

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 966**

BY SENATORS WILLIS AND ROSE

[Introduced February 17, 2026; referred  
to the Select Committee on School Choice]



1 A BILL to amend and reenact §18-8-1 of the Code of West Virginia, 1931, as amended, relating  
2 to removing all requirements for parents' certifications; and removing all requirements  
3 regarding curriculum that includes the same subject areas as public schools.

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

**ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**

**§18-8-1. Compulsory school attendance; exemptions.**

1 (a) Exemption from the requirements of compulsory public school attendance established  
2 in §18-8-1a of this code shall be made on behalf of any child for the causes or conditions set forth  
3 in this section. Each cause or condition set forth in this section is subject to confirmation by the  
4 attendance authority of the county. A child who is exempt from compulsory school attendance  
5 under this section is not subject to prosecution under §18-8-2 of this code, nor is such a child a  
6 status offender as defined by §49-1-202 of this code.

7 (b) A child is exempt from the compulsory school attendance requirement set forth in §18-  
8 8-1a of this code if the requirements of this subsection, relating to instruction in a private,  
9 parochial, or other approved school, are met. The instruction shall be in a school approved by the  
10 county board and for a time equal to the instructional term set forth in §18-5-45 of this code. In all  
11 private, parochial, or other schools approved pursuant to this subsection, it is the duty of the  
12 principal or other person in control, upon the request of the county superintendent, to furnish to  
13 the county board such information and records as may be required with respect to attendance,  
14 instruction, and progress of students enrolled.

15 (c) A child is exempt from the compulsory school attendance requirement set forth in §18-  
16 8-1a of this code if the requirements of either subdivision (1) or subdivision (2) of this subsection,  
17 both relating to home instruction, are met.

18 (1) The instruction shall be in the home of the child or children or at some other place  
19 approved by the county board and for a time equal to the instructional term set forth in §18-5-45  
20 of this code. If the request for home instruction is denied by the county board, good and

21 reasonable justification for the denial shall be furnished in writing to the applicant by the county  
22 board. The instruction shall be conducted by a the child's parents or another person or persons  
23 who, in the judgment of the county superintendent and county board, are qualified to give  
24 instruction in subjects required to be taught in public elementary schools in the state. ~~The person~~  
25 ~~or persons providing the instruction, upon request of the county superintendent, shall furnish to~~  
26 ~~the county board information and records as may be required periodically with respect to~~  
27 ~~attendance, instruction, and progress of students receiving the instruction~~ The state board shall  
28 develop guidelines for the home schooling of special education students including alternative  
29 assessment measures to assure that satisfactory academic progress is achieved.

30 (2) The child meets the requirements set forth in this subdivision: *Provided*, That the  
31 county superintendent may, after a showing of probable cause, seek from the circuit court of the  
32 county an order denying home instruction of the child. The order may be granted upon a showing  
33 of clear and convincing evidence that the child will suffer neglect in his or her education or that  
34 there are other compelling reasons to deny home instruction.

35 (A) Upon commencing home instruction under this section the parent of a child receiving  
36 home instruction shall present to the county superintendent or county board a notice of intent to  
37 provide home instruction that includes the name, address, and age of any child of compulsory  
38 school age to be instructed and assurance that the child shall receive instruction. ~~in reading,~~  
39 ~~language, mathematics, science, and social studies, and that the child shall be assessed annually~~  
40 ~~in accordance with this subdivision~~ The person providing home instruction shall notify the county  
41 superintendent upon termination of home instruction for a child who is of compulsory attendance  
42 age. Upon establishing residence in a new county, the person providing home instruction shall  
43 notify the previous county superintendent and submit a new notice of intent to the superintendent  
44 of the new county of residence: *Provided*, That if a child is enrolled in a public school, notice of  
45 intent to provide home instruction shall be given on or before the date home instruction is to begin.

