

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2036

By Delegates Kimble, Phillips, McGeehan,
Mazzocchi, Fast, Horst, C. Pritt, Ridenour, Jeffries,
Worrell and Steele

[Introduced January 11, 2023; Referred to the Committee
on Health and Human Resources then the Judiciary]

1 A BILL to amend and reenact §5A-1-3 of the Code of West Virginia, 1931, as amended; to amend
 2 and reenact §16-3-4 of said code; and to amend said code by adding thereto a new
 3 section, designated §18B-1-12, all relating to exemptions from mandated immunizations
 4 for religious reasons.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 1. DEPARTMENT OF ADMINISTRATION.

§5A-1-3. Powers and duties of secretary, division heads and employees.

1 (a) The secretary shall have control and supervision of the Department of Administration
 2 and shall be responsible for the work of each of its employees. The secretary shall have such
 3 power and authority as specified in §5F-2-2 of this code. The secretary shall also have the
 4 authority to employ such assistants and attorneys as may be necessary for the efficient operation
 5 of the department. The secretary, the division heads and the employees of the department shall
 6 perform the duties herein specified and shall also perform such other duties as the Governor may
 7 prescribe.

8 (b) Employees of the agencies and boards included in §5F-2-1 of this code shall be exempt
 9 from mandated immunizations of his or her employer upon the presentation to his or her employer
 10 of any one of the certifications required by this section. The request shall be accompanied by a
 11 notarized certification by the employee that he or she has religious beliefs contrary to the
 12 mandated immunization or a conscientious or personal objection to the mandated immunization.
 13 Employers may not penalize or discriminate against employees for exercising this exemption right
 14 by practices including, but not limited to, withholding bonuses, pay raises, and promotion.

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~~ shall 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~~ 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 children
23 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 pursuant~~
48 ~~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, thereof, shall be fined not less
52 than \$25 nor more than \$100.

53 (j) Notwithstanding any of the foregoing provisions of this section, a child shall be exempt
54 from compulsory immunizations upon the presentation to the child's school a notarized
55 certification signed by any parent or legal guardian of the child indicating that the signator has
56 either a conscientious or personal objection 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 An applicant or a student shall be exempt from a public college, university, or vocational
2 technical school's compulsory immunizations upon the presentation to the school a request for an
3 exemption to the compulsory immunizations of the school. The request shall be accompanied by a
4 notarized certification signed by the applicant or the student if he or she is 18 years of age or older
5 or a parent or legal guardian of the applicant or student under the age of 18 years stating that the
6 signator has either a conscientious or personal objection to the immunization of the applicant or
7 student.

NOTE: The purpose of this bill is to provide exemptions from mandatory immunizations based on religious reasons.

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