

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 3118**

By Delegates Butler, Foster, Willis, Dean, Crouse,  
Dillon, Lucas, Kirby, Jeffries, Kimble, and Cooper

[Introduced January 27, 2023; Referred to the  
Committee on Senior, Children, and Family Issues  
then the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §49-10-1, §49-10-2, and §49-10-3, all relating to codifying the Parents' Bill of  
 3 Rights.

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

**ARTICLE 10. PARENTS' BILL OF RIGHTS.**

**§49-10-1. Short title.**

1 This article shall be known and may be cited as the "Parents' Bill of Rights".

**§49-10-2. Fundamental rights of parents.**

1 (a) The liberty of a parent to direct the upbringing, education, and care, including medical  
 2 care, of the parent's child is a fundamental right.

3 (b) The parental right to direct education includes, but is not limited to, the right to choose,  
 4 as an alternative to public education, private, religious, or home schools, and the right to make  
 5 reasonable choices within public schools for one's child.

6 (c) The parental rights guaranteed by this article shall not be denied or abridged on  
 7 account of disability.

8 (d) Neither the State nor any agency or locality thereof, nor any government official or  
 9 person acting under color of law, shall infringe this right without demonstrating that the  
 10 governmental compelling interest as applied to the parent and the child is of the highest order as  
 11 long recognized in the history and traditions of this state, is narrowly tailored, and is not otherwise  
 12 served by a less restrictive means.

13 (e) A parent may bring suit against the state, any agency or locality thereof, any  
 14 government official, or any person acting under color of law based on any violation of this article  
 15 and seek appropriate relief, including, but not limited to, injunctive relief, monetary damages,  
 16 reasonable attorneys' fees, and court costs. A parent may also raise this article as a defense  
 17 before any court or administrative tribunal.

**§49-10-3. Applicability.**

1           (a) *In general.* -- This article shall apply to any state or local law, rule, or ordinance and the  
2 implementation of that law, rule, or ordinance, whether statutory or otherwise, and whether  
3 adopted or effective prior to or after the effective date of this article

4           (b) *Rule of construction.* -- Statutory law adopted after the date of the  
5 enactment of this article is subject to this article unless such law explicitly excludes such  
6 application by reference to this article.

NOTE: The purpose of this bill is to codify a Parents' Bill of Rights.

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