

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

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for

House Bill 2777

By Delegates Crouse, Burkhammer, White, Petitto,

Lucas, Hornby, D. Cannon, and McGeehan

[Introduced February 21, 2025; referred to the

Committee on Education]

1 A BILL to amend and reenact §18-8-1 of the Code of West Virginia, 1931, as amended, relating to
2 compulsory school attendance; removing requirements to submit certain evidence on
3 behalf of home-schooled children; establishing a school choice portal; and providing for
4 exemptions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-1. Compulsory school attendance; exemptions.

1 (a) Exemption from the requirements of compulsory public school attendance established
2 in §18-8-1a of this code shall be made on behalf of any child for the causes or conditions set forth
3 in this section. Each cause or condition set forth in this section is subject to confirmation by the
4 attendance authority of the county or state. A child who is exempt from compulsory school
5 attendance under this section is not subject to prosecution under §18-8-2 of this code, nor is such
6 a child a status offender as defined by §49-1-202 of this code.

7 (b) A child is exempt from the compulsory school attendance requirement set forth in §18-
8 8-1a of this code if the requirements of this subsection, relating to instruction in a private,
9 parochial, or other approved school, are met. The instruction shall be in a school approved by the
10 county board and for a time equal to the instructional term set forth in §18-5-45 of this code. In all
11 private, parochial, or other schools approved pursuant to this subsection, it is the duty of the
12 principal or other person in control, upon the request of the county superintendent, to furnish to the
13 county board such information and records as may be required with respect to attendance,
14 instruction, and progress of students enrolled.

15 (c) A child is exempt from the compulsory school attendance requirement set forth in §18-
16 8-1a of this code if the requirements of either subdivision (1) or subdivision (2) of this subsection,
17 both relating to home instruction, are met.

18 (1) The instruction shall be in the home of the child or children or at some other place
19 approved by the county board and for a time equal to the instructional term set forth in §18-5-45 of

20 this code. If the request for home instruction is denied by the county or state board, good and
21 reasonable justification for the denial shall be furnished in writing to the applicant by the county or
22 state board. The instruction shall be conducted by a person or persons who, in the judgment of the
23 county or state superintendent and county or state board, are qualified to give instruction in
24 subjects required to be taught in public elementary schools in the state. The person or persons
25 providing the instruction, upon request of the county or state superintendent, shall furnish to the
26 county or state board information and records as may be required periodically with respect to
27 attendance, instruction, and progress of students receiving the instruction. The state board shall
28 develop guidelines for the home schooling of special education students including alternative
29 assessment measures to assure that satisfactory academic progress is achieved- : Provided, That
30 the county or state board may not approve a request for home instruction under this section until it
31 shall have reviewed any pending child abuse or neglect investigation under §49-2-801 et seq.
32 against a custodial parent or person providing home instruction. The county or state board shall
33 have 10 days to determine whether approval for home instruction is warranted if such an
34 investigation is active. A county or state board may grant provisional approval for home instruction
35 for any child who is withdrawing from a school pending review of the investigation if the
36 circumstances, in the discretion of the county or state board, warrant provisional approval. An
37 active investigation under this section is one that was initiated prior to and not as a result of a
38 parent seeking approval to homeschool.

39 (2) The child meets the requirements set forth in this subdivision: *Provided, That* the county
40 or state superintendent may, after a showing of probable cause, seek from the circuit court of the
41 county an order denying home instruction of the child. The order may be granted upon a showing
42 of clear and convincing evidence that the child will suffer neglect in his or her education or that
43 there are other compelling reasons to deny home instruction.

44 (A) Upon commencing home instruction under this section the parent of a child receiving
45 home instruction shall present to the ~~county~~ state superintendent or ~~county~~ state board a notice of

intent to provide home instruction that includes the name, address, and age of any child of compulsory school age to be instructed and assurance that the child shall receive instruction in reading, language, mathematics, science, and social studies, and that the child shall be assessed annually in accordance with this subdivision. The person providing home instruction shall notify the ~~county~~ state superintendent upon termination of home instruction for a child who is of compulsory attendance age. Upon establishing residence in a new county, the person providing home instruction shall notify the ~~previous county~~ state superintendent ~~and submit a new notice of intent to the superintendent of the new county of residence:~~ *Provided*, That if a child is enrolled in a public school, notice of intent to provide home instruction shall be given on or before the date home instruction is to begin.

