

1 COMMITTEE SUBSTITUTE

2 FOR

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4 FOR

5 **Senate Bill No. 420**

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

10 _____
11 [Originating in the Committee on Finance;
12 reported February 12, 2014.]
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15 A BILL to amend and reenact §18B-1D-10 of the Code of West
16 Virginia, 1931, as amended, relating to adding the Bureau for
17 Children and Families, WorkForce West Virginia and the West
18 Virginia Supreme Court of Appeals to the existing entities
19 that are to enter into a state data-sharing compact; adding
20 child care and workforce data to the data that is to be
21 included in the P-20W Longitudinal Data System; revising
22 legislative findings; adding definitions; creating a governing
23 board of the P-20W Longitudinal Data System; setting forth
24 membership of the board; setting forth authority and duties of

1 the board; adding requirements for the Bureau for Children and
2 Families, the State Board of Education, the Higher Education
3 Policy Commission, the Council for Community and Technical
4 College Education and WorkForce West Virginia; requiring the
5 data warehouse to be housed within the West Virginia Network
6 for Educational Telecomputing; and adding components to the
7 state data-sharing compact.

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

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

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

12 **§18B-1D-10. State data sharing compact; legislative intent;**
13 **findings; definitions.**

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

22 (b) The Legislature makes the following findings:

23 (1) Sound data collection, reporting and analysis are critical
24 to building an education system capable of ensuring that all West

1 Virginia students are adequately prepared for college and the
2 global workforce. Elementary schools, middle schools, secondary
3 schools and higher education institutions can improve instructional
4 and educational decisionmaking using data that are collected and
5 made available to them.

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

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

1 workforce data components in a cooperative manner to establish a
2 data-driven, decision-making environment for this state's child
3 care, education system and workforce systems.

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

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

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

10 (B) The impact of child care programs;

11 (C) The performance of educator preparation programs;

12 (D) Best practices for classroom instruction, education
13 programs and curriculum; and

14 (E) Gauging success in preparing students for the 21st century
15 workforce.

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

21 (c) Definitions:

22 ~~(1) "Longitudinal Data System" means a student unit record~~
23 ~~data system that links student records beginning with early~~
24 ~~learning programs and continuing through post-secondary education,~~

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

4 (1) "Child care data" means data relating to enrollment,
5 attendance, demographics, the quality of child care received and
6 any other nonconfidential data necessary for furthering the state's
7 child care, education and workforce systems and agreed to in the
8 state compact required by this section.

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

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

23 (4) "P-20W Longitudinal Data System" means a child care,
24 student and workforce unit record data system that links child

1 care, student and workforce records beginning with early care and
2 education programs and continuing through post-secondary education,
3 entry into the workforce and beyond. The system may consist of
4 separate unit record systems integrated through agreement and data
5 transfer mechanisms.

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

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

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

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

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

23 (iii) Agrees to perform the research pursuant to a written
24 agreement meeting the requirements of privacy protection laws and

1 best research practices.

2 (8) "Student data" means data relating to student performance,
3 and includes: State and national assessments; course taking and
4 completion; grade point average; remediation; retention; degree,
5 diploma or credential attainment; enrollment; attendance;
6 demographic data; and any other nonconfidential data necessary for
7 furthering the state's child care, education and workforce systems
8 and agreed to in the state compact required by this section.

9 (9) "Workforce data" means data relating to employment status
10 and includes: Wage information; geographic location of employment;
11 employer information; and any other nonconfidential data necessary
12 for furthering the state's child care, education and workforce
13 systems and agreed to in the state compact required by this
14 section.

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

17 (1) A designee agreed to by the Chancellor for Higher
18 Education and the Chancellor for Community and Technical College
19 Education;

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

21 (3) A representative of the Office of Data Management and
22 Analysis within the Department of Education to be appointed by the
23 State Superintendent of Schools;

24 (4) The Executive Director of WorkForce West Virginia or

1 designee;

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

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

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

8 (e) The governing board shall elect a chair from among its
9 members.

10 (f) The governing board may:

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

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

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

18 (g) The governing board shall:

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

23 (2) Provide general oversight and direction over the P-20W
24 Longitudinal Data System in accordance with this section and the

1 compact entered into pursuant to this section;

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

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

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

11 (6) Develop a detailed data security and safeguarding plan
12 that includes:

13 (i) Authorized access and authentication for authorized
14 access;

15 (ii) Privacy compliance standards;

16 (iii) Privacy and security audits;

17 (iv) Breach notification and procedures; and

18 (v) Data retention and disposition policies;

19 (7) Oversee routine and ongoing compliance with privacy
20 protection laws and the governing board's detailed data security
21 and safeguarding plan;

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

24 (9) Ensure that any contracts entered into on or after the

1 effective date of the amendments to this section during the 2014
2 regular session of the Legislature that govern databases and that
3 are outsourced to private vendors include express provisions that
4 safeguard privacy and security and include penalties for
5 noncompliance;

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

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

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

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

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

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

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

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

4 (13) Prohibit the collection of confidential information as
5 defined in this section.

6 (h) The Bureau for Children and Families, the State Board of
7 Education, the Higher Education Policy Commission, the Council for
8 Community and Technical College Education and WorkForce West
9 Virginia shall:

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

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

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

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

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

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

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

5 (C) Is housed within the West Virginia Network for Educational
6 Telecomputing (WVNET);

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

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

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

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

23 (7) A determination of which data are available to each party
24 of the compact based on ensuring that data are only shared when

1 necessary to further the state's child care, education and
2 workforce systems.

3 ~~(e)~~ (j) To facilitate implementation of the requirements of
4 this section:

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

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

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

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

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

3 (2) Receives prior approval from the State Superintendent of
4 Schools or designee, the Chancellor for Higher Education or
5 designee, ~~and~~ the Chancellor for Community and Technical College
6 Education or designee, the state administrator responsible for the
7 federal Child Care and Development Block Fund and the Executive
8 Director of WorkForce West Virginia or designee, as appropriate, if
9 data from that entity are being ~~utilized~~ used in the research;

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

13 (4) Ensures the destruction or return of the data when no
14 longer needed for the authorized purposes under the data sharing
15 arrangement; and

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

18 (A) Specifies the purpose, scope and duration of the data
19 sharing arrangement;

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

24 (C) Describes specific data access, use and security

1 restrictions that the recipient will undertake; and

2 (D) Contains such other terms and provisions as the
3 commission, council, ~~and~~ State Board of Education, Bureau for
4 Children and Families and WorkForce West Virginia, as appropriate,
5 consider necessary or appropriate.

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