

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **House Bill 2289**

BY DELEGATES STEELE AND SYPOLT

[Introduced February 10, 2021; 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, relating  
 2 to compulsory immunizations; permitting physicians to provide exemption certificates  
 3 relating to required immunizations; and removing requirement for certain personnel to  
 4 report persons not immunized.

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

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

**§16-3-4. Compulsory immunization of school children.**

1 (a) Whenever a resident birth occurs, the ~~commissioner~~ health care practitioner shall  
 2 promptly provide parents of the newborn child with information provided by the commissioner, on  
 3 immunizations mandated by this state or required for admission to a public, private and parochial  
 4 school in this state or a state-regulated child care 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~~ A child or person may not be ~~admitted or received~~ enrolled in any of the schools of  
 9 ~~the state~~ school or a state-regulated child care center until he or she has been immunized against  
 10 chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus, and  
 11 whooping cough or produces a certificate from ~~the commissioner~~ his or her physician granting the  
 12 child or person an exemption from 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            ~~(d)~~ ~~(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 be allowed to enter school without at least one dose of each  
21 required vaccine.

22            ~~(e)~~~~(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            ~~(f)~~~~(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            ~~(g)~~~~(h)~~ The ~~commissioner~~ child's physician is authorized to grant, renew, condition, deny,  
32 suspend or revoke exemptions to the compulsory immunization requirements of this section, on  
33 a statewide basis, upon sufficient medical evidence that immunization is contraindicated or there  
34 exists a 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 (h) A physician who provides an exemption certificate shall submit to the commissioner  
50 when he or she grants an exemption the medical evidence that immunization is contraindicated  
51 or there exists a specific precaution to a particular vaccine.

52 (i)(j) A physician who approves and provides a child with a false certificate of immunization  
53 against chickenpox, hepatitis b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus  
54 and whooping cough is subject to disciplinary action by his or her board. guilty of a misdemeanor  
55 and, upon conviction, shall be fined not less than \$25 nor more than \$100

NOTE: The purpose of this bill is to permit physicians to provide exemption certificates relating to required immunizations. It removes requirement for certain personnel to report persons not immunized.

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