

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

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for

Senate Bill 154

BY SENATORS GRADY, TARR, THORNE, HELTON, HART,

AND WOODRUM

[Reported February 28, 2025, from the Committee on
the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,
2 designated §18-5-29, relating to prohibiting a public school from providing instruction
3 related to sexual orientation or gender identity; defining terms; allowing discussion in
4 specified circumstances; prohibiting a public school and the county board employees
5 assigned to the school from knowingly giving false or misleading information to the parent,
6 custodian, or guardian of a student regarding the student's gender identity or intention to
7 transition to a gender that is different than the student's biological sex; requiring a person
8 employed by the public school to report a student's request for an accommodation that is
9 intended to affirm a change in the student's gender identity that is different from a student's
10 biological sex to an administrator employed by the county board and assigned to the
11 school; requiring the administrator to report the student's request to the student's parent,
12 custodian, or guardian; creating a complaint and appeals system for violations of this
13 section; creating administrative sanctions for violation of this section; allowing for a civil
14 action in certain instances of a violation of section; providing for penalties, court costs, and
15 attorney fees; providing that the complaint, appeals, and administrative sanctions set forth
16 in this section are the exclusive remedies for violations of this section; and requiring State
17 Board of Education to promulgate rules.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-29. Prohibiting instruction related to sexual orientation and gender identity and providing 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 (1) "Biological sex" means the sex listed on a student's official birth certificate or certificate
3 issued upon adoption if the certificate was issued at or near the time of the student's birth;

4 (2) "Custodian" means a person who has some allocation of physical custody of the child
5 or who has provided to the school written permission of a parent to have access to the notices
6 and information contemplated by this section;

7 (3) "Gender identity" means a category of social identity and refers to an individual's
8 identification as male, female, or occasionally, some category other than male or female;

9 (4) "Guardian" means a person other than a parent or custodian who, pursuant to a court
10 order, acts in loco parentis for the child;

11 (5) "Parent" means a parent who has some allocation of physical custody of the child or
12 who has some share of joint decision-making authority for the child;

13 (6) "Sexual orientation" means an individual's actual or perceived orientation as
14 heterosexual, homosexual, or bisexual; and

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

19 (b) A public school may not provide instruction related to sexual orientation or gender
20 identity, whether it is offered as part of a health education class or program or as part of any other
21 class or program. The provisions of this subsection do not prohibit:

22 (1) A teacher responding to student questions during class regarding sexual orientation or
23 gender identity as it relates to any topic of instruction;

24 (2) Referring to the sexual orientation or gender identity of any historic person, group, or
25 public figure when such information provides necessary context in relation to any topic of
26 instruction; or

27 (3) Referring to sexual orientation and gender identity if necessary to address a
28 disciplinary matter, such as an instance of bullying.

29 (c) A public school and the county board employees assigned to the school may not
30 knowingly give false or misleading information to the parent, custodian, or guardian of a student
31 regarding the student's gender identity or intention to transition to a gender that is different than
32 the student's biological sex.

33 (d) If a student enrolled in a public school requests from a person employed by the public
34 school an accommodation that is intended to affirm a change in the student's gender identity that
35 is different from a student's biological sex, including a request that the student be addressed using
36 a name or pronoun that is different than the name or pronoun assigned to the student in the public
37 school's registration forms or records for the purpose of affirming a change in the student's gender
38 identity that is different than the student's biological sex, the public school employee shall report
39 the student's request to an administrator employed by the county board and assigned to the
40 school, and the administrator shall report the student's request to the student's parent, custodian,
41 or guardian.

42 (e) A parent, custodian, or guardian who is impacted, or whose child is impacted, by a
43 violation of this section may file a complaint with the school. Within five business days following
44 receipt of a complaint filed pursuant to this section, the school shall initiate an investigation to
45 determine whether the allegations set forth in the complaint are substantiated. In conducting its
46 investigation, the school may contact the complainant, the affected student, the respondent
47 teacher or employee, and any other potential witnesses to the conduct alleged in the complaint.
48 Within 10 business days following receipt of a complaint, the school shall prepare a report of its
49 factual findings and a conclusion as to whether the allegations set forth in the complaint were
50 substantiated.

51 (f)(1) If a school determines that the allegations set forth in a complaint filed pursuant to
52 subsection (e) of this section are unsubstantiated, then the school shall close its investigation and
53 send a copy of its report to the complainant, the respondent teacher or employee, and the county
54 board of education: *Provided*, That the copy of the report sent to the complainant shall be redacted

to exclude the names and other personally identifiable information of the respondent teacher or employee, minors, and non-respondent witnesses.

