WEST virginia legislature

2021 regular session

Introduced

House Bill 3212

By Delegate Thompson

[Introduced March 16, 2021; Referred to the Committee on Workforce Development then Finance]

A BILL to amend the Code of West Virginia, 1931, as amended by adding thereto a new article, designated §9-11-1, §9-11-2, §9-11-3, and §9-11-4, all relating to establishing a Child Care Assistance for Essential Employees Program; reciting legislative findings; defining “essential employee” and detailing categories of essential businesses and operations; establishing program; defining eligibility criteria; specifying the scope of the program benefit; and requiring the Department of Health and Human Resources to conduct a study and submit a report.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 11. CHILD CARE FOR ESSENTIAL EMPLOYEEES.**

§9-11-1. Legislative findings

The Legislature hereby finds and declares that:

(1) This state has many competent and diligent people who are willing to work and provide for themselves and their families, but who are prevented from working to their fullest by the limited availability and expense of child care for the children in their home;

(2) Many people are employed in businesses, industries, and services that are critical to the functioning of this state’s economy and to the health and well-being of its citizens;

(3) These workers, deemed to be “essential employees,” have been called upon to attend to their continued employment in times of emergency and public crisis, without support or acknowledgement of the needs of their children;

(4) Quality, affordable child care makes kids healthier and smarter, and yet caregiving work is grossly undervalued; and

(5) Providing funds to stimulate growth in the provision and availability of child care benefits the economy and quality of life for all West Virginians.

§9-11-2. Essential employees; essential businesses and operations.

For the purposes of this article, an “essential employee” means a person who is employed in any of the following categories of businesses, trades, industries, services, or operations, which are hereby designated as “essential businesses and operations”:

(1) *Healthcare, public health operations, and health insurance companies*. — Healthcare, public health operations, and healthcare insurance companies include without limitation hospitals, clinics, dental offices, pharmacies, public health entities, including those that compile, model, analyze, and communicate public health information, pharmaceutical, pharmacy, medical device and equipment, and biotechnology companies, managed care organizations and related entities and attendant or related services, Medicaid providers, healthcare insurers, organizations collecting blood, platelets, plasma, and other necessary materials (including organizations hosting blood drives, provided that appropriate precautions are taken, including proper social distancing and hygiene measures during any such drive), obstetricians and gynecologists, eye care centers, including those that sell or provide glasses and contact lenses, home healthcare providers, mental health and substance use providers, other healthcare facilities and suppliers and providers of any related and/or ancillary healthcare services, and entities that transport and dispose of medical materials and remains. This category includes manufacturers, technicians, logistics, and warehouse operators and distributors of medical equipment, personal protective equipment, medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting, or sterilization supplies, and tissue and paper towel products. This category does not include fitness and exercise gyms, spas, salons, barber shops, tattoo parlors, and similar facilities;

(2) *Grocery stores and markets*. — Grocery stores, farmers’ markets, farm and produce stands, supermarkets, convenience stores, and other establishments engaged in the retail sale of groceries, canned food, dry goods, frozen foods, fresh fruits and vegetables, pet supplies, fresh meats, fish, and poultry, prepared food, alcoholic and nonalcoholic beverages, any other household consumer products (such as cleaning and personal care products), including their supply chain and administrative support operations. This includes stores that sell groceries, medicine, including over-the-counter medication not requiring a medical prescription, and also those that sell other nongrocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences and businesses;

(3) *Food, beverage, and agriculture*. — Food and beverage manufacturing, production, processing, and cultivation, including farming, livestock, seed and feed stores, fishing, baking, and other production agriculture, including cultivation, marketing, production, and distribution of animals and goods for consumption, and businesses that provide food, shelter, and other necessities of life for animals, including animal shelters, rescues, shelters, kennels, and adoption facilities. Kitchens, restaurants, and other facilities that prepare and serve food and/or drinks for consumption off premises, through such means as take-away, delivery, or drive-through/drive in.

