

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3021

By Delegate Young

[Introduced January 25, 2023; Referred to the
Committee on Education then Finance]

1 A BILL to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating to
2 expanding permissive early childhood education programs to children who are three years
3 old beginning in the 2024-2025 school year; providing counties with the authority to
4 implement three-year-old early childhood education programs; and clarifying that the state
5 board rules should take into consideration curriculum appropriate for three-year-old
6 children in such programs.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-44. Early childhood education programs.

1 (a) For the purposes of this section, an "early childhood education program" means a
2 program created under this section for children who have attained the age of four prior to
3 September 1 of the school year in which the children enter the program. ~~(b)~~ For the purposes of
4 this section beginning in the school year 2018-2019, an "early childhood education program"
5 means a program created under this section for children who have attained the age of four prior to
6 July 1 of the school year in which the children enter the program. For the purposes of this section,
7 beginning in the school year 2024-2025, an "early childhood education program" may also include,
8 at the discretion of each county board of education, a program created under this section for
9 children who have attained the age of three prior to July 1 of the school year in which the children
10 enter the program.

11 ~~(e)~~ (b) Findings. –

12 (1) Among other positive outcomes, early childhood education programs have been
13 determined to:

14 (A) Improve overall readiness when children enter school;

15 (B) Decrease behavioral problems;

16 (C) Improve student attendance;

17 (D) Increase scores on achievement tests;

- 18 (E) Decrease the percentage of students repeating a grade; and
- 19 (F) Decrease the number of students placed in special education programs;
- 20 (2) Quality early childhood education programs improve school performance and low-
- 21 quality early childhood education programs may have negative effects, especially for at-risk
- 22 children;
- 23 (3) West Virginia has the lowest percentage of its adult population 25 years of age or older
- 24 with a bachelor's degree and the education level of parents is a strong indicator of how their
- 25 children will perform in school;
- 26 (4) During the 2006-2007 school year, West Virginia ranked 39th among the 50 states in
- 27 the percentage of school children eligible for free and reduced lunches and this percentage is a
- 28 strong indicator of how the children will perform in school;
- 29 (5) For the school year 2008-2009, 13,135 students were enrolled in prekindergarten, a
- 30 number equal to approximately 63 percent of the number of students enrolled in kindergarten;
- 31 (6) Excluding projected increases due to increases in enrollment in the early childhood
- 32 education program, projections indicate that total student enrollment in West Virginia will decline
- 33 by one percent, or by approximately 2,704 students, by the school year 2012-2013;
- 34 (7) In part, because of the dynamics of the state aid formula, county boards will continue to
- 35 enroll four-year-old students and three-year-old students to offset the declining enrollments;
- 36 (8) West Virginia has a comprehensive kindergarten program for five-year-olds, but the
- 37 program was established in a manner that resulted in unequal implementation among the
- 38 counties, which helped create deficit financial situations for several county boards;
- 39 (9) Expansion of current efforts to implement a comprehensive early childhood education
- 40 program should avoid the problems encountered in kindergarten implementation;
- 41 (10) Because of the dynamics of the state aid formula, counties experiencing growth are at
- 42 a disadvantage in implementing comprehensive early childhood education programs; and
- 43 (11) West Virginia citizens will benefit from the establishment of quality comprehensive

44 early childhood education programs.

45 ~~(d)~~ (c) County boards shall provide early childhood education programs for all children who
46 have attained the age of four prior to September 1 of the school year in which the children enter the
47 early childhood education program. These early childhood education programs shall provide at
48 least 48,000 minutes annually and no less than 1,500 minutes of instruction per week. ~~(e)~~
49 Beginning in the school year 2018-2019, county boards shall provide early childhood education
50 programs for all children who have attained the age of four prior to July 1 of the school year in
51 which the children enter the early childhood education program. Beginning in the school year
52 2024-2025, county boards may provide early childhood education programs for all children who
53 have attained the age of three prior to July 1 of the school year in which the children enter the early
54 childhood education program.

