

# **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]

1 A BILL to amend the Code of West Virginia, 1931, as amended by adding thereto a new article,  
 2 designated §9-11-1, §9-11-2, §9-11-3, and §9-11-4, all relating to establishing a Child  
 3 Care Assistance for Essential Employees Program; reciting legislative findings; defining  
 4 “essential employee” and detailing categories of essential businesses and operations;  
 5 establishing program; defining eligibility criteria; specifying the scope of the program  
 6 benefit; and requiring the Department of Health and Human Resources to conduct a study  
 7 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**

1 The Legislature hereby finds and declares that:

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

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

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

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

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

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

1 For the purposes of this article, an “essential employee” means a person who is employed  
 2 in any of the following categories of businesses, trades, industries, services, or operations, which

3 are hereby designated as “essential businesses and operations”:

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

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

29 those that sell other nongrocery products, and products necessary to maintaining the safety,  
30 sanitation, and essential operation of residences and businesses;

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

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

48 (5) Human services organizations and childcare facilities and providers. — Human  
49 services operations includes, without limitation, long-term care facilities, day care centers, day  
50 care homes, group day care homes, residential settings and shelters for adults, seniors, children,  
51 and/or people with developmental disabilities, intellectual disabilities, substance use disorders,  
52 and/or mental illness, transitional facilities, home-based settings to provide services to individuals  
53 with physical, intellectual, and/or developmental disabilities, seniors, adults, and children, field  
54 offices that provide and help determine eligibility for basic needs including food, cash assistance,

55 medical coverage, child care, vocational services, rehabilitation services, development centers,  
56 adoption agencies, businesses that provide food, shelter, and social services, and other  
57 necessities of life for economically disadvantaged individuals, individuals with physical,  
58 intellectual, and/or developmental disabilities, or otherwise needy individuals, and childcare  
59 centers, day care centers, and those engaged in caretaking for children;

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

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

80 (8) Transportation, travel-related businesses, and gas stations. — Travel-related

81 businesses facilitating access to or provision of essential activities or any essential businesses  
82 and operations, including without limitation airlines, taxis, transportation network providers and  
83 ride-sharing services, vehicle rental services, paratransit, and other private, public, and  
84 commercial transportation and logistics providers, travel or transport of agricultural products,  
85 foodstuffs, or related items, or other governmental travel needs, and gas stations and automobile  
86 dealers and other suppliers, auto repair, farm equipment, construction equipment, and related  
87 facilities and related facilities;

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

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

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

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

107 or through commercial channels;

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

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

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

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

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

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

131 (19) Residential facilities and shelters. — Residential facilities and shelters for adults,  
132 seniors, children, pets, and people with developmental disabilities, intellectual disabilities,

133 substance use disorders, or mental illness;

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

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

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

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

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

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

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

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

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

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

13 (c) Eligible essential employees shall receive up to \$8,000 per child per year in financial  
14 assistance to apply toward care for the child while the essential employee is at work in an essential  
15 business and operation. The amount of the benefit shall not exceed the direct cost, in fees and  
16 taxes, of the child care services actually provided for the benefit of the child. The Department of



17 Health and Human Resources may, in its discretion, provide this benefit as reimbursement for  
18 costs as they are incurred and paid by the eligible essential employee or may provide for the  
19 assistance to be paid upon direct billing from the child care provider.

**§9-11-4. Continued study and report.**

1 The Department of Health and Human Resources shall conduct a study of childcare  
2 resources in this state and their availability to working people in all areas of the state. This study  
3 shall consider and compare West Virginia's childcare resources with best practices in use, or  
4 recommended for use, across the country. The department shall submit a report of its study to  
5 the Legislature's Joint Committee on Children and Families and Joint Committee on Government  
6 and Finance no later than December 31, 2022. This report shall include recommendations to  
7 promote the development and availability of quality childcare programs, including methods of  
8 funding, and identification of the geographical areas, ethnographic and income groups, and age  
9 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.