(4) *Essential governmental functions*. — All first responders, emergency management personnel, emergency dispatchers, legislators, judges, court personnel, law-enforcement and corrections personnel, hazardous materials responders, child protection and child welfare personnel, housing and shelter personnel, military, and other governmental employees working for or to support essential businesses and operations, and all state governmental employees deemed essential employees by their respective agency head. Essential government functions include all services provided by the state or any municipality, township, county, political subdivision, board, commission, or agency of government and needed to ensure the continuing operation of the government agencies or to provide for or support the health, safety, and welfare of the public, and including contractors performing such essential government functions;

(5) *Human services organizations and childcare facilities and providers. —* Human services operations includes, without limitation, long-term care facilities, day care centers, day care homes, group day care homes, residential settings and shelters for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness, transitional facilities, home-based settings to provide services to individuals with physical, intellectual, and/or developmental disabilities, seniors, adults, and children, field offices that provide and help determine eligibility for basic needs including food, cash assistance, medical coverage, child care, vocational services, rehabilitation services, development centers, adoption agencies, businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged individuals, individuals with physical, intellectual, and/or developmental disabilities, or otherwise needy individuals, and childcare centers, day care centers, and those engaged in caretaking for children;

(6) *Essential infrastructure*. — Businesses, entities, or workers engaged in food production, distribution, fulfillment centers, storage facilities, preparation, and sale, residential construction, hospital construction, construction of long-term care facilities, public works construction, school construction, essential business construction, and housing construction, business management and maintenance, airport operations, operation, maintenance, and supply of utilities, including water, sewer, and gas, and electricity, including power generation, distribution, and production of raw materials including, without limitation, coal and oil and natural gas, distribution centers, oil and biofuel refining, roads, highways, railroads, and public transportation, cyber and other security operations and services, flood control, solid waste and recycling collection and removal, and internet, video, and telecommunications systems including the provision of global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services, and telecommunications workers;

(7) *Manufacture, distribution, and supply chain for critical products and industries*. — Manufacturing companies, distributors, and supply chain companies producing and supplying essential products and services in and for industries such as pharmaceutical, technology, biotechnology, healthcare, chemicals and sanitization, waste pickup and disposal, agriculture, food and beverage, transportation, energy, iron ore, steel and steel products, aluminum and aluminum products, petroleum, propane, and fuel, mining, construction, national defense, communications, as well as products used by other essential businesses and operations including filters and filtration products and services;

(8) *Transportation, travel-related businesses, and gas stations*. — Travel-related businesses facilitating access to or provision of essential activities or any essential businesses and operations, including without limitation airlines, taxis, transportation network providers and ride-sharing services, vehicle rental services, paratransit, and other private, public, and commercial transportation and logistics providers, travel or transport of agricultural products, foodstuffs, or related items, or other governmental travel needs, and gas stations and automobile dealers and other suppliers, auto repair, farm equipment, construction equipment, and related facilities and related facilities;

(9) *Financial and insurance institutions*. — Banks and banking services including, without limitation, ATM services, currency exchanges, consumer lenders, credit unions, appraisers, title companies, financial markets, trading and futures exchanges, payday lenders, affiliates of financial institutions, professional debt collectors and related creditor service workers, workers engaged in payment clearing and settlement, wholesale funding, and capital markets activities, entities that issue bonds, related financial institutions, institutions selling financial products, insurance companies, underwriters, agents, brokers, and related insurance claims and agency services;

(10) *Hardware and supply stores*. — Hardware and supply stores and businesses that sell construction, electrical, plumbing, and heating materials;

(11) *Critical trades*. — Building and construction tradesmen and tradeswomen, and other trades including, without limitation, plumbers, electricians, exterminators, filtration technicians, cleaning and janitorial staff for commercial and governmental properties, security staff, operating engineers, HVAC engineers and installers, painting, moving, and relocation services, and other service providers who provide services that are necessary to maintain the safety, sanitation, and essential operation of residences, essential activities, and essential businesses and operations;

