

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2367

By Delegates Crouse, Steele and Ridenour

[Introduced January 11, 2023; Referred to the
Committee on Health and Human Resources then 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 providing parents the option to have their
 4 children vaccinated as a condition to entry of schools; forbidding schools from requiring
 5 masks on children under age 18; allowing those over 18 to make their own decisions
 6 regarding vaccinations as a condition of entry to colleges and trade schools in West
 7 Virginia; forbidding colleges and trade schools from requiring masks at their campuses for
 8 students 18 and over; and forbidding businesses from requiring vaccines or masks as a
 9 condition of employment or entry into an establishment.

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~~ Choice of immunization of school children; information disseminated; ~~offenses; penalties~~ parents responsible for immunization decisions; masks prohibited.

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~~ may be immunized against chickenpox, hepatitis-b, measles, meningitis,
 7 mumps, diphtheria, polio, rubella, tetanus, COVID-19 and whooping cough, according to the best
 8 judgment of the parents or legal guardians.

9 ~~(c) No child or person may be admitted or received in any of the schools of the state or a~~

10 ~~state-regulated child care center until he or she has been immunized against chickenpox,~~
11 ~~hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough~~
12 ~~or produces a certificate from the commissioner granting the child or person an exemption from~~
13 ~~the compulsory immunization requirements of this section.~~

14 ~~(d) Any school or state-regulated child care center personnel having information~~
15 ~~concerning any person who attempts to be enrolled in a school or state-regulated child care center~~
16 ~~without having been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps,~~
17 ~~diphtheria, polio, rubella, tetanus and whooping cough shall report the names of all such persons~~
18 ~~to the commissioner.~~

19 ~~(e) Persons may be provisionally enrolled under minimum criteria established by the~~
20 ~~commissioner so that the person's immunization may be completed while missing a minimum~~
21 ~~amount of school. No person shall be allowed to enter school without at least one dose of each~~
22 ~~required vaccine~~

23 ~~(f) (c) County health departments shall furnish the biologicals for this immunization for~~
24 ~~children of parents or guardians who attest that they cannot afford or otherwise access vaccines~~
25 ~~elsewhere.~~

26 ~~(g) (d) Health officers and physicians who provide vaccinations must present the person~~
27 ~~vaccinated with a certificate free of charge showing that they have been immunized against~~
28 ~~chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and~~
29 ~~whooping cough, or he or she may give the certificate to any person or child whom he or she~~
30 ~~knows to have been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps,~~
31 ~~diphtheria, polio, rubella, tetanus and whooping cough.~~

32 ~~(h) (e) The commissioner is authorized to grant, renew, condition, deny, suspend or revoke~~
33 ~~exemptions to the compulsory immunization requirements guidelines of this section, on a~~
34 ~~statewide basis, upon sufficient medical evidence that immunization is contraindicated or there~~
35 ~~exists a specific precaution to a particular vaccine.~~

36 ~~(1) A request for an exemption to the compulsory immunization requirements of this~~
37 ~~section must be accompanied by the certification of a licensed physician stating that the physical~~
38 ~~condition of the child is such that immunization is contraindicated or there exists a specific~~
39 ~~precaution to a particular vaccine.~~

40 ~~(2) The commissioner is authorized to appoint and employ an Immunization Officer to~~
41 ~~make determinations on request for an exemption to the compulsory immunization requirements~~
42 ~~of this section, on a statewide basis, and delegate to the Immunization Officer the authority~~
43 ~~granted to the commissioner by this subsection.~~

44 ~~(3) A person appointed and employed as the Immunization Officer must be a physician~~
45 ~~licensed under the laws of this state to practice medicine.~~

46 ~~(4) The Immunization Officer's decision on a request for an exemption to the compulsory~~
47 ~~immunization requirements of this section may be appealed to the State Health Officer.~~

48 ~~(5) The final determination of the State Health Officer is subject to a right of appeal~~
49 ~~pursuant to the provisions of article five, chapter twenty-nine a of this code.~~

50 ~~(i) A physician who provides any person with a false certificate of immunization against~~
51 ~~chickenpox, hepatitis b, measles, meningitis, mumps, diphtheria, polio,, rubella, tetanus and~~
52 ~~whooping cough is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$25~~
53 ~~nor more than \$100~~

54 ~~(f) Parents or legal guardians shall be free to choose what is best for their children under~~
55 ~~the age of 18 as it relates to immunizations. Parents who choose to not immunize their children~~
56 ~~against certain diseases shall not be treated differently or disparately from those parents who do~~
57 ~~immunize their children.~~

58 ~~(g) Public schools in West Virginia may not require masks or facial coverings for the~~
59 ~~prevention of disease or otherwise.~~

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1. GOVERNANCE.

§18B-1-12. Rights of students to exemptions from compulsory immunizations; masks and facial coverings prohibited.

60 (a) A student age 18 or over shall be exempt from a college, university, or vocational
61 technical school's compulsory immunizations upon the presentation to the student's school of any
62 one of the following certifications:

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

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

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

75 (b) Colleges, universities, and vocational technical schools may not require masks or facial
76 coverings for the prevention of disease or otherwise.

CHAPTER 21. LABOR.

ARTICLE 1A. LABOR-MANAGEMENT RELATIONS ACT FOR THE PRIVATE SECTOR.

§21-1A-3. Rights of employees.

1 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 or
4 protection, and shall also have the right to refrain from any or all of such activities, including the
5 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 certification by the employee that he or she has religious beliefs contrary to the
16 mandated immunization or a conscientious or personal objection to the mandated immunization.
17 Employers shall not penalize or discriminate against employees for exercising this exemption right
18 by practices including, but not limited to, withholding bonuses, pay raises, and promotions.

19 (c) Businesses may not require masks or facial coverings for the prevention of disease or
20 otherwise for employees or customers/patrons.

NOTE: The purpose of this bill is to provide parents the option to have their children vaccinated as a condition to entry of schools. The bill forbids schools from requiring masks on children under age 18. The bill allows those 18 and over to make their own decisions regarding vaccinations as a condition of entry to colleges and trade schools in West Virginia. The bill forbids colleges and trade schools from requiring masks at their campuses for students 18 and over. The bill forbids businesses from requiring vaccines or masks as a condition of employment or entry into an establishment.

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