

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2368**

BY DELEGATE PUSHKIN

[Introduced January 14, 2019; Referred  
to the Committee on Education then Finance.]

1 A BILL to amend and reenact §18-20-5 of the Code of West Virginia, 1931, as amended, relating  
2 to removing language requiring specific appropriations in order for the State Board of  
3 Education, State Department of Education, and the State Superintendent of Schools to  
4 provide education to children and adults housed in correctional facilities and regional jails.

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

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

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

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

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

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

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

16 (B) An appropriation shall be made to the Department of Education to be distributed to  
17 county boards to support children with high acuity needs that exceed the capacity of county to  
18 provide with funds available. Each county board shall apply to the State Superintendent for receipt  
19 of this funding in a manner set forth by the state superintendent that assesses and takes into

20 account varying acuity levels of the exceptional students. Any remaining funds at the end of a  
21 fiscal year from the appropriation shall be carried over to the next fiscal year. When possible,  
22 federal funds shall be distributed to county boards for this purpose before any of the state  
23 appropriation is distributed. The state board shall promulgate a rule in accordance with the  
24 provisions of §29A-3B-1 *et seq.* of this code that implements the provisions of this subdivision  
25 relating to distributing the funds to the county boards. The rule at least shall include a definition  
26 for “children with high acuity needs”.

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

30 (5) ~~Assuring~~ Ensuring that all exceptional children in the state, including children in mental  
31 health facilities, residential institutions, private schools, and correctional facilities as provided in  
32 §18-2-13f of this code receive an education in accordance with state and federal laws: *Provided,*  
33 That the state superintendent shall also ~~assure~~ ensure that adults in correctional facilities and  
34 regional jails receive an education. ~~to the extent funds are provided therefor~~

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

37 (7) Receive the county plan for integrated classroom submitted by the county boards of  
38 education and submit a state plan, approved by the State Board of Education, to the Legislative  
39 Oversight Committee on Education Accountability no later than December 1, 1995.

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

NOTE: The purpose of this bill is to remove language requiring specific appropriations in order for the State Board of Education, State Department of Education and the State Superintendent of Schools to provide education to children and adults housed in

correctional facilities and regional jails.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.