55 ~~(f)~~ (d) The program shall meet the following criteria:

56 (1) It shall be voluntary, except that, upon enrollment, the provisions of §18-8-1a of this
57 code apply to an enrolled student, subject to subdivision (4) of this subsection;

58 (2) It shall be open to all children meeting the age requirement set forth in this section;

59 (3) It shall provide no less than 1,500 minutes of instruction per week, in a full-day program
60 with at least 48,000 minutes of instruction annually; and

61 (4) It shall permit a parent of an enrolled child to withdraw the child from that program by
62 notifying the district in writing. A child withdrawn under this section is not subject to the attendance
63 provisions of this chapter until that child again enrolls in a public school in this state.

64 ~~(g)~~ (e) Enrollment of students in Head Start, or in any other program approved by the state
65 superintendent as provided in this section, may be counted toward satisfying the requirement of
66 subsection (c) of this section.

67 ~~(h)~~ (f) For the purposes of implementation financing, all counties are encouraged to make
68 use of funds from existing sources, including:

69 (1) Federal funds provided under the Elementary and Secondary Education Act pursuant

70 to 20 U.S.C. §6301, *et seq.*;

71 (2) Federal funds provided for Head Start pursuant to 42 U.S.C. §9831, *et seq.*;

72 (3) Federal funds for temporary assistance to needy families pursuant to 42 U.S.C. §601,
73 *et seq.*;

74 (4) Funds provided by the School Building Authority pursuant to §18-9D-1 *et seq.* of this
75 code;

76 (5) In the case of counties with declining enrollments, funds from the state aid formula
77 above the amount indicated for the number of students actually enrolled in any school year; and

78 (6) Any other public or private funds.

79 (†) (g) Each county board shall develop a plan for implementing the program required by
80 this section. The plan shall include the following elements:

81 (1) An analysis of the demographics of the county related to early childhood education
82 program implementation;

83 (2) An analysis of facility and personnel needs;

84 (3) Financial requirements for implementation and potential sources of funding to assist
85 implementation;

86 (4) Details of how the county board will cooperate and collaborate with other early
87 childhood education programs including, but not limited to, Head Start, to maximize federal and
88 other sources of revenue;

89 (5) Specific time lines for implementation; and

90 (6) Any other items the state board may require by policy.

91 (†) (h) A county board shall submit its plan to the Secretary of the Department of Health and
92 Human Resources. The secretary shall approve the plan if the following conditions are met:

93 (1) The county board has maximized the use of federal and other available funds for early
94 childhood programs; and

95 (2) The county board has provided for the maximum implementation of Head Start

96 programs and other public and private programs approved by the state superintendent pursuant to
97 the terms of this section; or

98 (3) The secretary finds that, if the county board has not met one or more of the
99 requirements of this subsection, the county board has acted in good faith and the failure to comply
100 was not the primary fault of the county board. Any denial by the secretary may be appealed to the
101 circuit court of the county in which the county board is located.

102 ~~(k)~~ (i) The county board shall submit its plan for approval to the state board. The state
103 board shall approve the plan if the county board has complied substantially with the requirements
104 of subsection (g) of this section and has obtained the approval required in subsection (h) of this
105 section.

106 ~~(l)~~ (j) Every county board shall submit its plan for reapproval by the Secretary of the
107 Department of Health and Human Resources and by the state board at least every two years after
108 the initial approval of the plan and until full implementation of the early childhood education
109 program in the county. As part of the submission, the county board shall provide a detailed
110 statement of the progress made in implementing its plan. The standards and procedures provided
111 for the original approval of the plan apply to any reapproval.

112 ~~(m)~~ (k) A county board may not increase the total number of students enrolled in the county
113 in an early childhood program until its program is approved by the Secretary of the Department of
114 Health and Human Resources and the state board.

115 ~~(n)~~ (l) The state board annually may grant a county board a waiver for total or partial
116 implementation if the state board finds that all of the following conditions exist:

117 (1) The county board is unable to comply either because:

118 (A) It does not have sufficient facilities available; or

119 (B) It does not and has not had available funds sufficient to implement the program;

120 (2) The county has not experienced a decline in enrollment at least equal to the total
121 number of students to be enrolled; and

122 (3) Other agencies of government have not made sufficient funds or facilities available to
123 assist in implementation.

