

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 2071**

By Delegates Pinson, B. Smith, and Parsons

[Introduced February 12, 2025; referred

to the Committee on Education]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §18-5-29, relating to prohibiting a public school student from being required to  
3 participate in instruction related to sexual orientation and gender identity if a parent,  
4 custodian, or guardian of the student objects in writing; requiring each public school to  
5 afford the parent, custodian, or guardian of a child subject to instruction with respect to  
6 sexual orientation and gender identity advance written notification of such instruction and  
7 of their right to exempt the child from participation; prohibiting a public school and the  
8 county board employees assigned to the school from knowingly giving false or misleading  
9 information to the parent, custodian, or guardian of a student regarding the student's  
10 gender identity or intention to transition to a gender that is different than the sex listed on a  
11 student's official birth certificate or certificate issued upon adoption if the certificate was  
12 issued at or near the time of the student's birth; requiring a public school employee to  
13 report a student's request for an accommodation that is intended to affirm the student's  
14 gender identity from a person employed by the public school to an administrator employed  
15 by the county board and assigned to the school; requiring the administrator to report the  
16 student's request to the student's parent, custodian, or guardian; allowing for legal action in  
17 certain instances of violations; allowing State Board of Education to promulgate rules to;  
18 and providing that the provisions of this act are severable.

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

**ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-29. Allowing objection to sexual orientation and gender identity instruction; requiring advance notice of sexual orientation and gender identity instruction; prohibiting false information regarding student's gender identity or intention to transition; requiring certain student requests to be reported to parent.**

1 (a) For the purposes of this section:

2 "Custodian" means a person who has some allocation of physical custody of the child or

3 who has provided to the school written permission of a parent to have access to the notices and  
4 information contemplated by this section;

5 "Gender identity" means a category of social identity and refers to an individual's  
6 identification as male, female, or occasionally, some category other than male or female;

7 "Guardian" means a person other than a parent or custodian who, pursuant to a court  
8 order, acts in loco parentis for the child;

9 "Parent" means a parent who has some allocation of physical custody of the child or who  
10 has some share of joint decision-making authority for the child;

11 "Sexual orientation" means an individual's actual or perceived orientation as heterosexual,  
12 homosexual, or bisexual; and

13 "Transition to a gender" means the process in which a person goes from identifying with  
14 and living as a gender that corresponds to the person's biological sex to identifying with and living  
15 as a gender different from the person's biological sex and may involve social, legal, or physical  
16 changes.

17 (b) No public school student may be required to participate in instruction related to sexual  
18 orientation and gender identity, whether it is offered as part of a health education class or program  
19 or as part of any other class or program, if a parent, custodian, or guardian of the student objects in  
20 writing to such participation.

21 (1) Each public school shall afford the parent, custodian, or guardian of a child subject to  
22 instruction with respect to sexual orientation and gender identity, whether it is offered as part of a  
23 health education class or program or as part of any other class or program, advance written  
24 notification of such instruction and of their right to exempt the child from participation in such  
25 instruction by giving notice to that effect in writing to the school principal.

26 (2) The prior written notification required by subdivision (1) of this subsection shall include  
27 a list of the audio-visual or written curriculum and materials to be used in the instruction, along with  
28 information regarding how to access the same, consistent with the provisions of §18-5-27.

29       (3) The provisions of subdivision (1) of this subsection may not be construed to require  
30       written notification prior to:

31       (A) A teacher responding to student questions during class regarding sexual orientation  
32       and gender identity as it relates to any topic of instruction;

33       (B) Referring to the sexual orientation or gender identity of any historic person, group, or  
34       public figure when such information provides necessary context in relation to any topic of  
35       instruction; or

36       (C) Referring to sexual orientation and gender identity if necessary to address a  
37       disciplinary matter, such as an instance of bullying.

38       (c) The provisions of this section may not be construed to require that a public school offer  
39       instruction of any kind regarding sexual orientation or gender identity.

40       (d) A public school and the county board employees assigned to the school may not  
41       knowingly give false or misleading information to the parent, custodian, or guardian of a student  
42       regarding the student's gender identity or intention to transition to a gender that is different than the  
43       sex listed on a student's official birth certificate or certificate issued upon adoption if the certificate  
44       was issued at or near the time of the student's birth.

45       (e) If a student enrolled in a public school requests an accommodation that is intended to  
46       affirm the student's gender identity from a person employed by the public school, including a  
47       request that the student be addressed using a name or pronoun that is different than the name or  
48       pronoun assigned to the student in the public school's registration forms or records, the public  
49       school employee shall report the student's request to an administrator employed by the county  
50       board and assigned to the school, and the administrator shall report the student's request to the  
51       student's parent, custodian or guardian.

52       (f) A parent, custodian, or legal guardian who is impacted, or whose child is impacted, by a  
53       violation of this section may bring a civil action against the public school in question. The Court in  
54       any such action may award compensatory damages, injunctive relief, or any other appropriate

55 relief. Additionally, the court shall award court costs and reasonable attorney fees to a prevailing  
56 party who established a violation of provisions of this section.

57 (g) The Attorney General may bring an action to enforce compliance with this section.

58 (h) The state board of education shall promulgate rules pursuant to §29A-3B-1 et seq. to  
59 implement this section.

60 (i) If a provision of this section or its application to any person or circumstance is held  
61 invalid, the invalidity does not affect other provisions or applications of the section that can be  
62 given effect without the invalid provision or application, and to this end the provisions of this act are  
63 severable.

NOTE: The purpose of this bill is to prohibit a public school student from being required to participate in instruction related to sexual orientation and gender identity if a parent, custodian, or guardian of the student objects in writing; require each public school to afford the parent, custodian, or guardian of a child subject to instruction with respect to sexual orientation and gender identity advance written notification of such instruction and of their right to exempt the child from participation; prohibit a public school and the county board employees assigned to the school from knowingly giving false or misleading information to the parent, custodian, or guardian of a student regarding the student's gender identity or intention to transition to a gender that is different than the sex listed on a student's official birth certificate or certificate issued upon adoption if the certificate was issued at or near the time of the student's birth; require a public school employee to report a student's request for an accommodation that is intended to affirm the student's gender identity from a person employed by the public school to an administrator employed by the county board and assigned to the school; and require the administrator to report the student's request to the student's parent, custodian, or guardian.

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