

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3076

FISCAL
NOTE

By Delegates Howell, Clark, Summers, Ellington,
Storch, Westfall, Hornby, Crouse, Dittman, Petitto,
and Heckert

[Introduced January 26, 2023; Referred to the
Committee on Education then Finance]

1 A BILL to amend and reenact §18-1-1 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §18A-1-1 of said code, all relating to adding the definition of therapist
 3 to be employed by the county boards of education.

Be it enacted by the Legislature of West Virginia:

CHAPTER 18. EDUCATION.

ARTICLE 1. DEFINITIONS; LIMITATIONS OF CHAPTER; GOALS FOR EDUCATION.

§18-1-1. Definitions.

1 The following words used in this chapter and in any proceedings pursuant thereto have the
 2 meanings ascribed to them unless the context clearly indicates a different meaning:

3 (a) "School" means the students and teachers assembled in one or more buildings,
 4 organized as a unit;

5 (b) "District" means county school district;

6 (c) "State board" means the West Virginia Board of Education;

7 (d) "County board" or "board" means a county board of education;

8 (e) "State superintendent" means the state superintendent of free Schools;

9 (f) "County superintendent" or "superintendent" means a county superintendent of
 10 schools;

11 (g) "Teacher" means a teacher, supervisor, principal, superintendent, public school
 12 librarian or any other person regularly employed for instructional purposes in a public school in this
 13 state;

14 (h) "Service person" or "service personnel," whether singular or plural, means any
 15 nonteaching school employee who is not included in the meaning of "teacher" as defined in this
 16 section, and who serves the school or schools as a whole, in a nonprofessional capacity, including
 17 such areas as secretarial, custodial, maintenance, transportation, school lunch and aides. Any
 18 reference to "service employee" or "service employees" in this chapter or chapter 18A of this code

19 means service person or service personnel as defined in this section;

20 (i) "Social worker" means a nonteaching school employee who, at a minimum, possesses
21 an undergraduate degree in social work from an accredited institution of higher learning and who
22 provides various professional social work services, activities or methods as defined by the state
23 board for the benefit of students;

24 (j) "Regular full-time employee" means any person employed by a county board who has a
25 regular position or job throughout his or her employment term, without regard to hours or method
26 of pay;

27 (k) "Career clusters" means broad groupings of related occupations;

28 (l) "Work-based learning" means a structured activity that correlates with and is mutually
29 supportive of the school-based learning of the student and includes specific objectives to be
30 learned by the student as a result of the activity;

31 (m) "School-age juvenile" means any individual who is entitled to attend or who, if not
32 placed in a residential facility, would be entitled to attend public schools in accordance with: (1)
33 §18-2-5 of this code; (2) §18-5-15 and §18-5-18 of this code; or (3) §18-20-1 of this code;

34 (n) "Student with a disability" means an exceptional child, other than gifted, pursuant to
35 §18-20-1 of this code;

36 (o) "Casual deficit" means a deficit of not more than three percent of the approved levy
37 estimate or a deficit that is nonrecurring from year to year; and

38 (p) "Athletic director" means a person employed by a county board to work in a school's
39 athletic program pursuant to §18A-2-1a of this code.

40 (q) "Therapist" means a nonteaching school employee who, at a minimum, possesses a
41 master's degree in counseling from an accredited institution of higher learning and who is a
42 licensed professional counselor and can provide various professional counseling services,
43 activities, or methods, as defined by the state board, for the benefit of students.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 1. GENERAL PROVISIONS.

§18A-1-1. Definitions.

1 The definitions contained in §18-1-1 of this code apply to this chapter. In addition, the
2 following words used in this chapter and in any proceedings pursuant to this chapter have the
3 meanings ascribed to them unless the context clearly indicates a different meaning:

4 (a) "School personnel" means all personnel employed by a county board whether
5 employed on a regular full-time basis, an hourly basis or otherwise. "School personnel" is
6 comprised of two categories: Professional personnel and service personnel;

7 (b) "Professional person" or "professional personnel" means those persons or employees
8 who meet the certification requirements of the state, licensing requirements of the state, or both,
9 and includes a professional educator and other professional employee;

