

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 5105

By Delegates Kimble, Mazzocchi, Foggin, Ridenour,
Kirby, Phillips, Dean, C. Pritt, McGeehan, Kump, and
Steele

[Originating in the Committee on the Judiciary;

Reported on February 20, 2024]

1 A BILL to amend and reenact §16-3-4 of the Code of West Virginia, 1931, as amended, relating to
2 eliminating the vaccine requirements for students of public virtual schools, private schools,
3 and parochial schools unless the student participates in sanctioned athletic events.

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; 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 childcare
4 center.

5 (b) Except as hereinafter provided, a child entering a public school or a state-regulated
6 childcare center in this state must be immunized against chickenpox, hepatitis-b, measles,
7 meningitis, 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 childcare 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 childcare center personnel having information
14 concerning any person who attempts to be enrolled in a public school or state-regulated childcare
15 center without having been immunized against chickenpox, hepatitis-b, measles, meningitis,
16 mumps, diphtheria, polio, rubella, tetanus, and whooping cough shall report the names of all such
17 persons 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 a 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 §29A-5-1 *et seq.*, of this code.

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

53 (j) A child attending virtual public school shall be exempt from the requirements of this
54 section, except if that child participates in West Virginia Secondary School Activities Commission
55 sponsored athletics.

56 (k) Any student at a private or parochial school that has not received the immunizations in
57 this section shall not be eligible to participate in West Virginia Secondary School Activities
58 Commission sponsored athletics.

59 (l) Notwithstanding any other provisions in this code, no provision of this section shall apply
60 to any child whose parents or guardians present a letter stating that a child cannot be vaccinated
61 for religious reasons and an exemption from the requirements of this section shall be granted.