

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 230

By Senators Roberts, Azinger, Deeds, Phillips,
Rucker, Smith, Stuart, Trump, Martin, Maynard,
Chapman, Taylor, and Karnes

[Introduced January 16, 2023; 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; and to
 2 amend and reenact §18-28-2 and §18-28-6 of said code, all relating to allowing students in
 3 private schools to be immunized on a voluntary basis.

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 public school children; information disseminated;
 offenses; penalties.**

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 public school or a state-regulated child
 6 care 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 public schools of the state
 9 or a 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 public 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 be allowed to enter public 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 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 grant, renew, condition, deny, suspend or revoke
32 exemptions to the compulsory immunization requirements of this section, on a statewide basis,
33 upon sufficient medical evidence that immunization is contraindicated or there exists a specific
34 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~~ §29A-5-1 et seq. 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) For the purposes of this section, "public schools" means those free schools that are
54 under the general supervision of the West Virginia Board of Education pursuant to section 2,
55 article XII of the Constitution of West Virginia.

CHAPTER 18. EDUCATION.

ARTICLE 28. PRIVATE, PAROCHIAL OR CHURCH SCHOOLS, OR SCHOOLS OF A RELIGIOUS ORDER.

§18-28-2. Attendance; health and safety regulations.

1 The following is applicable to private, parochial or church schools or schools of a religious
2 order:

3 (a) Each school shall observe a minimum instructional term of 180 days with an average of
4 five hours of instruction per day;

5 (b) Each school shall make and maintain annual attendance ~~and disease immunization~~
6 records for each pupil enrolled and regularly attending classes. The attendance records shall be
7 made available to the parents or legal guardians;

8 (c) Upon the request of the county superintendent, a school (or a parents organization

9 composed of the parents or guardians of children enrolled in the school) shall furnish to the county
 10 board a list of the names and addresses of all children enrolled in the school between the ages of
 11 seven and 16 years;

12 (d) Attendance by a child at any school which complies with this article satisfies the
 13 requirements of compulsory school attendance;

14 (e) Each school is subject to reasonable fire, health and safety inspections by state, county
 15 and municipal authorities as required by law, and is required to comply with the West Virginia
 16 school bus safety regulations; and

17 (f) Each school shall establish, file and update a school specific crisis response plan which
 18 complies with the requirements established for it by the state board and the Division of Homeland
 19 Security and Emergency Management pursuant to ~~section nine, article nine-f of this chapter~~ §18-
 20 9F-9 of this code.

§18-28-6. Requirements exclusive.

1 No private, parochial or church school or school operated by any other religious group or
 2 body as part of its religious ministry or other nonpublic school which complies with the
 3 requirements of this article shall be subject to any other provision of law relating to education
 4 except requirements of law respecting fire, safety, and sanitation. ~~and immunization~~

NOTE: The purpose of this bill is to provide for voluntary private school immunization.

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