

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

### **Introduced**

## **House Bill 2743**

BY DELEGATES SUMMERS, HOUSEHOLDER, WESTFALL,  
HOTT, HORST, REED, MALLOW, FORSHT AND WAMSLEY

[Introduced February 24, 2021; Referred to the  
Committee on the Judiciary then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §21A-2D-1, §21A-2D-2, §21A-2D-3, §21A-2D-4, §21A-2D-5, §21A-2D-6,  
 3 §21A-2D-7, §21A-2D-8, §21A-2D-9, and §21A-2D-10, all relating to the Unemployment  
 4 Insurance Program Integrity Act and enacting the unemployment compensation indexing  
 5 system; providing definitions; detailing Unemployment Insurance Program Integrity;  
 6 providing for data sharing; providing action on eligibility determinations; recovering  
 7 overpayments and preventing fraud; providing a mechanism for an employer to contact  
 8 Workforce when an employee is offered their job back but refuses to be rehired; reporting  
 9 to the Legislature; providing for rulemaking; and providing an effective date.

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

**ARTICLE 2C. UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY ACT.**

**§21A-2D-1. Definitions.**

1 For the purposes of this article the following terms shall have the following means, unless  
 2 the context in which they are used clearly indicates otherwise:

3 (1) “Division of Corrections and Rehabilitation” means the department or agency  
 4 overseeing the operation and management of the state’s prisons and jails.

5 (2) “Department of Commerce” means the state agency, department, or government office  
 6 with oversight over the state’s unemployment insurance program, reemployment program, or any  
 7 type of program that receives funding from the United States Department of Labor and is  
 8 responsible for providing unemployment insurance to jobless workers.

9 (3) “New hire records” means any available directly of newly hired and re-hired employees  
 10 reported under state and federal law and managed by the state Department of Commerce.

11 (4) “Unemployment insurance enrollment” means the list of all jobless workers receiving  
 12 unemployment insurance at a given moment in time.

13 (5) “Integrity data system” means a system to verify the integrity of the state’s  
 14 unemployment insurance enrollment.

15 (6) “Commissioner” means the Workforce West Virginia, formerly known as the Bureau of  
16 Employment Programs, commissioner.

17 (7) “Bureau” means Workforce West Virginia, formerly known as the Bureau of  
18 Employment Programs.

19 (8) “State average unemployment rate” shall mean the average of the three months for  
20 the most recent third calendar year quarter of the seasonally adjusted unemployment rates as  
21 published by the state department or agency responsible for collecting and publishing  
22 unemployment rate data.

**§21A-2D-2. Unemployment insurance program integrity.**

1 The commissioner shall, on a weekly basis, be required to:

2 (a) Check the unemployment insurance rolls against the Division of Corrections and  
3 Rehabilitation’s list of imprisoned individuals to verify eligibility for unemployment benefits and  
4 ensure program integrity;

5 (b) Check new hire records against the National Directory of New Hires to verify eligibility  
6 for unemployment benefits;

7 (c) Check the unemployment insurance rolls against the Integrity Data Hub maintained by  
8 the National Association of State Workforce Agencies to verify eligibility for unemployment  
9 benefits.

**§21A-2D-3. Data sharing**

1 The commissioner shall have the authority to execute a memorandum of understanding  
2 with any department, agency, or division for information required to be shared between agencies  
3 outlined in this Act.

**§21A-2D-4. Action on eligibility determinations.**

1 If the commissioner receives information concerning an individual receiving  
2 unemployment insurance benefits that indicates a change in circumstances that may affect  
3 eligibility, the bureau shall review the individual’s case and make a new eligibility determination

4 within one (1) week of receiving the information.

**§21A-2D-5. Unemployment program indexing.**

1 For unemployment compensation claims submitted during a calendar year, the duration  
2 of benefits is limited to:

3 (a) Twelve weeks if the state's average unemployment rate is at or below 5.5 percent;

4 (b) An additional week in addition to the 12 weeks for each 0.5 percent increment in the  
5 state's average unemployment rate above 5.5 percent;

6 (c) Up to a maximum of 20 weeks if the state's average unemployment rate exceeds nine  
7 percent.

**§21A-2D-6. Recovering overpayments and preventing fraud.**

1 The commissioner shall adopt and implement internal administrative policy to:

2 (a) Prioritize and always pursue the recovery of fraudulent unemployment overpayments  
3 to the fullest extent allowable under state and federal law;

4 (b) Enter into a cooperative agreement with the U.S. Department of Labor Office of  
5 Inspector General to proactively detect and investigate cases of unemployment fraud; and

6 (c) Recover improper overpayments of unemployment benefits, without exception, to the  
7 fullest extent possible by state and federal law.

**§21A-2D-7. Employer reporting procedure to Workforce West Virginia when employees**  
**refuse re-hire opportunities.**

1 An employer shall contact Workforce West Virginia by e-mail in situations when an  
2 employee who was previously laid off by that employer is given the opportunity to be rehired but  
3 refuses to do so. Those employees who refuse to accept a position at their previous employer  
4 shall thereafter be removed from receiving unemployment compensation benefits.

**§21A-2D-8. Reporting to the Legislature.**

1 The commissioner shall maintain detailed records on the ability of the division to carry out  
2 and implement the actions required in this Act. The commissioner shall issue a written report to

3 the legislature annually, no later than December 31. This report shall include relevant data

4 including, but not limited to:

5 (a) Whether cross-checks referenced in §21A-2D-2 of this code occurred and with what

6 consistency they occurred;

7 (b) Improper unemployment benefit payment rates;

8 (c) Recovery of overpayments;

9 (d) The reasoning for and extent to which any improper unemployment benefit payments  
10 are not corrected or recovered;

11 (e) The compliance rate of businesses in reporting job offer refusals;

12 (f) The results of any state-federal cooperative fraud investigations; and

13 (g) Any savings produced or monies from activities of the division.

**§21A-2D-9. Rulemaking.**

1 Workforce West Virginia shall promulgate rules for implementing this article.

**§21A-2D-10. Effective date.**

1 This article shall take effect July 1, 2022.

NOTE: The purpose of this bill is to increase unemployment insurance program integrity by broadening requiring Workforce West Virginia to verify that those receiving benefits are not imprisoned or have other changes in circumstances that would affect eligibility, and to create an indexing process for adjusting unemployment insurance benefits in accordance with changes with the state unemployment rate.

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