(12) *Mail, post, shipping, logistics, delivery, and pick-up services*. — Post offices and other businesses that provide shipping and delivery services, and businesses that ship or deliver groceries, food, alcoholic and nonalcoholic beverages, goods, vehicles, or services to end users or through commercial channels;

(13) *Religious entities*. — Religious facilities, entities, and groups and religious gatherings, including weddings and funerals;

(14) *Educational institutions*. — Educational institutions including public and private pre-K-12 schools, colleges, and universities for purposes of facilitating distance learning, performing critical research, or performing essential functions including providing for the delivery or pick-up of food for school-age children;

(15) *Laundry services*. — Laundromats, dry cleaners, industrial laundry services, and laundry service providers;

(16) *Supplies to work from home*. — Businesses that sell, manufacture, or supply products needed for people to work from home, including IT and telecommunications services and products;

(17) *Supplies for Essential Businesses and Operations*. — Businesses that sell, manufacture, or supply other essential businesses and operations with the support of materials necessary to operate, including computers, audio and video electronics, household appliances, IT and telecommunications equipment, cybersecurity software or services, hardware, paint, flat glass, electrical, plumbing, and heating material, sanitary equipment, personal hygiene products, food, food additives, ingredients, and components, medical and orthopedic equipment, optics and photography equipment, diagnostics, food and beverages, chemicals, soaps and detergents, tent and other temporary structure suppliers, and firearm and ammunition suppliers and retailers;

(18) *Home-based care and services*. — Home-based care for adults, seniors, children, and people with developmental disabilities, intellectual disabilities, substance use disorders, or mental illness, including caregivers such as nannies who may travel to the child’s home to provide care, and other in-home services including meal delivery;

(19) *Residential facilities and shelters*. — Residential facilities and shelters for adults, seniors, children, pets, and people with developmental disabilities, intellectual disabilities, substance use disorders, or mental illness;

(20) *Professional services*. — Professional services, such as legal services, accounting services, insurance services, real estate services (including appraisal and title services);

(21) *Media and First Amendment protected speech*. — Newspapers, television, radio, and other media services;

(22) *Hotels and motels*. — Hotels and motels, to the extent used for lodging and delivery or carry-out food delivery; and

(23) *Funeral services*. — Funeral, mortuary, cremation, burial, cemetery, and related services.

§9-11-3. Authorization for program; eligibility; scope of benefit.

(a) There is hereby created a Child Care Assistance for Essential Employees Program within the Department of Health and Human Resources. The purpose of the program is to provide financial assistance to eligible essential workers to cover or defray the costs of providing health care for their children.

(b) Financial assistance under the program shall be available to an individual who meets the following criteria:

(1) The individual is employed for at least 20 hours per week in an essential business or operation as specified by §9-11-2 of this code;

(2) The individual has one or more children or step-children under the age of 16 years residing in his or her household for at least 50 percent of a month; and

(3) The total household income for the individual is less than or equal to 400 percent of the most recent poverty guidelines.

(c) Eligible essential employees shall receive up to $8,000 per child per year in financial assistance to apply toward care for the child while the essential employee is at work in an essential business and operation. The amount of the benefit shall not exceed the direct cost, in fees and taxes, of the child care services actually provided for the benefit of the child. The Department of Health and Human Resources may, in its discretion, provide this benefit as reimbursement for costs as they are incurred and paid by the eligible essential employee or may provide for the assistance to be paid upon direct billing from the child care provider.

§9-11-4. Continued study and report.

The Department of Health and Human Resources shall conduct a study of childcare resources in this state and their availability to working people in all areas of the state. This study shall consider and compare West Virginia’s childcare resources with best practices in use, or recommended for use, across the country. The department shall submit a report of its study to the Legislature’s Joint Committee on Children and Families and Joint Committee on Government and Finance no later than December 31, 2022. This report shall include recommendations to promote the development and availability of quality childcare programs, including methods of funding, and identification of the geographical areas, ethnographic and income groups, and age cohorts with the greatest needs for improvement in the quality and availability of child care.

NOTE: The purpose of this bill is to provide childcare assistance to essential employees who work in businesses, industries, trades, and services critical to our economy.

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