

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 5356**

By Delegates Tully, Kimble, Jeffries, Foster, Linville,  
Phillips, Toney, Dittman, Mazzocchi, Holstein, and  
DeVault

[Introduced January 30, 2024; Referred to the  
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §61-8G-1, §61-8G-2, §61-8G-3, §61-8G-4, and §61-8G-5, all relating to  
 3 prohibiting registered sex offenders from being within 1,000 feet of a school-based health  
 4 center, requiring notices to be posted on school-based health centers, and imposing  
 5 criminal penalties for registered sex offenders who violate this article.

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

**ARTICLE 8G. PROHIBITING REGISTERED SEX OFFENDERS FROM USING**  
**SCHOOL-BASED HEALTH CENTERS.**

**§61-8G-1. Background.**

1 (a) School-Based Health Centers (SBHCs) are health clinic sites sponsored and managed  
 2 by Community Health Centers. A range of services are offered to children, adolescents and the  
 3 school community. SBHCs are housed within a school site. The SBHC provides preventive and  
 4 immediate care, behavioral health services, health education, and sometimes dental care. Most  
 5 SBHC services are provided during the school day. Referrals to other health care providers are  
 6 available as needed.

7 (b) Clinics located in schools that:

8 (1) Are sponsored and operated by community-based health care organizations;

9 (2) Provide primary health care services (including but not limited to diagnosis and  
 10 treatment of acute illness, management of chronic illness, physical exams, immunizations, and  
 11 other preventive services) to students enrolled in the health center; and

12 (3) Follow state and federal laws, policies, procedures, and professional standards for the  
 13 provision of medical care.

**§61-8G-2. Legislative intent.**

1 The Legislature recognizes the need to protect children from registered sex offenders. In  
 2 upholding sex offender registries, the United States Supreme Court held, "[s]ex offenders are a

3 serious threat in this Nation. The victims of sex assault are most often juveniles, and when  
 4 convicted sex offenders reenter society, they are much more likely than any other type of offender  
 5 to be re-arrested for a new rape or sexual assault." The West Virginia Sex Offender Registration  
 6 Act states, "[t]he Legislature finds and declares that there is a compelling and necessary public  
 7 interest that the public have information concerning persons convicted of sexual offenses in order  
 8 to allow members of the public to adequately protect themselves and their children from these  
 9 persons."

**§61-8G-3. Duties of school employees and school-based healthcare providers.**

1 (a) It is the duty of school employees and school-based healthcare providers to ensure that  
 2 students are protected from sex offenders.

3 (b) If a school-based clinic staff member becomes aware of any registered sex offender's  
 4 presence on school or clinic property, the employee shall immediately inform the clinic  
 5 administrator, school resource officer (if available), and school principal who shall direct the  
 6 individual to leave the clinic premises immediately.

7 (c) Each school-based health clinic shall post notification of this law in a location that is  
 8 visible to the public.

**§61-8G-4. Registered sex offender on school-based healthcare facility's property.**

1 (a) No registered sex offender shall be permitted to be present at a school-based health  
 2 clinic site any time, nor be allowed to pick students from a school-based clinic site.

3 (b) Any registered sex offender who loiters or refuses to vacate the premises of the school-  
 4 based health center shall be guilty of a felony and, upon conviction thereof, shall be confined in jail  
 5 for a period of not less than one year and not more than 10 years.

**§61-8G-5. Medical treatment for registered sex offenders on school-based healthcare facility's property.**

1 Nothing prohibits a school-based healthcare provider from continuing or establishing a  
 2 patient-provider relationship with a patient who is a convicted sex offender so long as the provision

- 3 of healthcare is provided at an alternative, free standing clinic or mobile site that is located at least  
4 1,000 feet from school property and children are not present.

NOTE: The purpose of this bill is to prohibit registered sex offenders from being within 1,000 feet of a school-based health center, requiring notices to be posted on school-based health centers, and imposing criminal penalties for registered sex offenders who violate this article.

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