

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **Senate Bill 227**

BY SENATORS BALDWIN, BEACH, CAPUTO, IHLENFELD,  
JEFFRIES, LINDSAY, PLYMALE, ROMANO, STOLLINGS, AND  
WOELFEL

[Introduced February 11, 2021; referred  
to the Committee on Education; and then to the  
Committee on Finance]

1 A BILL to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended; and to  
 2 amend said code by adding thereto a new section, designated §18-8A-5, all relating to  
 3 creating a homeless education coordinator in counties designated by the state board as  
 4 an urban county.

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

**ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**

**§18-8-4. Duties of attendance director and assistant directors; complaints, warrants and hearings.**

1 (a) The county attendance director and the assistants shall diligently promote regular  
 2 school attendance. The director and assistants shall:

3 (1) Ascertain reasons for unexcused absences from school of students of compulsory  
 4 school age and students who remain enrolled beyond the compulsory school age as defined  
 5 under section §18-8-1a of this code;

6 (2) Take such steps as are, in their discretion, best calculated to encourage the attendance  
 7 of students and to impart upon the parents and guardians the importance of attendance and the  
 8 seriousness of failing to do so;

9 (3) For the purposes of this article, the following definitions apply:

10 (A) "Excused absence" includes:

11 (i) Personal illness or injury of the student;

12 (ii) Personal illness or injury of the student's parent, guardian, custodian, or family  
 13 member: *Provided*, That the excuse must provide a reasonable explanation for why the student's  
 14 absence was necessary and caused by the illness or injury in the family;

15 (iii) Medical or dental appointment with written excuse from physician or dentist;

16 (iv) Chronic medical condition or disability that impacts attendance;

17 (v) Participation in home or hospital instruction due to an illness or injury or other  
 18 extraordinary circumstance that warrants home or hospital confinement;

- 19 (vi) Calamity, such as a fire or flood;
- 20 (vii) Death in the family;
- 21 (viii) School-approved or county-approved curricular or extra-curricular activities;
- 22 (ix) Judicial obligation or court appearance involving the student;
- 23 (x) Military requirement for students enlisted or enlisting in the military;
- 24 (xi) Personal or academic circumstances approved by the principal; and
- 25 (xii) Such other situations as may be further determined by the county board: *Provided,*

26 That absences of students with disabilities shall be in accordance with the Individuals with  
27 Disabilities Education Improvement Act of 2004 and the federal and state regulations adopted in  
28 compliance therewith; and

29 (B) "Unexcused absence" means any absence not specifically included in the definition of  
30 "excused absence"; and

31 (4) All documentation relating to absences shall be provided to the school no later than  
32 three instructional days after the first day the student returns to school.

33 (b) ~~In the case of~~ When there are three total unexcused absences of a student during a  
34 school year, the attendance director, assistant, or principal shall make meaningful contact with  
35 the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused  
36 absences and what measures the school may employ to assist the student in attending and not  
37 incurring any additional unexcused absences.

38 (c) ~~In the case of~~ When there are five total unexcused absences, the attendance director  
39 or assistant or principal shall again make meaningful contact with the parent, guardian, or  
40 custodian of the student to ascertain the reasons for the unexcused absences and what measures  
41 the school may employ to assist the student in attending school and not incurring any additional  
42 unexcused absences.

43 (d) ~~In the case of~~ When there are 10 total unexcused absences of a student during a  
44 school year, the attendance director or assistant may make a complaint against the parent,

45 guardian, or custodian before a magistrate of the county. If it appears from the complaint that  
46 there is probable cause to believe that an offense has been committed and that the accused has  
47 committed it, a summons, or a warrant for the arrest of the accused shall issue to any officer  
48 authorized by law to serve the summons or to arrest persons charged with offenses against the  
49 state. More than one parent, guardian or custodian may be charged in a complaint. Initial service  
50 of a summons or warrant issued pursuant to ~~the provisions of~~ this section shall be attempted  
51 within 10 calendar days of receipt of the summons or warrant and subsequent attempts at service  
52 shall continue until the summons or warrant is executed or until the end of the school term during  
53 which the complaint is made, whichever is later.

54 (e) The magistrate court clerk, or the clerk of the circuit court performing the duties of the  
55 magistrate court as authorized in §50-1-8 of this code, shall assign the case to a magistrate within  
56 10 days of execution of the summons or warrant. The hearing shall be held within 20 days of the  
57 assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the  
58 accused at least 10 days' advance notice of the date, time, and place of the hearing.

59 (f) When any doubt exists as to the age of a student absent from school, the attendance  
60 director and assistants have authority to require a properly attested birth certificate or an affidavit  
61 from the parent, guardian, or custodian of the student, stating age of the student. In the  
62 performance of his or her duties, the county attendance director and assistants have authority to  
63 take without warrant any student absent from school in violation of the provisions of this article  
64 and to place the student in the school in which he or she is or should be enrolled.

