

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 420**

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

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9 [Originating in the Committee on Education;
10 reported January 29, 2014.]

**FISCAL
NOTE**

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12
13 A BILL to amend and reenact §18B-1D-10 of the Code of West
14 Virginia, 1931, as amended, relating to adding the Bureau for
15 Children and Families, WorkForce West Virginia and the West
16 Virginia Supreme Court of Appeals to the existing entities
17 that are to enter into a state data-sharing compact; adding
18 child care and workforce data to the data that is to be
19 included in the P-20W Longitudinal Data System; revising
20 legislative findings; adding definitions; creating a governing
21 board of the P-20W Longitudinal Data System; setting forth
22 membership of the board; setting forth authority and duties of
23 the board; adding requirements for the Bureau for Children and
24 Families, the State Board of Education, the Higher Education

1 Policy Commission, the Council for Community and Technical
2 College Education and WorkForce West Virginia; requiring the
3 data warehouse to be housed within the West Virginia Network
4 for Educational Telecomputing; and adding components to the
5 state data-sharing compact.

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

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

9 **ARTICLE 1D. HIGHER EDUCATION ACCOUNTABILITY.**

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

12 (a) The intent of the Legislature in enacting this section is
13 to direct the commission, council, ~~and~~ State Board of Education,
14 the Bureau for Children and Families, Workforce West Virginia, and
15 the West Virginia Supreme Court of Appeals to enter into a state
16 compact, consistent with the provisions of section six of this
17 article, on or before ~~July 1, 2009~~ July 1, 2014, to develop and
18 maintain a P-20W Longitudinal ~~education~~ Data System and to share
19 ~~educational~~ child care, education and workforce information.

20 (b) The Legislature makes the following findings:

21 (1) Sound data collection, reporting and analysis are critical
22 to building an education system capable of ensuring that all West
23 Virginia students are adequately prepared for college and the
24 global workforce. Elementary schools, middle schools, secondary

1 schools and higher education institutions can improve instructional
2 and educational decision-making using data that are collected and
3 made available to them.

4 (2) State education policymaking benefits from partnerships
5 between state education agencies, the Bureau for Children and
6 Families, Workforce West Virginia, the West Virginia Supreme Court
7 of Appeals and entities with expertise in child care, education and
8 workforce research. It is beneficial for West Virginia to
9 establish systems and processes that permit qualified researchers
10 to assist with state evaluation and research functions in a manner
11 that is consistent with privacy protection laws.

12 (3) West Virginia is committed to establishing and maintaining
13 a longitudinal child care, student and workforce unit record data
14 system that educators and policymakers can use to analyze and
15 assess student progress beginning with early ~~learning~~ care and
16 education programs and continuing through post-secondary education
17 and into employment. The commission, council, ~~and~~ State Board of
18 Education and Workforce West Virginia have designed, built and
19 deployed some of the fundamental components of a longitudinal data
20 system and have engaged in extensive efforts to link and use
21 available education data effectively. Now, it is necessary to
22 integrate and manage the various child care, education and
23 workforce data components in a cooperative manner to establish a
24 data-driven, decision-making environment for this state's child

1 care, education system and workforce systems.

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

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

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

8 (B) The impact of child care programs;

9 (C) The performance of educator preparation programs;

10 (D) Best practices for classroom instruction, education
11 programs, curriculum; and

12 (E) Gauging success in preparing students for 21st century
13 workforce.

14 (6) State use and management of child care, education and
15 workforce data shall be in accordance with all legal requirements
16 protecting student privacy and shall protect personal information
17 from intentional or accidental release to unauthorized persons and
18 from intentional or accidental use for unauthorized purposes.

19 (c) Definitions:

20 (1) "Child care data" means data relating to enrollment;
21 attendance; demographics; the quality of child care received; and
22 any other non-confidential data necessary for furthering the
23 state's child care, education and workforce systems and agreed to
24 in the state compact required by this section.