(B) All required paperwork or forms may be submitted in one of the following ways:

(i) In Person

(ii) Email: By August 1, 2025 The State Board of Education shall implement a school choice email address that all parents may use to submit required paperwork.

(iii) Mail: The State Board of Education must accept required paperwork by mail from those unable or unwilling to utilize the School Choice Portal or Email address.

(iv) A School Choice Portal: By August 1, 2025, the State Board of Education shall deploy an internet-based reporting portal, which shall be called the "School Choice Portal." This portal shall be maintained as an option for those required to file a notice of intent, notice of termination, and any additional paperwork required by law.

(C) The School Choice Portal must meet the following minimum requirements:

(i) It shall be secure, have role-based user access, and provide information privacy;

(ii) It shall be designed and tested prior to deployment;

(iii) It shall be deployed and operational for use by the 2025–2026 school year;

(iv) It shall provide a way for families that choose not to publicly school their children to:

(v) Identify children that will participate in a school choice option through a Notice of Intent

(vi) Submit and archive all required reports: *Provided*, That the Board may request, but not require, parents to provide any information that they are not legally required to provide: *Provided further*, That information the Board requests that is not legally required shall be clearly labeled "optional" or "not required";

(vii) It shall include "dashboards" for both family and school board use;

(viii) It shall have an acknowledgement capability for families and school boards to be notified that their submissions have been received, and as appropriate, acted upon. This information shall be easily found on the user's dashboard, and it shall permit users to opt into push notifications to users to alert them of actions they need to take.

(ix) It shall be designed in a manner that fulfills the needs of all 55 counties with a single, common solution.

(x) In developing the School Choice Portal, the Board shall include and consult with key stakeholders, including, at a minimum, at least one representative each from the Board, the homeschool community, Microschools, and Hope Scholarship. The implementation and continued use shall be overseen by LOCEA and/or the Joint Committee on Education.

(xi) The State Board shall report back to the county where the Board has the child listed in the School Choice Portal.

~~(B) The person or persons providing home instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution, or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission~~

~~(C)~~ (D) Annually, the person or persons providing home instruction shall obtain an academic assessment of the child for the previous school year in one of the following ways:

(i) The child receiving home instruction takes a nationally normed standardized achievement test published or normed not more than 10 years from the date of administration and

administered under the conditions as set forth by the published instructions of the selected test and by a person qualified in accordance with the test's published guidelines. ~~in the subjects of reading, language, mathematics, science, and social studies~~ The child is considered to have made acceptable progress when the mean of the child's test results ~~in the required subject areas for any single year~~ is within or above the fourth stanine or, if below the fourth stanine, shows improvement from the previous year's results;

(ii) The child participates in the testing program currently in use in the state's public schools. The test shall be administered to the child at a public school in the county of residence. Determination of acceptable progress shall be based on current guidelines of the state testing program;

(iii) A portfolio of samples of the child's work is reviewed by a certified teacher who determines whether the child's academic progress for the year is in accordance with the child's abilities. The teacher shall provide a written narrative about the child's progress in the areas of reading, language arts, mathematics, science, and social studies and shall note any areas which, in the professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; or

(iv) The child completes an alternative academic assessment of proficiency that is mutually agreed upon by the parent or legal guardian and the ~~county~~ state superintendent.

~~(D)~~ (E) A parent or legal guardian shall maintain copies of each student's Academic Assessment for three years. When the annual assessment fails to show acceptable progress, the person or persons providing home instruction shall initiate a remedial program to foster acceptable progress. The ~~county~~ state board upon request shall notify the parents or legal guardian of the child, in writing, of the services available to assist in the assessment of the child's eligibility for special education services. Identification of a disability does not preclude the continuation of home schooling. In the event that the child does not achieve acceptable progress for a second

consecutive year, the person or persons providing instruction shall document ~~submit to the county superintendent~~ additional evidence that appropriate instruction is being provided.