46           (B) ~~The person or persons providing home instruction shall submit satisfactory evidence~~  
47 ~~of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally~~  
48 ~~accredited institution, or from an institution of higher education that has been authorized to confer~~  
49 ~~a post-secondary degree or certificate in West Virginia by the West Virginia Council for~~  
50 ~~Community and Technical College Education or by the West Virginia Higher Education Policy~~  
51 ~~Commission~~

52           (C) Annually, the person or persons providing home instruction shall obtain an academic  
53 assessment of the child for the previous school year in one of the following ways:

54           (i) ~~The child receiving home instruction takes a nationally normed standardized~~  
55 ~~achievement test published or normed not more than 10 years from the date of administration~~  
56 ~~and administered under the conditions as set forth by the published instructions of the selected~~  
57 ~~test and by a person qualified in accordance with the test's published guidelines in the subjects~~  
58 ~~of reading, language, mathematics, science, and social studies. The child is considered to have~~  
59 ~~made acceptable progress when the mean of the child's test results in the required subject areas~~  
60 ~~for any single year is within or above the fourth stanine or, if below the fourth stanine, shows~~  
61 ~~improvement from the previous year's results~~

62           (ii) The child participates in the testing program currently in use in the state's public  
63 schools. The test shall be administered to the child at a public school in the county of residence.  
64 Determination of acceptable progress shall be based on current guidelines of the state testing  
65 program;

66           (iii) ~~(ii)~~ A portfolio of samples of the child's work is reviewed by a certified teacher who  
67 determines whether the child's academic progress for the year is in accordance with the child's  
68 abilities. The teacher shall provide a written narrative about the child's progress in the areas of  
69 ~~reading, language, mathematics, science, and social studies~~ study selected by the parent and  
70 shall note any areas which, in the professional opinion of the reviewer, show need for  
71 improvement or remediation. If the narrative indicates that the child's academic progress for the

72 year is in accordance with the child's abilities, the child is considered to have made acceptable  
73 progress; or

74 ~~(iv)~~ (iii) The child completes an alternative academic assessment of proficiency that is  
75 ~~mutually agreed upon~~ selected by the parent or legal guardian ~~and the county superintendent.~~

76 (D) A parent or legal guardian shall maintain copies of each student's academic  
77 assessment for three years. When the annual assessment fails to show acceptable progress, the  
78 person or persons providing home instruction shall initiate a remedial program to foster  
79 acceptable progress. The county board upon request shall notify the parents or legal guardian of  
80 the child, in writing, of the services available to assist in the assessment of the child's eligibility  
81 for special education services. Identification of a disability does not preclude the continuation of  
82 home schooling. In the event that the child does not achieve acceptable progress for a second  
83 consecutive year, the person or persons providing instruction shall submit to the county  
84 superintendent additional evidence that appropriate instruction is being provided.

85 (E) The parent or legal guardian shall submit to the county superintendent the results of  
86 the academic assessment of the child at grade levels three, five, eight, and 11, as applicable, by  
87 June 30 of the year in which the assessment was administered.

88 (3) This subdivision applies to both home instruction exemptions set forth in subdivisions  
89 (1) and (2) of this subsection. The county superintendent or a designee shall offer such  
90 assistance, including textbooks, other teaching materials and available resources, all subject to  
91 availability, as may assist the person or persons providing home instruction. Any child receiving  
92 home instruction may upon approval of the county board exercise the option to attend any class  
93 offered by the county board as the person or persons providing home instruction may consider  
94 appropriate subject to normal registration and attendance requirements.

95 (d) A child is exempt from the compulsory school attendance requirement set forth in §18-  
96 8-1a of this code if the requirements of this subsection, relating to physical or mental incapacity,  
97 are met. Physical or mental incapacity consists of incapacity for school attendance and the

98 performance of school work. In all cases of prolonged absence from school due to incapacity of  
99 the child to attend, the written statement of a licensed physician or authorized school nurse is  
100 required. Incapacity shall be narrowly defined and in any case the provisions of this article may  
101 not allow for the exclusion of the mentally, physically, emotionally, or behaviorally handicapped  
102 child otherwise entitled to a free appropriate education.

103 (e) A child is exempt from the compulsory school attendance requirement set forth in §18-  
104 8-1a of this code if conditions rendering school attendance impossible or hazardous to the life,  
105 health, or safety of the child exist.

106 (f) A child is exempt from the compulsory school attendance requirement set forth in §18-  
107 8-1a of this code upon regular graduation from a standard senior high school or alternate  
108 secondary program completion as determined by the state board.