124 Any county board seeking a waiver shall apply with the supporting data to meet the criteria
125 for which they are eligible on or before March 25 for the following school year. The state
126 superintendent shall grant or deny the requested waiver on or before April 15 of that same year.

127 ~~(e)~~ (m) The provisions of §18-5-18 (b), (c) and (d) of this code relating to kindergarten apply
128 to early childhood education programs in the same manner in which they apply to kindergarten
129 programs.

130 ~~(p)~~ (n) Except as required by federal law or regulation, no county board may enroll students
131 who will be less than four years of age prior to September 1 for the year they enter school. ~~(e)~~
132 Except as required by federal law or regulation, beginning in the school year 2018-2019, no county
133 board may enroll students who will be less than four years of age prior to July 1 for the year they
134 enter school. Except as required by federal law or regulation, beginning in the school year 2024-
135 2025, no county board may enroll students who will be less than three years of age prior to July 1
136 for the year they enter school.

137 ~~(r)~~ (o) Neither the state board nor the state department may provide any funds to any
138 county board for the purpose of implementing this section unless the county board has a plan
139 approved pursuant to subsections ~~(h)~~, ~~(i)~~ and ~~(j)~~ (f), (g) and (h) of this section.

140 ~~(s)~~ (p) The state board shall promulgate a rule in accordance with the provisions of article
141 three-b, chapter twenty-nine-a of this code for the purposes of implementing the provisions of this
142 section. The state board shall consult with the Secretary of the Department of Health and Human
143 Resources in the preparation of the rule. The rule shall contain the following:

144 (1) Standards for curriculum;

145 (2) Standards for preparing students;

146 (3) Attendance requirements;

147 (4) Standards for personnel; and

- 148 (5) Any other terms necessary to implement the provisions of this section.
- 149 ~~(t)~~ (q) The rule shall include the following elements relating to curriculum standards:
- 150 (1) A requirement that the curriculum be designed to address the developmental needs of
- 151 three-year-old and four-year-old children, ~~respectively~~, consistent with prevailing research on how
- 152 children learn;
- 153 (2) A requirement that the curriculum be designed to achieve long-range goals for the
- 154 social, emotional, physical and academic development of young children;
- 155 (3) A method for including a broad range of content that is relevant, engaging and
- 156 meaningful to young children;
- 157 (4) A requirement that the curriculum incorporate a wide variety of learning experiences,
- 158 materials and equipment, and instructional strategies to respond to differences in prior experience,
- 159 maturation rates and learning styles that young children bring to the classroom;
- 160 (5) A requirement that the curriculum be designed to build on what children already know in
- 161 order to consolidate their learning and foster their acquisition of new concepts and skills;
- 162 (6) A requirement that the curriculum meet the recognized standards of the relevant
- 163 subject matter disciplines;
- 164 (7) A requirement that the curriculum engage children actively in the learning process and
- 165 provide them with opportunities to make meaningful choices;
- 166 (8) A requirement that the curriculum emphasize the development of thinking, reasoning,
- 167 decision-making, and problem-solving skills;
- 168 (9) A set of clear guidelines for communicating with parents and involving them in
- 169 decisions about the instructional needs of their children; and
- 170 (10) A systematic plan for evaluating program success in meeting the needs of young
- 171 children and for helping them to be ready to succeed in school.
- 172 ~~(u)~~ (r) After the school year 2012-2013, on or before July 1 of each year, each county board
- 173 shall report the following information to the Secretary of the Department of Health and Human

174 Resources and the state superintendent:

175 (1) Documentation indicating the extent to which county boards are maximizing resources
176 by using the existing capacity of community-based programs, including, but not limited to, Head
177 Start and child care; and

178 (2) For those county boards that are including eligible children attending approved,
179 contracted community-based programs in their net enrollment for the purposes of calculating state
180 aid pursuant to article nine-a of this chapter, documentation that the county board is equitably
181 distributing funding for all children regardless of setting.

NOTE: The purpose of this bill is to authorize, beginning in the school year 2024-2025, county boards to provide early childhood education programs for all children who have attained the age of three.

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