1 (2) "Confidential information" means data relating to a
2 person's social security number or other identification number
3 issued by a state or federal agency except for a unique identifier
4 generated as part of the system mandated by this section, email
5 address, religious affiliation, whether the person or their family
6 are or were recipients of financial assistance from a state or
7 federal agency, medical psychological or behavioral diagnoses,
8 criminal history, criminal history of parents siblings or any
9 members of the person's household, IP address, vehicle registration
10 number, driver's license number, biometric information, handwriting
11 sample, credit card numbers, consumer credit history or credit
12 score, or genetic information.

13 ~~(1) "Longitudinal Data System" means a student unit record~~
14 ~~data system that links student records beginning with early~~
15 ~~learning programs and continuing through post-secondary education,~~
16 ~~entry into the workforce and beyond. The system may consist of~~
17 ~~separate student unit record systems integrated through agreement~~
18 ~~and data transfer mechanisms.~~

19 (3) "Governing board" means the governing board of the P20-W
20 Longitudinal Data System.

21 (4) "P-20W Longitudinal Data System" means a child care,
22 student and workforce unit record data system that links child
23 care, student and workforce records beginning with early care and
24 education programs and continuing through post-secondary education,

1 entry into the workforce and beyond. The system may consist of
2 separate unit record systems integrated through agreement and data
3 transfer mechanisms.

4 (5) "Personally identifiable information" means information
5 that can be used on its own or with other information to identify,
6 contact, or locate a single person, or to identify an individual
7 within the context of other information disclosed pursuant to this
8 section.

9 ~~(2)~~ (6) "Privacy protection laws" means the federal Family
10 Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) and
11 any other state or federal laws relating to the confidentiality and
12 protection of personally identifiable information.

13 ~~(3)~~ (7) "Research organization" means a governmental entity,
14 institution of higher education, public policy organization or
15 other person or entity conducting educational research that meets
16 the following conditions:

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

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

21 (iii) Agrees to perform the research pursuant to a written
22 agreement meeting the requirements of privacy protection laws and
23 best research practices.

24 (8) "Student data" means data relating to student performance,

1 and includes state and national assessments; course-taking and
2 completion; grade point average; remediation; retention; degree,
3 diploma or credential attainment; enrollment; attendance;
4 demographic data; and any other non-confidential data necessary for
5 furthering the state's child care, education and workforce systems
6 and agreed to in the state compact required by this section.

7 (9) "Workforce data" means data relating to employment status;
8 wage information; geographic location of employment; employer
9 information; and any other non-confidential data necessary for
10 furthering the state's child care, education and workforce systems
11 and agreed to in the state compact required by this section.

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

14 (1) A designee agreed to by the Chancellor for Higher
15 Education and the Chancellor for Community and Technical College
16 Education;

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

18 (3) A representative of the Office of Data Management and
19 Analysis within the Department of Education to be appointed by the
20 State Superintendent of Schools;

21 (4) The Executive Director of Workforce West Virginia or
22 designee;

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

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

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

5 (e) The governing board shall elect a chair from among its
6 members.

7 (f) The governing board may:

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

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

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

15 (g) The governing board shall:

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

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

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

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

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

8 (6) Develop a detailed data security and safeguarding plan
9 that includes:

10 (i) Authorized access and authentication for authorized
11 access;

12 (ii) Privacy compliance standards;

13 (iii) Privacy and security audits;

14 (iv) Breach notification and procedures;

15 (v) Data retention and disposition policies;

16 (7) Oversee routine and ongoing compliance with privacy
17 protection laws and the governing board's detailed data security
18 and safeguarding plan;

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

21 (9) Ensure that any contracts entered into on or after the
22 effective date of the amendments to this section during the 2014
23 regular session of the Legislature that govern databases and that
24 are outsourced to private vendors include express provisions that

1 safeguard privacy and security and include penalties for
2 noncompliance;

3 (10) Designate a standard and compliance timeline for
4 electronic transcripts that includes the use of the State Board of
5 Education's unique identifier for all students who have attended
6 public schools in West Virginia to ensure the uniform and efficient
7 transfer of student data between local education agencies and
8 institutions of higher education;

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

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

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

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

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

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

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

1 (13) Prohibit the collection of confidential information as
2 defined in this section.