109 (g) A child is exempt from the compulsory school attendance requirement set forth in §18-  
110 8-1a of this code if the child is granted a work permit pursuant to the subsection. After due  
111 investigation the county superintendent may grant work permits to youths under the termination  
112 age designated in §18-8-1a of this code, subject to state and federal labor laws and regulations.  
113 A work permit may not be granted on behalf of any youth who has not completed the eighth grade  
114 of school.

115 (h) A child is exempt from the compulsory school attendance requirement set forth in §18-  
116 8-1a of this code if a serious illness or death in the immediate family of the child has occurred. It  
117 is expected that the county attendance director will ascertain the facts in all cases of such  
118 absences about which information is inadequate and report the facts to the county superintendent.

119 (i) A child is exempt from the compulsory school attendance requirement set forth in §18-  
120 8-1a of this code if the requirements of this subsection, relating to destitution in the home, are  
121 met. Exemption based on a condition of extreme destitution in the home may be granted only  
122 upon the written recommendation of the county attendance director to the county superintendent  
123 following careful investigation of the case. A copy of the report confirming the condition and school

124 exemption shall be placed with the county director of public assistance. This enactment  
125 contemplates every reasonable effort that may properly be taken on the part of both school and  
126 public assistance authorities for the relief of home conditions officially recognized as being so  
127 destitute as to deprive children of the privilege of school attendance. Exemption for this cause is  
128 not allowed when the destitution is relieved through public or private means.

129 (j) A child is exempt from the compulsory school attendance requirement set forth in §18-  
130 8-1a of this code if the requirements of this subsection, relating to church ordinances and  
131 observances of regular church ordinances, are met. The county board may approve exemption  
132 for religious instruction upon written request of the person having legal or actual charge of a child  
133 or children. This exemption is subject to the rules prescribed by the county superintendent and  
134 approved by the county board.

135 (k) A child is exempt from the compulsory school attendance requirement set forth in §18-  
136 8-1a of this code if the requirements of this subsection, relating to alternative private, parochial,  
137 church, or religious school instruction, are met. Exemption shall be made for any child attending  
138 any private school, parochial school, church school, school operated by a religious order, or other  
139 nonpublic school which elects to comply with the provisions of §18-28-1 *et seq.* of this code.

140 (l) Completion of the eighth grade does not exempt any child under the termination age  
141 designated in §18-8-1a of this code from the compulsory attendance provision of this article.

142 (m) A child is exempt from the compulsory school attendance requirements set forth in  
143 §18-8-1a of this code if the child is an eligible recipient participating in the Hope Scholarship  
144 Program, as provided for in §18-31-1 *et seq.* of this code, and provides a notice of intent to  
145 participate in the Hope Scholarship Program to the county superintendent. The county  
146 superintendent shall enter the following into the West Virginia Education Information System  
147 (WVEIS):

148 (1) The filing of the notice of intent pursuant to this subsection;

149           (2) In the case of a Hope Scholarship recipient who chooses an individualized instructional  
150 program, annually, the child's test results or determination that a student is making academic  
151 progress commensurate with his or her age and ability, as applicable, pursuant to §18-31-8(a)(4)  
152 of this code; and

153           (3) In the case of an eligible recipient enrolling in a participating school, annually, the filing  
154 of a notice of enrollment pursuant to §18-31-11(a)(6) of this code.

155           (n) A child is exempt from the compulsory school attendance requirement set forth in §18-  
156 8-1a of this code if the child participates in a learning pod or microschool pursuant to this  
157 subsection.

158           (1) For the purposes of this subsection:

159           (A) "Learning pod" means a voluntary association of parents choosing to group their  
160 children together to participate in their elementary or secondary academic studies as an  
161 alternative to enrolling in a public school, private school, homeschool, or microschool, including  
162 participation in an activity or service provided to the children in exchange for payment; and

163           (B) "Microschool" means a school initiated by one or more teachers or an entity created  
164 to operate a school that charges tuition for the students who enroll and is an alternative to enrolling  
165 in a public school, private school, homeschool, or learning pod.

