

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 1020

By Senator Oliverio

[Introduced February 20, 2026; referred
to the Committee on Education]

1 A BILL to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to
 2 compulsory school attendance; including up to five educational leave days within the
 3 definition of "excused absence"; requiring the child or parent to submit a note from the
 4 parent within three days after the child returns to school explaining what the day or days
 5 were used for; and requiring state board rule defining what qualifies as educational leave.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-4. Duties of attendance director and assistant directors; complaints, warrants, and hearings.

1 (a) For the purposes of this article, the following definitions apply:

2 (1) "Excused absence" means:

3 (A) A medical or dental appointment with written excuse from physician or dentist;

4 (B) Personal illness or injury of the student accompanied by a timely written excuse from
 5 the student's parent, guardian, or custodian: *Provided*, That the total absences under this section
 6 combined with absences permitted under paragraph (C) of this subdivision do not exceed more
 7 than 10 per school year unless supported by a physician's note: *Provided, however*, That a
 8 medically documented chronic health condition or disability that adversely impacts in-person
 9 attendance approved by a county school board or the principal is not subject to this limitation, and
 10 that absences of students with disabilities shall be in accordance with the Individuals with
 11 Disabilities Education Improvement Act of 2004 and the federal and state regulations adopted in
 12 compliance therewith;

13 (C) Personal illness or injury of the student's parent, guardian, custodian, or family
 14 member: *Provided*, That the excuse must provide a reasonable explanation for why the student's
 15 absence was necessary and caused by the illness or injury in the family, and the total absences
 16 under this section in combination with paragraph (B) of this subdivision may not exceed more than
 17 10 excuses per school year;

- 18 (D) Death in the family;
- 19 (E) School-approved or county-approved curricular or extra-curricular activities;
- 20 (F) A judicial obligation or court appearance involving the student;
- 21 (G) A military requirement for students enlisted or enlisting in the military;
- 22 (H) Up to five college visits; and
- 23 (I) A student in any West Virginia Department of Education recognized and sanctioned
24 student organization to enhance student enrichment and success, including, but not limited to,
25 SkillsUSA, Future Business Leaders of America (FBLA), Health Occupations Students of America
26 (HOSA), the Common Ground Partnership, or 4-H or FFA-sanctioned activity or program, subject
27 to the following:
- 28 (i) A student who participates in an activity or program sanctioned in paragraph (I) of this
29 subdivision shall be credited as present by the school in which the student is enrolled in the same
30 manner as a student participating in an educational field trip. A school principal, or the principal's
31 designee, shall not count a student absent for participating in an activity or program sanctioned in
32 paragraph (I) of this subdivision.
- 33 (ii) An agent of a sanctioned organization set forth in paragraph (I) of this subdivision shall
34 provide documentation as proof of a student's participation in an activity or program sanctioned in
35 paragraph (I) of this subdivision.
- 36 (iii) A student shall make up any schoolwork missed while the student was participating in
37 an activity or program sanctioned by paragraph (I) of this subdivision and shall not have the
38 student's class grades adversely affected for lack of attendance or participation due to the
39 student's participation in an activity or program sanctioned in paragraph (I) of this subdivision.
- 40 (iv) A school principal, or the principal's designee, shall not credit a student who
41 participates in an activity or program sanctioned in paragraph (I) of this subdivision as present if
42 the student's participation in the activity or program sanctioned in paragraph (I) of this subdivision
43 occurs during any period of time for which the student has been suspended, expelled, or assigned

44 to an alternative school or alternative program under this chapter and the student's suspension,
45 expulsion, or assignment to an alternative school or alternative program would preclude the
46 student from participating in an educational field trip.

47 (J) Up to five educational leave days, subject to the following:

48 (i) The child or parent submits a note from the parent within three days after the child
49 returns to school explaining what the day or days were used for; and

50 (ii) The state board shall promulgate a legislative rule pursuant to §29A-3B-1 et seq. to
51 define what qualifies as educational leave days for the purposes of this paragraph.

52 (K) The total amount of excused absences under paragraphs (E), (H), and (I) of this
53 subdivision may not exceed more than 10 per school year.

54 ~~(K)~~ (L) Nothing in this section shall interfere with the Every Student Succeeds Act (2015),
55 which does not differentiate between excused and unexcused absences.

56 (2) "Meaningful contact" means two-way communication by the school administrator or
57 other school designee and the student's parent, guardian, or custodian to discuss the student's
58 attendance record in an effort to prevent subsequent truancy or other legal proceedings relating to
59 compulsory school attendance, and to minimize additional absences. Methods of meaningful
60 contact include, but are not limited to, phone calls, video conferencing, home visits, and the use of
61 digital platforms.