10 (c) "Professional educator" has the same meaning as "teacher" as defined in section one,
11 article one, chapter eighteen of this code. Professional educators are classified as follows:

12 (1) "Classroom teacher" means a professional educator who has a direct instructional or
13 counseling relationship with students and who spends the majority of his or her time in this
14 capacity;

15 (2) "Principal" means a professional educator who functions as an agent of the county
16 board and has responsibility for the supervision, management and control of a school or schools
17 within the guidelines established by the county board. The principal's major area of responsibility
18 is the general supervision of all the schools and all school activities involving students, teachers
19 and other school personnel;

20 (3) "Supervisor" means a professional educator who is responsible for working primarily in
21 the field with professional and other personnel in instructional and other school improvement. This
22 category includes other appropriate titles or positions with duties that fit within this definition; and

23 (4) "Central office administrator" means a superintendent, associate superintendent,
24 assistant superintendent and other professional educators who are charged with administering
25 and supervising the whole or some assigned part of the total program of the countywide school
26 system. This category includes other appropriate titles or positions with duties that fit within this
27 definition;

28 (d) "Other professional employee" means a person from another profession who is
29 properly licensed and who is employed to serve the public schools. This definition includes a
30 registered professional nurse, licensed by the West Virginia Board of Examiners for Registered
31 Professional Nurses, who is employed by a county board and has completed either a two-year
32 (sixty-four semester hours) or a three-year (ninety-six semester hours) nursing program. This
33 definition also includes a therapist who is licensed by the West Virginia Board of Examiners in
34 Counseling, who is employed by a county board and has completed, at a minimum, a master's
35 degree in counseling from an accredited program.

36 (e) "Service person" or "service personnel", whether singular or plural, means a
37 nonteaching school employee who is not included in the meaning of "teacher" as defined in §18-1-
38 1 and who serves the school or schools as a whole, in a nonprofessional capacity, including such
39 areas as secretarial, custodial, maintenance, transportation, school lunch and aides. Any
40 reference to "service employee" or "service employees" in this chapter or chapter 18 of this code
41 means service person or service personnel as defined in this section;

42 (f) "Principals Academy" or "academy" means the academy created pursuant to §18A-3A-
43 2b of this code;

44 (g) "Center for Professional Development" means the center created pursuant to §18A-3A-
45 1 of this code;

46 (h) "Job-sharing arrangement" means a formal, written agreement voluntarily entered into
47 by a county board with two or more of its employees who wish to divide between them the duties
48 and responsibilities of one authorized full-time position;

49 (i) "Prospective employable professional person", whether singular or plural, means a
50 certified professional educator who:

51 (1) Has been recruited on a reserve list of a county board;

52 (2) Has been recruited at a job fair or as a result of contact made at a job fair;

53 (3) Has not obtained regular employee status through the job posting process provided in
54 §18A-4-7a of this code; and

55 (4) Has obtained a baccalaureate degree from an accredited institution of higher education
56 within the past year;

57 (j) "Dangerous student" means a student who is substantially likely to cause serious bodily
58 injury to himself or herself, or another individual within that student's educational environment,
59 which may include any alternative education environment, as evidenced by a pattern or series of
60 violent behavior exhibited by the student, and documented in writing by the school, with the
61 documentation provided to the student and parent or guardian at the time of any offense;

62 (k) "Alternative education" means an authorized departure from the regular school
63 program designed to provide educational and social development for students whose disruptive
64 behavior places them at risk of not succeeding in the traditional school structures and in adult life
65 without positive interventions; and

66 (l) "Long-term substitute" means a substitute employee who fills a vacant position: ~~That~~ that
67 the county superintendent expects to extend for at least 30 consecutive days, and is either:

68 (A) Listed in the job posting as a long-term substitute position of over 30 days; or

69 (B) Listed in a job posting as a regular, full-time position and:

70 (i) Is not filled by a regular, full-time employee; and

71 (ii) Is filled by a substitute employee.

72 For the purposes of §5-16-2 of this code, long-term substitute does not include a retired
73 employee hired to fill the vacant position.

NOTE: The purpose of this bill is to add the definition of therapist to be employed by the county boards of education.

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