166           (2) Upon beginning participation in a learning pod or microschool pursuant to this  
167 subsection, the parent or legal guardian of the child participating shall present to the county  
168 superintendent or county board a notice of intent to participate in a learning pod or microschool  
169 that includes the name, address, and age of any child of compulsory school age participating and  
170 assurance that the child shall receive instruction in reading, language, mathematics, science, and  
171 social studies, and that the child shall be assessed annually in accordance with this subsection.  
172 The person providing instruction shall notify the county superintendent upon termination of  
173 participation in a learning pod or microschool for a child who is of compulsory attendance age.  
174 Upon establishing residence in a new county, the person providing instruction shall notify the

175 previous county superintendent and submit a new notice of intent to the superintendent of the  
176 new county of residence: *Provided*, That if a child is enrolled in a public school, notice of intent to  
177 participate in a learning pod or microschool shall be given on or before the date participation is to  
178 begin.

179 (3) The person or persons providing instruction shall submit satisfactory evidence of a high  
180 school diploma or equivalent, or a post-secondary degree or certificate from a regionally  
181 accredited institution, or from an institution of higher education that has been authorized to confer  
182 a post-secondary degree or certificate in West Virginia by the West Virginia Council for  
183 Community and Technical College Education or by the West Virginia Higher Education Policy  
184 Commission.

185 (4) Annually, the person or persons providing instruction shall obtain an academic  
186 assessment of the child for the previous school year in one of the following ways:

187 (A) The child participating in a learning pod or microschool takes a nationally normed  
188 standardized achievement test published or normed not more than 10 years from the date of  
189 administration and administered under the conditions as set forth by the published instructions of  
190 the selected test and by a person qualified in accordance with the test's published guidelines in  
191 the subjects of reading, language, mathematics, science, and social studies. The child is  
192 considered to have made acceptable progress when the mean of the child's test results in the  
193 required subject areas for any single year is within or above the fourth stanine or, if below the  
194 fourth stanine, shows improvement from the previous year's results;

195 (B) The child participates in the testing program currently in use in the state's public  
196 schools. The test shall be administered to the child at a public school in the county of residence.  
197 Determination of acceptable progress shall be based on current guidelines of the state testing  
198 program;

199 (C) A portfolio of samples of the child's work is reviewed by a certified teacher who  
200 determines whether the child's academic progress for the year is in accordance with the child's

201 abilities. The teacher shall provide a written narrative about the child's progress in the areas of  
202 reading, language, mathematics, science, and social studies and shall note any areas which, in  
203 the professional opinion of the reviewer, show need for improvement or remediation. If the  
204 narrative indicates that the child's academic progress for the year is in accordance with the child's  
205 abilities, the child is considered to have made acceptable progress; or

206 (D) The child completes an alternative academic assessment of proficiency that is  
207 mutually agreed upon by the parent or legal guardian and the county superintendent.

208 (5) A parent or legal guardian shall maintain copies of each student's academic  
209 assessment for three years. When the annual assessment fails to show acceptable progress, the  
210 person or persons providing instruction shall initiate a remedial program to foster acceptable  
211 progress. The county board upon request shall notify the parents or legal guardian of the child, in  
212 writing, of the services available to assist in the assessment of the child's eligibility for special  
213 education services. Identification of a disability does not preclude the continuation of participation  
214 in a learning pod or microschool. In the event that the child does not achieve acceptable progress  
215 for a second consecutive year, the person or persons providing instruction shall submit to the  
216 county superintendent additional evidence that appropriate instruction is being provided.

217 (6) The parent, legal guardian, learning pod, or microschool shall submit to the county  
218 superintendent the results of the academic assessment of the child with the same frequency  
219 prescribed in §18-8-1(c)(2)(E) of this code: *Provided*, That instead of the academic assessment  
220 results being submitted individually, the learning pod or microschool may submit the school  
221 composite results.

222 (7) The county superintendent or a designee shall offer such assistance, including  
223 textbooks, other teaching materials and available resources, all subject to availability, as may  
224 assist the person or persons providing instruction. Any child participating in a learning pod or  
225 microschool may upon approval of the county board exercise the option to attend any class

226 offered by the county board as the person or persons providing instruction may consider  
227 appropriate subject to normal registration and attendance requirements.

228 (8) No learning pod or microschool which meets the requirements of this subsection is  
229 subject to any other provision of law relating to education: *Provided*, That any learning pod or  
230 microschool which has a student requiring special education instruction must comply with the  
231 provisions of §18-20-11 of this code, including, but not limited to, placement of video cameras for  
232 the protection of that exceptional student.

233 (9) Making learning pods and microschools subject to the home instruction provisions and  
234 requirements does not make learning pods and microschools the same as homeschooling.