65 (g) The county attendance director and assistants shall devote such time as is required  
66 by §18-8-3 of this code to the duties of attendance director in accordance with this section during  
67 the instructional term and at such other times as the duties of an attendance director are required.  
68 All attendance directors and assistants hired for more than 200 days may be assigned other duties  
69 determined by the superintendent during the period in excess of 200 days. The county attendance  
70 director is responsible under direction of the county superintendent for efficiently administering

71 school attendance in the county.

72 (h) In addition to those duties directly relating to the administration of attendance, the  
73 county attendance director and assistant directors also shall perform the following duties:

74 (1) Assist in directing the taking of the school census to see that it is taken at the time and  
75 in the manner provided by law;

76 (2) Confer with principals and teachers on the comparison of school census and  
77 enrollment for the detection of possible nonenrollees;

78 (3) Cooperate with existing state and federal agencies charged with enforcing child labor  
79 laws;

80 (4) Prepare a report for submission by the county superintendent to the State  
81 Superintendent of Schools on school attendance, at such times and in such detail as may be  
82 required. The state board shall promulgate a legislative rule pursuant to §29A-3B-1 *et seq.* of this  
83 code that set forth student absences that are excluded for accountability purposes. The absences  
84 that are excluded by rule shall include, but are not limited to, excused student absences, students  
85 not in attendance due to disciplinary measures and absent students for whom the attendance  
86 director has pursued judicial remedies to compel attendance to the extent of his or her authority.  
87 The attendance director shall file with the county superintendent and county board at the close of  
88 each month a report showing activities of the school attendance office and the status of  
89 attendance in the county at the time;

90 (5) Promote attendance in the county by compiling data for schools and by furnishing  
91 suggestions and recommendations for publication through school bulletins and the press, or in  
92 such manner as the county superintendent may direct;

93 (6) Participate in school teachers' conferences with parents and students;

94 (7) Assist in such other ways as the county superintendent may direct for improving school  
95 attendance; and

96 (8) Make home visits of students who have excessive unexcused absences, as provided

97 in subsection-a of this section, or if requested by the chief administrator, principal, or assistant  
98 principal. ~~and~~

99 ~~(9) Serve as the liaison for homeless children and youth~~

**ARTICLE 8A. ATTENDANCE OF HOMELESS CHILDREN.**

**§18-8A-5. Homeless education coordinator.**

1 (a) The state board shall employ a full-time homeless education coordinator in each county  
2 designated by the state board as an urban county and a part-time homeless education coordinator  
3 in each county designated by the state board as a rural county. Urban and rural designations may  
4 be based on the Metropolitan Statistical Area (MSA) designations of metropolitan and non-  
5 metropolitan or a substantially similar method of delimitating urban and rural areas.

6 (b) The state board may establish special and professional qualifications for homeless  
7 education coordinators as are deemed expedient and proper and are consistent with the rules of  
8 the state board.

9 (c) A homeless education coordinator is responsible for:

10 (1) Ensuring that homeless children and youth are identified by school personnel, are  
11 enrolled in, and have a full and equal opportunity to succeed in schools of that county;

12 (2) Coordinating the referrals of homeless children to health care, dental care, mental  
13 health services, and other appropriate services;

14 (3) Expediting school placement decisions;

15 (4) Identifying homeless children, youth, and families in the community;

16 (5) Coordinating programs and services to prevent duplication of services;

17 (6) Monitoring programs and projects to ensure compliance with applicable statutory and  
18 regulatory requirements, if the county board receives funds under the McKinney Act;

19 (7) Informing parents or guardians of homeless children and youth of the educational and  
20 related opportunities available to their children, ensuring that they are provided with meaningful  
21 opportunities to participate in the education of their children;

22           (8) Disseminating public notice of the educational rights of homeless children and youth  
23 in the schools, community agencies, family shelters, soup kitchens, and organizations where  
24 children and youth receive services;

25           (9) Ensuring that the parent or guardian of a homeless child or youth and any  
26 unaccompanied youth is fully informed of all transportation services;

27           (10) Working with Title I administrators to ensure that Title I services are provided in  
28 accordance with the reservation of funds required by McKinney-Vento Act;

29           (11) Coordinating and collaborating with the state coordinator and community and school  
30 personnel responsible for the provision of education and related services to homeless children  
31 and youth;

32           (12) Developing and implementing a program to train school personnel on the educational  
33 rights of homeless children and youth, policies, and procedures to identify and serve homeless  
34 children and youth, and on the special needs of homeless children and youth;

35           (13) Assisting unaccompanied homeless youth in the school selection process; and

36           (14) Ensuring that enrollment disputes are mediated according to the county board's  
37 appeal process.

NOTE: The purpose of this bill is to require that each county school board designate a homeless education coordinator and set out the duties of the position.

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