

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **Senate Bill 454**

BY SENATORS MAYNARD, ROBERTS, SYPOLT, AND CLINE

[Introduced January 29, 2019; Referred  
to the Committee on Health and Human Resources; and  
then to the Committee on 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 exemptions from mandated immunizations.

*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; exemptions.**

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 school or a state-regulated child care  
 6 center in this state must be immunized against chickenpox, hepatitis-b, measles, meningitis,  
 7 mumps, diphtheria, polio, rubella, tetanus, and whooping cough.

8 (c) No child or person may be admitted or received in any of the schools of the state or a  
 9 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 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 ~~shall~~ may be allowed to enter school without at least one dose of  
21 each required vaccine.

22 (f) County health departments shall furnish the biologicals for this immunization for  
23 children 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~~ shall 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, or 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 be accompanied by the certification of a licensed physician stating that the physical~~  
37 ~~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 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 be a physician~~  
44 ~~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 article five, chapter twenty-nine a 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, shall be fined not less than \$25  
52 nor more than \$100.

53 (j) A child shall be exempt from compulsory immunizations upon the presentation to the  
54 child's school of any one of the following certifications:

55 (1) A request for an exemption to the compulsory immunization requirements of this  
56 section must be accompanied by the certification of a licensed physician or advanced practice  
57 nurse who has personally examined the patient stating that the physical condition of the child is  
58 such that immunization is contraindicated or there exists a specific precaution to a particular  
59 vaccine; or

60 (2) A request for an exemption to the compulsory immunization requirements of this  
61 section must be accompanied by a notarized certification signed by any parent or legal guardian  
62 of the child that the religious beliefs of the signator are contrary to the compulsory immunizations;  
63 or

64 (3) A request for an exemption to the compulsory immunization requirements of this  
65 section must be accompanied by a notarized certification signed by any parent or legal guardian  
66 of the child to the child indicating that the signator has either a conscientious or personal objection  
67 to the immunization of the child.

**CHAPTER 18B. HIGHER EDUCATION.**

**ARTICLE 1. GOVERNANCE.**

**§18B-1-12. Rights of students to exemptions from compulsory immunizations.**

1        A student shall be exempt from a college, university, or vocational technical school's  
2 compulsory immunizations upon the presentation to the student's school of any one of the  
3 following certifications:

4        (1) A request for an exemption to the compulsory immunizations of the school must be  
5 accompanied by the certification of a licensed physician or advanced practice nurse who has  
6 personally examined the student stating that the physical condition of the student is such that  
7 immunization is contraindicated or there exists a specific precaution to a particular vaccine; or

8        (2) A request for an exemption to the compulsory immunization requirements of the school  
9 must be accompanied by a notarized certification signed by the student if he or she is 18 years of  
10 age or older or the student's parent or legal guardian stating that the religious beliefs of the  
11 signator are contrary to the compulsory immunizations; or

12        (3) A request for an exemption to the compulsory immunizations of the school must be  
13 accompanied by a notarized certification signed by the student if he or she is 18 years of age or  
14 older or a parent or legal guardian of the student stating that the signator has either a  
15 conscientious or personal objection to the immunization of the student.

**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

4 or protection, and shall also have the right to refrain from any or all of such activities, including  
5 the 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 has the right to be exempt from mandated immunizations of his or her  
9 employer upon the presentation to his or her employer of any one of the certifications required by  
10 this section:

11 (1) A certification signed by a licensed physician or advanced practice registered nurse  
12 who has personally examined the employee stating that the physical condition of the employee is  
13 such that immunization is contraindicated or there exists a specific precaution to the mandated  
14 vaccine or vaccines; or

15 (2) A notarized certification by the employee that he or she has religious beliefs contrary  
16 to the mandated immunization or a conscientious or personal objection to the mandated  
17 immunization. Employers shall not penalize or discriminate against employees for exercising this  
18 exemption right by practices including, but not limited to, withholding bonuses, pay raises, and  
19 promotion.

NOTE: The purpose of this bill is to provide exemptions from mandatory immunizations.

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