~~(E)~~ (F) The parent or legal guardian shall submit to the county or state superintendent the results of the academic assessment of the child at grade levels three, five, eight, and 11, as applicable, by June 30 of the year in which the assessment was administered

(3) This subdivision applies to both home instruction exemptions set forth in subdivisions (1) and (2) of this subsection. The county or state superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, all subject to availability, as may assist the person or persons providing home instruction. Any child receiving home instruction may upon ~~approval of~~ notice to the county or state board exercise the option to attend any class offered by the county board as the person or persons providing home instruction may consider appropriate subject to normal registration and attendance requirements.

(d) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to physical or mental incapacity, are met. Physical or mental incapacity consists of incapacity for school attendance and the performance of school work. In all cases of prolonged absence from school due to incapacity of the child to attend, the written statement of a licensed physician or authorized school nurse is required. Incapacity shall be narrowly defined and in any case the provisions of this article may not allow for the exclusion of the mentally, physically, emotionally, or behaviorally handicapped child otherwise entitled to a free appropriate education.

(e) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if conditions rendering school attendance impossible or hazardous to the life, health, or safety of the child exist.

(f) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code upon regular graduation from a standard senior high school or alternate secondary program completion as determined by the state board.

(g) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the child is granted a work permit pursuant to the subsection. After due investigation the county superintendent may grant work permits to youths under the termination age designated in §18-8-1a of this code, subject to state and federal labor laws and regulations. A work permit may not be granted on behalf of any youth who has not completed the eighth grade of school.

(h) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if a serious illness or death in the immediate family of the child has occurred. It is expected that the county attendance director will ascertain the facts in all cases of such absences about which information is inadequate and report the facts to the county superintendent.

(i) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to destitution in the home, are met. Exemption based on a condition of extreme destitution in the home may be granted only upon the written recommendation of the county attendance director to the county superintendent following careful investigation of the case. A copy of the report confirming the condition and school exemption shall be placed with the county director of public assistance. This enactment contemplates every reasonable effort that may properly be taken on the part of both school and public assistance authorities for the relief of home conditions officially recognized as being so destitute as to deprive children of the privilege of school attendance. Exemption for this cause is not allowed when the destitution is relieved through public or private means.

(j) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to church ordinances and observances of regular church ordinances, are met. The county board may approve exemption for religious instruction upon written request of the person having legal or actual charge of a child or children. This exemption is subject to the rules prescribed by the county superintendent and approved by the county board.

(k) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to alternative private, parochial, church, or religious school instruction, are met. Exemption shall be made for any child attending any private school, parochial school, church school, school operated by a religious order, or other nonpublic school which elects to comply with the provisions of §18-28-1 *et seq.* of this code.

(l) Completion of the eighth grade does not exempt any child under the termination age designated in §18-8-1a of this code from the compulsory attendance provision of this article.

(m) A child is exempt from the compulsory school attendance requirements set forth in §18-8-1a of this code if the child is an eligible recipient participating in the Hope Scholarship Program, as provided for in §18-31-1 *et seq.* of this code and provides a notice of intent to participate in the Hope Scholarship Program to the ~~county~~ state superintendent. The ~~county~~ state superintendent shall enter the following into the West Virginia Education Information System (WVEIS):

(1) The filing of the notice of intent ~~pursuant to this subsection;~~ submitted according to §18-8-1(c)(2)(B)

(2) In the case of a Hope Scholarship recipient who chooses an individualized instructional program, annually, the child's test results or determination that a student is making academic progress commensurate with his or her age and ability, as applicable, pursuant to §18-31-8(a)(4) of this code; and

(3) In the case of an eligible recipient enrolling in a participating school, annually, the filing of a notice of enrollment pursuant to §18-31-11(a)(6) of this code.

(n) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the child participates in a learning pod or microschool pursuant to this subsection.

(1) For the purposes of this subsection:

(A) "Learning pod" means a voluntary association of parents choosing to group their

children together to participate in their elementary or secondary academic studies as an alternative to enrolling in a public school, private school, homeschool, or microschool, including participation in an activity or service provided to the children in exchange for payment; and

(B) "Microschool" means a school initiated by one or more teachers or an entity created to operate a school that charges tuition for the students who enroll and is an alternative to enrolling in a public school, ~~private school~~ a school covered under exemptions (b) or (k) of this section, homeschool, or learning pod.

