

1 **H. B. 2256**

2
3 (By Delegate T. Campbell)

4 [Introduced January 12, 2011 ; referred to the
5 Committee on Education then Finance.]

6 **FISCAL**
7 **NOTE**

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9
10 A BILL to amend and reenact §18-20-1 of the Code of West Virginia,
11 1931, as amended, relating to approval of a student with
12 health impairments for homebound services and their rights as
13 homebound students.

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

15 That §18-20-1 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

17 **ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.**

18 **§18-20-1. Establishment of special programs and teaching services**
19 **for exceptional children.**

20 In accordance with the following provisions, county boards of
21 education throughout the state shall establish and maintain for all
22 exceptional children between five and twenty-one years of age
23 special educational programs, including, but not limited to,

1 special schools or classes, regular classroom programs, home-
2 teaching or visiting-teacher services for any type or
3 classification as the state board shall approve. Special
4 educational programs shall continue to be provided to those
5 children who are at least twenty-one years of age and enrolled in
6 the above mentioned "special education program" prior to September
7 1, 1991, until they reach twenty-three years of age. Provisions
8 shall be made for educating exceptional children (including the
9 handicapped and the gifted) who differ from the average or normal
10 in physical, mental or emotional characteristics, or in
11 communicative or intellectual deviation characteristics, or in both
12 communicative and intellectual deviation characteristics, to the
13 extent that they cannot be educated safely or profitably in the
14 regular classes of the public schools or to the extent that they
15 need special educational provisions within the regular classroom in
16 order to educate them in accordance with their capacities,
17 limitations and needs: *Provided*, That for the school year
18 beginning July 1, 1990, provisions shall be made for educating
19 exceptional children, including the handicapped, the gifted in
20 grades one through eight, the pupils enrolled on July 1, 1989, in
21 the gifted program in grades nine through twelve and the
22 exceptional gifted in grades nine through twelve. The term
23 "exceptional gifted" means those students in grades nine through
24 twelve identified as gifted and at least one of the following:

1 Behavior disorder, specific learning disabilities, psychological
2 adjustment disorder, underachieving, or economically disadvantaged.
3 Exceptional gifted children shall be referred for identification
4 pursuant to recommendation by a school psychologist, school
5 counselor, principal, teacher, parent or by self-referral, at which
6 time the placement process, including development of an
7 individualized education program, and attendant due process rights,
8 shall commence. Exceptional gifted children, for purposes of
9 calculating adjusted enrollment pursuant to section two, article
10 nine-a of this chapter, shall not exceed one percent of net
11 enrollment in grades nine through twelve. Nothing herein shall be
12 construed to limit the number of students identified as exceptional
13 gifted and who receive appropriate services. Each county board of
14 education is mandated to provide gifted education to its students
15 according to guidelines promulgated by the state board and
16 consistent with the provisions of this chapter. Upon the
17 recommendation of a principal, counselor, teacher and parent, a
18 student who does not meet the gifted eligibility criteria may
19 participate in any school program deemed appropriate for the
20 student provided that classroom space is available. In addition,
21 county boards of education may establish and maintain other
22 educational services for exceptional children as the State
23 Superintendent of Schools may approve.

24 County boards of education shall establish and maintain these

1 special educational programs, including, but not limited to,
2 special schools classes, regular class programs, home-teaching and
3 visiting-teacher services. The special education programs shall
4 include home-teaching or visiting-teacher services for children who
5 are homebound due to injury or who for any other reason as
6 certified by a licensed physician are homebound for a period that
7 has lasted or will last more than three weeks: *Provided, however*
8 That pupils receiving such homebound or visiting-teacher services
9 shall not be included when computing adjusted enrollment as defined
10 in section two, article nine-a, chapter eighteen of this code. The
11 state board shall adopt rules to advance and accomplish this
12 program and to assure that all exceptional children in the state,
13 including children in mental health facilities, residential
14 institutions and private schools, will receive an education in
15 accordance with the mandates of state and federal laws: *Provided,*
16 *however,* That commencing with the school year beginning on July 1,
17 1991, all exceptional children in the state in foster care and
18 correctional facilities will receive an education in accordance
19 with the mandates of state and federal laws: *Provided further,*
20 That students receiving homebound services for other health
21 impairments determined to be ongoing in nature by the licensed
22 physician shall be approved for continuing services until the
23 licensed physician determines otherwise and shall be provided the
24 required classes for graduation within the same time frame as a

1 regular student unless the health condition requires a different
2 standard.

NOTE: The purpose of the bill is to enable homebound students to continue their education without having to be approved every nine weeks and to enable homebound students to progress in school at the same rate as regular students.

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