

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 498

BY SENATOR RUCKER

[Introduced January 28, 2022; referred to the
Committee on Education]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §18-2-9b; and to amend said code by adding thereto a new section,
 3 designated §18B-14-4, all relating to prohibiting a school district, a public charter school,
 4 the West Virginia Board of Education, the West Virginia Department of Education, a state
 5 institution of higher education, or any employee of the aforementioned entities from
 6 providing instruction in, requiring instruction in, making part of a course, or requiring a
 7 statement or affirmation by an employee of certain specified concepts; allowing discussion
 8 of the prohibited concepts in theory as part of state institution of higher education
 9 academic course if discussion of alternative theories are also included in the course;
 10 defining terms; and allowing any student or employee aggrieved by a violation of the
 11 sections prohibiting the certain specified concepts to bring an action against the school
 12 district, public charter school, West Virginia Board of Education, West Virginia Department
 13 of Education, state institution of higher education, or any employee of the aforementioned
 14 entities acting in their official capacities, alleged to be responsible for the alleged violation.

Be it enacted by the Legislature of West Virginia:

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-9b. Anti-Racism Act of 2022.

1 (a) As used in this section:

2 (1) "Biological sex" means an individual's physical form as a male or female based solely
 3 on the individual's reproductive biology and genetics at birth;

4 (2) "Ethnic group" means a category of population that is set apart and bound together by
 5 common ties of race, language, nationality, or culture; and

6 (3) "Race" means any one of the groups that humans are often divided into based on
 7 physical traits regarded as common among people of shared ancestry.

8 (b) A school district, a public charter school, the West Virginia Board of Education, the
9 West Virginia Department of Education, or any employee of the aforementioned entities may not
10 provide instruction in, require instruction in, make part of a course, or require a statement or
11 affirmation by any employee of the following concepts:

12 (1) One race, ethnic group, or biological sex is inherently, morally, or intellectually superior
13 to another race, ethnic group, or biological sex;

14 (2) An individual, by virtue of the individual's race, ethnicity, or biological sex, is inherently
15 racist, sexist, or oppressive, whether consciously or unconsciously;

16 (3) An individual should be discriminated against or receive adverse treatment solely or
17 partly because of the individual's race, ethnicity, or biological sex;

18 (4) An individual's moral character is determined by the individual's race, ethnicity, or
19 biological sex;

20 (5) An individual, by virtue of the individual's race, ethnicity, or biological sex, bears
21 responsibility for actions committed by other members of the same race, ethnic group, or
22 biological sex;

23 (6) An individual should feel discomfort, guilt, anguish, or any other form of psychological
24 distress because of the individual's race, ethnicity, or biological sex; and

25 (7) Academic achievement, meritocracy, or traits such as a hard work ethic are racist or
26 sexist or were created by members of a particular race, ethnic group, or biological sex to oppress
27 members of another race, ethnic group, or biological sex.

28 (c) Any student or employee aggrieved by a violation of this section may bring an action
29 against the school district, public charter school, West Virginia Board of Education, West Virginia
30 Department of Education, or any employee of the aforementioned entities acting in their official
31 capacities, alleged to be responsible for the alleged violation. The aggrieved student or employee
32 may seek injunctive relief and actual damages, as well as reasonable attorney's fees and court
33 costs if the person substantially prevails. Any action brought pursuant to this article shall be

34 commenced not later than one year after the day the cause of action accrues.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 14. MISCELLANEOUS.

§18B-14-4. Anti-Racism Act of 2022.

1 (a) As used in this section:

2 (1) "Biological sex" means an individual's physical form as a male or female based solely
3 on the individual's reproductive biology and genetics at birth;

4 (2) "Ethnic group" means a category of population that is set apart and bound together by
5 common ties of race, language, nationality, or culture; and

6 (3) "Race" means any one of the groups that humans are often divided into based on
7 physical traits regarded as common among people of shared ancestry.

8 (b) Except as provided in subsection (c) of this section, a state institution of higher
9 education or any employee of a state institution of higher education may not provide instruction
10 in, require instruction in, make part of a course, or require a statement or affirmation by any
11 employee of the following concepts:

12 (1) One race, ethnic group, or biological sex is inherently, morally, or intellectually superior
13 to another race, ethnic group, or biological sex;

14 (2) An individual, by virtue of the individual's race, ethnicity, or biological sex, is inherently
15 racist, sexist, or oppressive, whether consciously or unconsciously;

16 (3) An individual should be discriminated against or receive adverse treatment solely or
17 partly because of the individual's race, ethnicity, or biological sex;

18 (4) An individual's moral character is determined by the individual's race, ethnicity, or
19 biological sex;

20 (5) An individual, by virtue of the individual's race, ethnicity, or biological sex, bears
21 responsibility for actions committed by other members of the same race, ethnic group, or

22 biological sex;

23 (6) An individual should feel discomfort, guilt, anguish, or any other form of psychological
24 distress because of the individual's race, ethnicity, or biological sex; and

25 (7) Academic achievement, meritocracy, or traits such as a hard work ethic are racist or
26 sexist or were created by members of a particular race, ethnic group, or biological sex to oppress
27 members of another race, ethnic group, or biological sex.

28 (c) Nothing in subsection (b) of this section prohibits the discussion of those concepts in
29 theory as part of an academic course if discussion of alternative theories are also included in the
30 course.

31 (d) Any student or employee aggrieved by a violation of this section may bring an action
32 against the state institution of higher education, or any employee of the state institution of higher
33 education acting in their official capacities, alleged to be responsible for the alleged violation. The
34 aggrieved student or employee may seek injunctive relief and actual damages, as well as
35 reasonable attorney's fees and court costs if the person substantially prevails. Any action brought
36 pursuant to this article shall be commenced not later than one year after the day the cause of
37 action accrues.

NOTE: The purpose of this bill is to create the Anti-Racism Act of 2022 to prohibit a school district, a public charter school, the West Virginia Board of Education, the West Virginia Department of Education, a state institution of higher education or any employee of the aforementioned entities from providing instruction in, requiring instruction in, making part of a course, or requiring a statement or affirmation by an employee of certain specified concepts.

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