment status and includes: Wage information;
137 geographic location of employment; employer
138 information; and any other nonconfidential data necessary
139 for furthering the state’s child care, education and
140 workforce systems and agreed to in the state compact
141 required by this section.

142 (d) There is a governing board of the P-20W
143 Longitudinal Data System which shall include the
144 following members:

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145 (1) A designee agreed to by the Chancellor for Higher
146 Education and the Chancellor for Community and
147 Technical College Education;

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

149 (3) A representative of the Office of Data Management
150 and Analysis within the Department of Education to be
151 appointed by the State Superintendent of Schools;

152 (4) The Executive Director of WorkForce West
153 Virginia or designee;

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

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

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

160 (e) The governing board shall elect a chair from among
161 its members.

162 (f) The governing board may:

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

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

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

171 (g) The governing board shall:

172 (1) Develop an implementation plan to phase in the
173 establishment and operation of the P-20W Longitudinal
174 Data System in accordance with the requirements of this
175 section and the compact entered into pursuant to this
176 section by September 1, 2014;

177 (2) Provide general oversight and direction over the
178 P-20W Longitudinal Data System in accordance with this
179 section and the compact entered into pursuant to this
180 section;

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181 (3) Approve the annual budget for the P-20W

182 Longitudinal Data System;

183 (4) Create an inventory of the individual child care,

184 student and workforce data to be maintained in the system

185 and the data required to be reported by state and federal

186 education mandates;

187 (5) Propose rules for legislative approval in accordance

188 with article three-a, chapter twenty-nine-a of this code to

189 comply with privacy protection laws and the governing

190 board's detailed data security and safeguarding plan;

191 (6) Develop a detailed data security and safeguarding

192 plan that includes:

193 (i) Authorized access and authentication for authorized

194 access;

195 (ii) Privacy compliance standards;

196 (iii) Privacy and security audits;

197 (iv) Breach notification and procedures; and

198 (v) Data retention and disposition policies;

199 (7) Oversee routine and ongoing compliance with
200 privacy protection laws and the governing board's detailed
201 data security and safeguarding plan;

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

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

210 (10) Designate a standard and compliance timeline for
211 electronic transcripts that includes the use of the State
212 Board of Education's unique identifier for all students who
213 have attended public schools in West Virginia to ensure
214 the uniform and efficient transfer of student data between
215 local education agencies and institutions of higher
216 education;

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

220 (12) Report the following to the Governor and the
221 Legislative Oversight Commission on Education
222 Accountability by November 15 of each year:

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

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

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

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

232 (E) Any other recommendations made by the
233 governing board; and

234 (13) Prohibit the collection of confidential information
235 as defined in this section.

236 (h) The Bureau for Children and Families, the State
237 Board of Education, the Higher Education Policy
238 Commission, the Council for Community and Technical
239 College Education and WorkForce West Virginia shall:

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

243 (2) Transfer child care data, student data and
244 workforce data to the P-20W Longitudinal Data System in
245 accordance with the data security and safeguarding plan
246 developed pursuant to this section.

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

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252 (1) A plan to establish and maintain a P-20W
253 Longitudinal Data System that links child care, early
254 learning, elementary, middle and secondary school student
255 unit records with higher education institution student unit
256 records and WorkForce West Virginia records;

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

258 (A) Integrates data from multiple child care, student
259 and workforce unit record systems; ~~and~~

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

262 (C) Is housed within the West Virginia Network for
263 Educational Telecomputing (WVNET);

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

266 (4) A system for entering into data sharing
267 arrangements with each other and with research
268 organizations consistent with subsection (f) (k) of this
269 section; ~~and~~

270 (5) A provision that allows another party to the
271 compact to review any draft report or study generated
272 using that party's data at least ten days before the report or
273 study is released publicly. During that ten-day period, each
274 party shall be given the opportunity to submit comments
275 regarding the accuracy, conclusions and recommendations
276 of the report or study;

277 (6) A P-20W data dictionary in which all data within
278 the P-20W Longitudinal Data System will be defined. The
279 P-20W data dictionary shall minimally include the data
280 element's definition, agency ownership, contact
281 information for information about the data and the reason
282 for collection of the data; and

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

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287 (e)(j) To facilitate implementation of the requirements
288 of this section:

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

294 (2) With the assistance of the ~~state~~ State Board of
295 Education, the commission, council, state institutions of
296 higher education and WorkForce West Virginia shall
297 collect the State Board of Education's unique identifier for
298 all students who have attended public schools in West
299 Virginia to facilitate better matching of student unit record
300 data; and

301 (3) The commission, council, ~~and~~ State Board of
302 Education, Bureau for Children and Families and
303 WorkForce West Virginia shall collect, use, maintain,
304 disclose and share data in accordance with personal

305 privacy laws and shall develop security measures and
306 procedures that protect personal information from
307 intentional or accidental release to unauthorized persons
308 and from intentional or accidental use for unauthorized
309 purposes.

310 (f) (k) A data sharing arrangement entered into with a
311 research organization pursuant to this section shall meet
312 the following criteria:

313 (1) Permitted by and undertaken in accordance with
314 privacy protection laws;

315 (2) Receives prior approval from the State
316 Superintendent of Schools or designee, the Chancellor for
317 Higher Education or designee, ~~and~~ the Chancellor for
318 Community and Technical College Education or designee,
319 the state administrator responsible for the federal Child Care
320 and Development Block Fund and the Executive Director of
321 WorkForce West Virginia or designee, as appropriate, if data
322 from that entity are being ~~utilized~~ used in the research;

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323 (3) Prohibits the personal identification of any person
324 by individuals other than authorized representatives of the
325 research organization who have legitimate interests in the
326 information;

327 (4) Ensures the destruction or return of the data when
328 no longer needed for the authorized purposes under the
329 data sharing arrangement; and

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

332 (A) Specifies the purpose, scope and duration of the
333 data sharing arrangement;

334 (B) Requires the recipient of the data to use personally
335 identifiable information from education records only to
336 meet the purpose or purposes of the data sharing
337 arrangement stated in the written agreement;

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

340 (D) Contains such other terms and provisions as the
341 commission, council, ~~and~~ State Board of Education,
342 Bureau for Children and Families and WorkForce West
343 Virginia, as appropriate, consider necessary or appropriate.

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