(2) Upon beginning participation in a learning pod or microschool pursuant to this subsection, the parent or legal guardian of the child participating shall present to the ~~county~~ state superintendent or ~~county~~ state board a notice of intent to participate in a learning pod or microschool that includes the name, address, and age of any child of compulsory school age participating; the name, address, and contact information of the microschool or learning pod; and assurance that the child shall receive instruction in reading, language arts, mathematics, science, and social studies, and that the child shall be assessed annually in accordance with this subsection. The person providing instruction shall notify the ~~county~~ state superintendent upon termination of participation in a learning pod or microschool for a child who is of compulsory attendance age. Upon establishing residence in a new county, the person providing instruction shall notify the ~~previous county~~ state superintendent ~~and submit a new notice of intent to the superintendent of the new county of residence:~~ *Provided*, That if a child is enrolled in a public school, notice of intent to participate in a learning pod or microschool shall be given on or before the date participation is to begin.

(A) NOI and all required paperwork or forms may be submitted according to §18-8-1(c)(2)(B).

(B) Upon receiving an NOI indicating that a child is participating in a learning pod or microschool, the state superintendent or state board must notify the learning pod or microschool listed on the NOI that a student has declared enrollment in their program.

(3) The person or persons providing instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution, or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.

(4) Annually, the person or persons providing instruction shall obtain an academic assessment of the child for the previous school year in one of the following ways:

(A) The child participating in a learning pod or microschool takes a nationally normed standardized achievement test ~~published or normed not more than 10 years from the date of administration and~~ administered under the conditions as set forth by the published instructions of the selected test and by a person qualified in accordance with the test's published guidelines, ~~in the subjects of reading, language, mathematics, science, and social studies~~. The child is considered to have made acceptable progress when the mean of the child's test results in the required subject areas for any single year is within or above the fourth stanine or, if below the fourth stanine, shows improvement from the previous year's results;

(B) The child participates in the testing program currently in use in the state's public schools. The test shall be administered to the child at a public school in the county of residence. Determination of acceptable progress shall be based on current guidelines of the state testing program;

(C) A portfolio of samples of the child's work is reviewed by a certified teacher who determines whether the child's academic progress for the year is in accordance with the child's abilities. The teacher shall provide a written narrative about the child's progress in the areas of reading, language, mathematics, science, and social studies and shall note any areas which, in the professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; or

(D) The child completes an alternative academic assessment of proficiency that is mutually agreed upon by the parent or legal guardian and the ~~county~~ state superintendent.

(5) A parent or legal guardian, learning pod, or microschool shall maintain copies of each student's Academic Assessment for three years. When the annual assessment fails to show acceptable progress, the person or persons providing instruction shall initiate a remedial program to foster acceptable progress. The ~~county~~ state board upon request shall notify the parents, or legal guardian, learning pod, or microschool of the child, in writing, of the services available to assist in the assessment of the child's eligibility for special education services. Identification of a disability does not preclude the continuation of participation in a learning pod or microschool. In the event that the child does not achieve acceptable progress for a second consecutive year, the person or persons providing instruction shall document ~~submit to the county superintendent~~ additional evidence that appropriate instruction is being provided.

(6) The parent, legal guardian, learning pod, or microschool shall submit to the county superintendent the results of the academic assessment of the child with the same frequency prescribed in §18-8-1(c)(2)(F)(~~E~~) of this code: *Provided*, That instead of the academic assessment results being submitted individually, the learning pod or microschool may submit the school composite results.

(7) The county or state superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, all subject to availability, as may assist the person or persons providing instruction. Any child participating in a learning pod or microschool may upon ~~approval of~~ notice to the county or state board exercise the option to attend any class offered by the county board as the person or persons providing instruction may consider appropriate subject to normal registration and attendance requirements.

(8) ~~No~~ learning pod or microschool which meets the requirements of this subsection is subject to any other provision of law relating to education: *Provided*, That any learning pod or microschool which has a student requiring special education instruction must comply with the

280 provisions of §18-20-11 of this code, including, but not limited to, placement of video cameras for
281 the protection of that exceptional student.

282 (9) Making learning pods and microschools subject to the home instruction provisions and
283 requirements does not make learning pods and microschools the same as homeschooling.

NOTE: The purpose of this bill is to remove requirements to submit certain evidence on behalf of home-schooled children. It also deals with compulsory school attendance.

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