

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 5243**

By Delegates Crouse, W. Clark, C. Pritt, Willis,  
Linville, Cannon, Moore, Foster, Kimble, Mazzocchi  
and Warner

[Originating in the Committee on the Judiciary;

Reported on February 5, 2024]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §16-67-1, §16-67-2, §16-67-3, §16-67-4, and §16-67-5, all relating to the  
3 Women's Bill of Rights; providing short title; setting forth purpose; establishing application  
4 of act; defining terms; establishing the state interest in certain single sex environments;  
5 creating parameters for certain data collection; and allowing severability.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 67. WEST VIRGINIA WOMEN'S BILL OF RIGHTS ACT.**

**§16-67-1. Short title; purposes; general application.**

1 (a) This act shall be known and may be cited as the "West Virginia Women's Bill of Rights."

2 (b) The purpose of the West Virginia Women's Bill of Rights is to bring clarity, certainty, and  
3 uniformity to the laws of the state regarding sex discrimination, equality of the sexes, and benefits  
4 or services specifically provided to males and to females.

5 (c) The West Virginia Women's Bill of Rights applies wherever West Virginia, or an  
6 instrumentality of the state, classifies people on the basis of sex or otherwise defines people as  
7 being female or male, women or men, girls or boys; the definitions contained in §16-67-2 of this  
8 code apply.

**§16-67-2. Definitions of terms used in statutory construction.**

1 (a) Notwithstanding any provision of law to the contrary, with respect to the application of  
2 an individual's biological sex pursuant to any state laws, rules, regulations, or official public  
3 policies, the following shall apply:

4 (1) An individual's "sex" means such individual's biological sex, either male or female, at  
5 birth;

6 (2) A "female", when used in reference to a natural person, is an individual who has, had,  
7 will have, or would have (but for a developmental anomaly, genetic anomaly, or accident) the  
8 reproductive system that at some point produces ova;

9           (3) A "male" when used in reference to a natural person, means an individual who has,  
10 had, will have, or would have (but for a developmental anomaly, genetic anomaly, or accident) the  
11 reproductive system that at some point produces sperm;

12           (4) A "woman" is an adult human of the female sex, and a "man" is an adult human of the  
13 male sex;

14           (5) A "girl" is a human female who has not yet reached adulthood, and a "boy" is a human  
15 male who has not yet reached adulthood;

16           (6) A "mother" is a female parent of a child or children as those terms are defined in this  
17 code; a "father" is a male parent of a child or children as those terms are defined in this code;

18           (7) "Equal" does not mean "same" or "identical" with respect to equality of the sexes;

19           (8) A person's "sex" is his or her biological sex (either male or female) at birth.

20           (A) There are only two sexes, and every individual is either male or female;

21           (B) "Sex" is objective and fixed; and

22           (C) "Sex" does not include "gender identity" or any other terms intended to convey a  
23 person's subjective sense of self; "gender identity" and other subjective terms may not be used as  
24 synonyms or substitutes for "sex."

25           (b) Individuals with "differences in sex development" (also known as "DSD" or "intersex  
26 conditions") are not a third sex. Individuals with a congenital and medically verifiable DSD  
27 diagnosis must be accommodated consistent with state and federal law.

**§16-67-3.           Sex           discrimination;           single-sex           environments.**

1           (a) Any state policy, program, or statute that prohibits sex discrimination shall be construed  
2 to pertain to females or males.

3           (b) Because the state has an important interest in preventing unjust discrimination and in  
4 maintaining safety, privacy, and fairness, West Virginia and its political subdivisions and  
5 instrumentalities may provide separate single-sex environments.

6 (c) Wherever West Virginia or its political subdivisions or instrumentalities, in fact, provide  
7 separate single-sex environments for males and females, the definitions established in §16-67-2  
8 of this code must apply.

**§16-67-4. Data collection.**

1 (a) Any public school, public school district, agency, department, or instrumentality of the  
2 state that collects vital statistics related to sex for the purpose of complying with state or federal  
3 anti-discrimination laws or for the purpose of gathering accurate public health, crime, economic, or  
4 other data shall identify each natural person who is part of the collected data set as either male or  
5 female as defined in this article.

6 (b) Compliance with this section shall not require the collection of data regarding sex  
7 unless otherwise required by law, and it shall not prevent the collection of additional data points  
8 other than biological sex.

**§16-67-5. Severability.**

1 If any provision of this article, an amendment made by this article, or the application of such  
2 provision or amendment to any person or circumstance is held to be unconstitutional, the  
3 remainder of this article, the amendments made by this article, and the application of the  
4 provisions of such to any person or circumstance shall not be affected thereby.

NOTE: The purpose of this bill is to establish the West Virginia Women's Bill of Rights.

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