62 (3) "System of Support Plan" ("SOS Plan") refers to a plan to be developed by the State
63 Board of Education designed to encourage students to attend school. It shall, at a minimum,
64 require county attendance directors, principals, or other school designees to make periodic
65 contact with the parent, guardian, or custodian of a student subject to compulsory school
66 attendance to ascertain the reason or reasons for the student's absence or absences and what
67 measures the school may employ to assist the student in attending school and not incurring
68 additional absences. It shall also impart upon the student's parents, guardians, and custodians the
69 importance of the student's attendance and the seriousness of failing to do so.

70 (4) "Unexcused absence" means any absence not specifically included in the definition of
71 "excused absence".

72 (b) The county attendance director and his or her assistants shall diligently promote regular
73 school attendance. The director and assistants shall:

74 (1) Ascertain the reasons for unexcused absences from school of students of compulsory
75 school age; and students who remain enrolled beyond the compulsory school age;

76 (2) Ensure the implementation of the SOS Plan as developed by the state board, including
77 encouraging the attendance of students and imparting upon the parents, guardians, and
78 custodians the important of attendance and the seriousness of failing to do so.

79 (c) All documentation relating to absences shall be provided to the school no later than
80 three instructional days after the first day the student returns to school. In the event
81 documentation is not provided to the school within three instructional days after the first day the
82 student returns to school, the absences are unexcused.

83 (d) In the case of three total unexcused absences of a student during a school year, the
84 attendance director, his or her assistant, or the principal shall make meaningful contact with the
85 parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences
86 and what measures the school may employ to assist the student in attending and not incurring any
87 additional unexcused absences.

88 (e) In the case of five total unexcused absences, the attendance director, his or her
89 assistant or the principal shall again make meaningful contact with the parent, guardian, or
90 custodian of the student to ascertain the reasons for the unexcused absences and what measures
91 the school may employ to assist the student in attending school and not incurring any additional
92 unexcused absences.

93 (f) In the case of 10 total unexcused absences of a student during a school year, the
94 attendance director or assistant may make a complaint against the parent, guardian, or custodian
95 before a magistrate of the county. If it appears from the complaint that there is probable cause to

96 believe that an offense has been committed and that the accused has committed it, a summons or
97 a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the
98 summons or to arrest persons charged with offenses against the state. More than one parent,
99 guardian, or custodian may be charged in a complaint. Initial service of a summons or warrant
100 issued pursuant to the provisions of this section shall be attempted within 10 calendar days of
101 receipt of the summons or warrant and subsequent attempts at service shall continue until the
102 summons or warrant is executed or until the end of the school term during which the complaint is
103 made, whichever is later.

104 (g) The magistrate court clerk, or the clerk of the circuit court performing the duties of the
105 magistrate court as authorized in §50-1-8 of this code, shall assign the case to a magistrate within
106 10 days of execution of the summons or warrant. The hearing shall be held within 20 days of the
107 assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the
108 accused at least 10 days' advance notice of the date, time, and place of the hearing.

109 (h) When any doubt exists as to the age of a student absent from school, the attendance
110 director and his or her assistants may require a properly attested birth certificate or an affidavit
111 from the parent, guardian, or custodian of the student stating the age of the student. In the
112 performance of his or her duties, the county attendance director and his or her assistants have
113 authority to take without warrant any student absent from school in violation of the provisions of
114 this article and to place the student in the school in which he or she is or should be enrolled.

115 (i) The county attendance director and his or her assistants shall devote as much time as is
116 required to the duties of attendance director in accordance with this section during the instructional
117 term and at any other times as the duties of an attendance director are required. All attendance
118 directors and assistants hired for more than 200 days may be assigned other duties determined by
119 the superintendent during the period in excess of 200 days. The county attendance director is
120 responsible under direction of the county superintendent for efficiently administering school
121 attendance in the county.

122 (j) In addition to those duties directly relating to the administration of attendance, the
123 county attendance director and his or her assistant directors also shall perform the following
124 duties:

125 (1) Assist in directing the taking of the school census to see that it is taken at the time and in
126 the manner provided by law;

127 (2) Confer with principals and teachers on the comparison of the school census and
128 enrollment for the detection of possible non-enrollees;

129 (3) Cooperate with existing state and federal agencies charged with enforcing child labor
130 laws;

131 (4) Promote attendance in the county by compiling data for schools and by furnishing
132 suggestions and recommendations for publication through school bulletins and the press, or in
133 any manner directed by the county superintendent;

134 (5) Participate in school teachers' conferences with parents and students;

135 (6) Assist in any other ways directed by the county superintendent for improving school
136 attendance;

137 (7) Make home visits of students who have excessive unexcused absences, as provided in
138 subsection (a) of this section, or if requested by the chief administrator, principal, or assistant
139 principal; and

140 (8) Serve as the liaison for homeless children and youth.

NOTE: The purpose of this bill is to include up to five educational leave days within the definition of "excused absence" for school attendance purposes.

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