3 (h) The Bureau for Children and Families, the State Board of
4 Education, the Higher Education Policy Commission, the Council for
5 Community and Technical College Education and Workforce West
6 Virginia shall:

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

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

12 ~~(d)~~ (i) The state data-sharing compact entered into by the
13 commission, council, and State Board of Education, Bureau for
14 Children and Families, Workforce West Virginia and West Virginia
15 Supreme Court of Appeals shall contain the following:

16 (1) A plan to establish and maintain a P-20W Longitudinal Data
17 System that links child care, early learning, elementary, middle
18 and secondary school student unit records with higher education
19 institution student unit records and Workforce West Virginia
20 records;

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

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

24 (B) Supports all of the uses and functions of the P-20W

1 Longitudinal Data System; and

2 (C) Is housed within the West Virginia Network for Educational
3 Telecomputing (WVNET);

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

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

9 (5) A provision that allows another party to the compact to
10 review any draft report or study generated using that party's data
11 at least ten days before the report or study is released publicly.
12 During that ten day period, each party shall be given the
13 opportunity to submit comments regarding the accuracy, conclusions
14 and recommendations of the report or study;

15 (6) A P-20W data dictionary in which all data within the P-20W
16 Longitudinal Data System will be defined. The P-20W data
17 dictionary shall minimally include the data element's definition,
18 agency ownership, contact information for information about the
19 data and the reason for collection of the data; and

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

24 ~~(e)~~ (j) To facilitate implementation of the requirements of

1 this section:

2 (1) The commission, council, ~~and~~ State Board of Education,
3 Bureau for Children and Families and Workforce West Virginia are
4 authorized to disclose data to the P-20W Longitudinal Data System
5 and to each other consistent with the purposes of this section;

6 (2) With the assistance of the state Board of Education, the
7 commission, council, state institutions of higher education and
8 Workforce West Virginia shall collect the State Board of
9 Education's unique identifier for all students who have attended
10 public schools in West Virginia to facilitate better matching of
11 student unit record data.

12 (3) The commission, council, ~~and~~ State Board of Education,
13 Bureau for Children and Families and Workforce West Virginia shall
14 collect, use, maintain, disclose and share data in accordance with
15 personal privacy laws and shall develop security measures and
16 procedures that protect personal information from intentional or
17 accidental release to unauthorized persons and from intentional or
18 accidental use for unauthorized purposes.

19 ~~(f)~~ (k) A data sharing arrangement entered into with a
20 research organization pursuant to this section shall meet the
21 following criteria:

22 (1) Permitted by and undertaken in accordance with privacy
23 protection laws;

24 (2) Receives prior approval from the state Superintendent of

1 Schools or designee, the Chancellor for Higher Education or
2 designee, ~~and~~ the Chancellor for Community and Technical College
3 Education or designee, the state administrator responsible for the
4 federal Child Care and Development Block Fund and the Executive
5 Director of Workforce West Virginia or designee, as appropriate, if
6 data from that entity are being ~~utilized~~ used in the research;

7 (3) Prohibits the personal identification of any person by
8 individuals other than authorized representatives of the research
9 organization who have legitimate interests in the information;

10 (4) Ensures the destruction or return of the data when no
11 longer needed for the authorized purposes under the data sharing
12 arrangement;

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

15 (A) Specifies the purpose, scope and duration of the data
16 sharing arrangement;

17 (B) Requires the recipient of the data to use personally
18 identifiable information from education records only to meet the
19 purpose or purposes of the data sharing arrangement stated in the
20 written agreement;

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

23 (D) Contains such other terms and provisions as the
24 commission, council, ~~and~~ State Board of Education, Bureau for

1 Children and Families and Workforce West Virginia, as appropriate,
2 consider necessary or appropriate.

3 ~~(g)~~ (1) As a condition of participating in state-level
4 financial aid programs provided ~~for~~ in chapter eighteen-c of this
5 code, the commission may require nonpublic institutions of higher
6 education to provide data for the P-20W Longitudinal Data System
7 and data warehouse.