(2) Within five business days following a complainant's receipt of a report that the allegations set forth in his or her complaint were not substantiated, the complainant may file an appeal with the county board of education. Upon receipt of an appeal pursuant to this subsection, the county board of education shall provide notice of the appeal to the respondent teacher or employee and provide him or her with 10 business days to file a reply to the appeal. The county board of education shall review the complaint, appeal, and reply, if any, in an executive session at its next meeting following expiration of the reply period to determine whether to grant the complainant's appeal or to remand the matter to the school for additional fact finding: *Provided*, That the county board of education may consider only the facts set forth in the school's report, in the complainant's appeal, and in the respondent teacher or employee's reply, if any, and it may only grant the complainant's appeal or remand the matter to the school for additional fact finding upon a vote of two thirds of all members present.

(g) If a school determines that the allegations set forth in a complaint filed pursuant to subsection (e) of this section are substantiated, then the school shall:

(1) Include a finding in its report of the number of substantiated complaints that have been filed against the respondent teacher or employee in the 12-month period immediately preceding the date on which the complaint was filed;

(2) Levy an administrative sanction against the respondent teacher or employee as follows:

(A) For a first substantiated offense, a written letter of reprimand issued to the respondent teacher or employee and placed in his or her administrative record;

(B) For a second substantiated offense within any 12-month period, a recommendation to the county board of education that the respondent teacher or employee be suspended for 30 days without pay; and

81 (C) For a third substantiated offense within any 12-month period, a recommendation to
82 the county board of education that the respondent teacher or employee be terminated;

83 (3) Send a copy of its report to the complainant, the respondent teacher or employee, and
84 the county board of education: *Provided*, That the copy of the report sent to the complainant shall
85 be redacted to exclude the names and other personally identifiable information of the respondent
86 teacher or employee, minors, and non-respondent witnesses; and

87 (4) Provide notice to the respondent teacher or employee of his or her right to appeal the
88 substantiation in accordance with subsection (h) of this section.

89 (h) Within five business days following a respondent teacher or employee's receipt of a
90 report that a complaint against him or her has been substantiated, the teacher or employee may
91 file an appeal with the county board of education.

92 (i) Within 10 business days following receipt of a report of a substantiated complaint
93 recommending that a teacher or employee be suspended or terminated in accordance with this
94 section, or within 90 days following a teacher or employee's appeal of a report recommending
95 that the teacher or employee receive a written letter of reprimand, the county board of education
96 shall convene in an executive session to determine whether to adopt the school's
97 recommendation, to grant the respondent teacher or employee's appeal, if any, or to remand the
98 matter to the school for additional fact finding: *Provided, however*, That the county board of
99 education may consider only the facts set forth in the school's report and in the respondent
100 teacher or employee's appeal, if any, and it may refuse the school's recommendation and/or grant
101 the respondent teacher or employee's appeal only upon a vote of two thirds of all members
102 present.

103 (j)(1) A parent, custodian, or guardian who has filed a complaint in accordance with this
104 section may bring a civil action against the county board of education if:

105 (A) The school refuses to provide the parent, custodian, or guardian with a copy of its
106 report; or

107 (B) The county board of education refuses to adopt the school's recommendation that a
108 respondent teacher or employee be suspended or terminated or grants the respondent teacher
109 or employee's appeal without first voting on the matter by two thirds of all members present.

110 (2) The court may award statutory damages of \$5,000, compensatory damages, injunctive
111 relief, and any other appropriate relief. Additionally, the court shall award court costs and
112 reasonable attorney fees to a prevailing party who established a violation of provisions of this
113 section.

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

115 (l) The state board of education shall promulgate rules pursuant to §29A-3B-1 et seq. of
116 this code to implement this section.

117 (m) Notwithstanding any provision of this code to the contrary, inclusive of the grievance
118 and hearing procedures set forth in §6C-1-1, et seq., §18-1-1, et seq., and §18A-1-1, et seq. of
119 this code, the remedies set forth in this section are the exclusive remedies for violations of this
120 section: *Provided*, That nothing in this section may be construed as prohibiting schools, the county
121 board of education, teachers, employees, or any other person from referring suspected criminal
122 activity to the appropriate law enforcement agency or prosecuting authority.

123 (n) If a provision of this section or its application to any person or circumstance is held
124 invalid, the invalidity does not affect other provisions or applications of the section that can be
125 given effect without the invalid provision or application, and to this end the provisions of this act
126 are severable.