

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5211

By Delegate Crouse

[Introduced January 26, 2024; Referred to the
Committee on Health and Human Resources then the
Judiciary]

1 A BILL to amend and reenact §16-3-4 of the Code of West Virginia, 1931, as amended; to amend
 2 said code by adding thereto a new section, designated §18B-1-12; and to amend and
 3 reenact §21-1A-3 of said code, all relating to vaccinations and mask requirements for the
 4 prevention and control of communicable and other infectious diseases; permitting parents
 5 to make vaccination decisions for their children without state compulsion; providing that
 6 parents be informed of vaccine risks and how to report vaccine injuries; prohibiting mask
 7 requirements for school attendance; allowing adult students to make their own decisions
 8 regarding vaccinations as a condition of entry to colleges and trade schools in West
 9 Virginia; prohibiting colleges and trade schools from requiring masks at their campuses for
 10 students; and prohibiting businesses from requiring vaccines or masks as a condition of
 11 employment or entry into an establishment.

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~~ Parental freedom for immunization vaccination decisions of school
 children; information disseminated; offenses; penalties; masks prohibited.**

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~~ about available childhood vaccines prior to deciding about vaccination for their children,
 5 parents shall be given information on vaccine risks and how to report vaccine injuries.

6 (b) ~~Except as hereinafter provided, a~~ A child entering school or a state-regulated child care
 7 center in this state ~~must~~ may be immunized ~~against chickenpox, hepatitis b, measles, meningitis,~~
 8 ~~mumps, diphtheria, polio, rubella, tetanus and whooping cough~~ vaccinated according to the

9 decision of the parents or legal guardians.

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

15 ~~(d) Any school or state-regulated child care center personnel having information~~
16 ~~concerning any person who attempts to be enrolled in a school or state-regulated child care center~~
17 ~~without having been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps,~~
18 ~~diphtheria, polio, rubella, tetanus and whooping cough shall report the names of all such persons~~
19 ~~to the commissioner.~~

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

24 ~~(f) (c) County health departments shall furnish the biologicals for this immunization~~
25 ~~vaccination for children of parents or guardians who attest that they cannot afford or otherwise~~
26 ~~access vaccines elsewhere and who want their children vaccinated.~~

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

34 ~~(e) Parents or legal guardians shall be free to decide without compulsion or mandate which~~

35 vaccines, if any, they would like administered to their children. A person may not be denied access
36 to government services or public accommodations, nor may a person be discharged from the care
37 of a physician on the basis of electing not to receive a vaccination or lack of receiving a
38 vaccination. A person may not be subject to segregation, separation, or quarantine involuntarily,
39 based upon an election to not receive a vaccination or for a lack of receiving a vaccination.

40 (f) Public, private and parochial schools this state and state-regulated child care centers
41 may not require masks or facial coverings for attendance.

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

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

50 ~~(2) The commissioner is authorized to appoint and employ an Immunization Officer to~~
51 ~~make determinations on request for an exemption to the compulsory immunization requirements~~
52 ~~of this section, on a statewide basis, and delegate to the Immunization Officer the authority~~
53 ~~granted to the commissioner by this subsection.~~

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

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

58 ~~(5) The final determination of the State Health Officer is subject to a right of appeal~~
59 ~~pursuant to the provisions of article five, chapter twenty-nine a of this code.~~

60 ~~(i) A physician who provides any person with a false certificate of immunization against~~

61 ~~chickenpox, hepatitis b, measles, meningitis, mumps, diphtheria, polio,, rubella, tetanus and~~
 62 ~~whooping cough is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$25~~
 63 ~~nor more than \$100~~

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1. GOVERNANCE.

§18B-1-12. Rights of students to choose regarding vaccination decisions; masks and facial coverings prohibited.

1 (a) A student entering a college, university, or vocational technical school may choose
 2 which vaccines of those recommended to receive, if any, and a college, university, or technical
 3 school may not mandate vaccination as a condition for matriculation, access to a particular course
 4 of education or offering, or continued enrollment in the institution.

5 (b) Colleges, universities, and vocational technical schools may not require masks or facial
 6 coverings for the prevention of disease or otherwise.

CHAPTER 21. LABOR

ARTICLE 1A. LABOR-MANAGEMENT RELATIONS ACT FOR THE PRIVATE SECTOR.

§21-1A-3. Rights of employees.

1 (a) Employees shall have the right to self-organization, to form, join or assist labor
 2 organizations, to bargain collectively through representatives of their own choosing, and to
 3 engage in other concerted activities for the purpose of collective bargaining or other mutual aid or
 4 protection, and shall also have the right to refrain from any or all of such activities, including the
 5 right to refrain from paying any dues, fees, assessments or other similar charges however
 6 denominated of any kind or amount to a labor organization or to any third party including, but not
 7 limited to, a charity in lieu of a payment to a labor organization.

8 (b) An employee may choose which vaccines of those recommended by the employer to

9 receive, if any. An employer may not mandate vaccination as a condition for initial or continuing
10 employment, nor may any employer use coercive means to cause the employee to get vaccinated.

11 (c) Businesses may not require masks or facial coverings for the prevention of disease or
12 otherwise for employees or customers/patrons.

13 (d) A person or employee may not be subject to segregation, separation, or quarantine
14 involuntarily based upon an election to not receive a vaccination or for a lack of receiving a
15 vaccination.

NOTE: The purpose of this bill is to provide parents the freedom to decide whether to have their children vaccinated, to prohibit vaccine mandates as a condition to admission to schools, and to ensure that prior to vaccination that parents receive information about vaccines, including vaccine risks and how to report vaccine injuries. The bill forbids schools from requiring masks on children. The bill allows students to make their own decisions regarding vaccinations as a condition of entry to colleges and trade schools in West Virginia. The bill forbids colleges and trade schools from requiring masks at their campuses for students. The bill forbids businesses from requiring vaccines or masks as a condition of employment or entry into an establishment. The position of Immunization Officer is eliminated.

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