

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

## **Senate Bill 2**

By Senators Maynard and Rucker

[Introduced January 11, 2023; referred  
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §16-3-4 of the Code of West Virginia, 1931, as amended; and to  
 2 amend and reenact §18-28-2 and §18-28-6 of said code, all relating to giving private  
 3 schools the option of making vaccinations required for enrollment; and requiring private  
 4 schools to maintain annual attendance records.

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

**CHAPTER 16. PUBLIC HEALTH.**

**ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER  
 INFECTIOUS DISEASES.**

**§16-3-4. Compulsory immunization of school children; information disseminated;  
 offenses; penalties.**

1 (a) Whenever a resident birth occurs, the commissioner shall promptly provide parents of  
 2 the newborn child with information on immunizations mandated by this state or required for  
 3 admission to a public, private, and parochial school in this state or a state-regulated child care  
 4 center.

5 (b) Except as hereinafter provided, a child entering a public school or a state-regulated  
 6 child care center in this state ~~must~~ shall be immunized against chickenpox, hepatitis-b, measles,  
 7 meningitis, mumps, diphtheria, polio, rubella, tetanus, and whooping cough.

8 (c) No child or person may be admitted or received in any of the public schools of the state  
 9 or a state-regulated child care center until he or she has been immunized against chickenpox,  
 10 hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus, and whooping cough  
 11 or produces a certificate from the commissioner granting the child or person an exemption from  
 12 the compulsory immunization requirements of this section.

13 (d) Any public school or state-regulated child care center personnel having information  
 14 concerning any person who attempts to be enrolled in a school or state-regulated child care center  
 15 without having been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps,

16 diphtheria, polio, rubella, tetanus, and whooping cough shall report the names of all such persons  
17 to the commissioner.

18 (e) Persons may be provisionally enrolled under minimum criteria established by the  
19 commissioner so that the person's immunization may be completed while missing a minimum  
20 amount of school. No person ~~shall~~ may be allowed to enter a public school without at least one  
21 dose of each required vaccine.

22 (f) County health departments shall furnish the biologicals for this immunization for children  
23 of parents or guardians who attest that they cannot afford or otherwise access vaccines  
24 elsewhere.

25 (g) Health officers and physicians who provide vaccinations must present the person  
26 vaccinated with a certificate free of charge showing that they have been immunized against  
27 chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and  
28 whooping cough, or he or she may give the certificate to any person or child whom he or she  
29 knows to have been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps,  
30 diphtheria, polio, rubella, tetanus, and whooping cough.

31 (h) The commissioner ~~is authorized to~~ may grant, renew, condition, deny, suspend, or  
32 revoke exemptions to the compulsory immunization requirements of this section, on a statewide  
33 basis, upon sufficient medical evidence that immunization is contraindicated or there exists a  
34 specific precaution to a particular vaccine.

35 (1) A request for an exemption to the compulsory immunization requirements of this  
36 section ~~must~~ shall be accompanied by the certification of a licensed physician stating that the  
37 physical condition of the child is such that immunization is contraindicated or there exists a specific  
38 precaution to a particular vaccine.

39 (2) The commissioner ~~is authorized to~~ may appoint and employ an Immunization Officer to  
40 make determinations on request for an exemption to the compulsory immunization requirements  
41 of this section, on a statewide basis, and delegate to the Immunization Officer the authority

42 granted to the commissioner by this subsection.

43 (3) A person appointed and employed as the Immunization Officer ~~must~~ shall be a  
44 physician licensed under the laws of this state to practice medicine.

45 (4) The Immunization Officer’s decision on a request for an exemption to the compulsory  
46 immunization requirements of this section may be appealed to the State Health Officer.

47 (5) The final determination of the State Health Officer is subject to a right of appeal  
48 pursuant to the provisions of §29A-5-1 *et seq.* of this code.

49 (i) A physician who provides any person with a false certificate of immunization against  
50 chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus, and  
51 whooping cough is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less  
52 than \$25 nor more than \$100.

**CHAPTER 18. EDUCATION.**

**ARTICLE 28. PRIVATE, PAROCHIAL OR CHURCH SCHOOLS, OR SCHOOLS OF A  
RELIGIOUS ORDER.**

**§18-28-2. Attendance; health and safety regulations.**

1 The following is applicable to private, parochial, or church schools or schools of a religious  
2 order:

3 (a) Each school shall observe a minimum instructional term of 180 days with an average of  
4 five hours of instruction per day;

5 (b) Each school shall:

6 (1) Require students to be immunized against the same diseases that students are  
7 required to be immunized against before entering public school; and

8 (2) Make and maintain annual attendance and disease immunization records for each  
9 pupil enrolled and regularly attending classes. The attendance records shall be made available to  
10 the parents or legal guardians;

11 (c) Upon the request of the county superintendent, a school (or a parents organization  
 12 composed of the parents or guardians of children enrolled in the school) shall furnish to the county  
 13 board a list of the names and addresses of all children enrolled in the school between the ages of  
 14 seven and 16 years;

15 (d) Attendance by a child at any school which complies with this article satisfies the  
 16 requirements of compulsory school attendance;

17 (e) Each school is subject to reasonable fire, health and safety inspections by state, county  
 18 and municipal authorities as required by law, and is required to comply with the West Virginia  
 19 school bus safety regulations; and

20 (f) Each school shall establish, file, and update a school specific crisis response plan which  
 21 complies with the requirements established for it by the state board and the Division of Homeland  
 22 Security and Emergency Management pursuant to §18-9F-9 of this code.

**§18-28-6. Requirements exclusive.**

1 No private, parochial, or church school or school operated by any other religious group or  
 2 body as part of its religious ministry or other nonpublic school which complies with the  
 3 requirements of this article ~~shall be~~ is subject to any other provision of law relating to education  
 4 except requirements of law respecting fire, safety, sanitation and immunization.