

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 116

By Senator Garcia

[Introduced January 14, 2026; referred
to the Committee on Education; and then to the
Committee on the Judiciary]

1 A BILL to amend and reenact §18-8-1 of the Code of West Virginia, 1931, as amended, relating to
 2 home-schooled children; establishing Raylee's Law; prohibiting authorization of home
 3 instruction if there is a pending child abuse or neglect investigation against a custodial
 4 parent or guardian with whom the child to be home schooled resides, or against a person
 5 instructing the child, that is initiated by a schoolteacher or other school personnel; requiring
 6 the county superintendent to establish a policy to inform the superintendent when a report
 7 of suspected child abuse or neglect is made; and requiring the county superintendent to
 8 request case status confirmation from the Department of Human Services and to
 9 substantiate the abuse or neglect complaint.

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. A child who is exempt from compulsory school attendance
 5 under this section is not subject to prosecution under §18-8-2 of this code, nor is such a child a
 6 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: Provided, That the county board may not authorize a currently enrolled public school
21 student to be instructed in the home if there is a pending child abuse or neglect investigation
22 pursuant to §49-2-801 et seq. of this code, against a custodial parent or guardian with whom the
23 child resides, or a person instructing the child, that is initiated by a schoolteacher or other school
24 personnel within the child's school district pursuant to the mandatory reporting requirements of
25 §49-2-803 of this code. The county superintendent shall develop and institute a policy to ensure
26 the county superintendent is contacted when a report of suspected child abuse or neglect is made
27 by a schoolteacher or other school personnel pursuant to the provisions of §49-2-803 of this code.
28 Upon determination by the county superintendent that an investigation has been initiated, the
29 superintendent shall request confirmation of case status from the Department of Human Services,
30 which shall provide confirmation within 48 hours or receipt of the request. Unless another eligibility
31 requirement prevents approval, if the complaint is not substantiated within 14 days of initiation, the
32 superintendent shall authorize home instruction. If the request for home instruction is denied by
33 the county board, good and reasonable justification for the denial shall be furnished in writing to
34 the applicant by the county board. The instruction shall be conducted by a person or persons who,
35 in the judgment of the county superintendent and county board, are qualified to give instruction in
36 subjects required to be taught in public elementary schools in the state. The person or persons
37 providing the instruction, upon request of the county superintendent, shall furnish to the county
38 board information and records as may be required periodically with respect to attendance,
39 instruction, and progress of students receiving the instruction. The state board shall develop
40 guidelines for the home schooling of special education students including alternative assessment

41 measures to assure that satisfactory academic progress is achieved.

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

47 (A) Upon commencing home instruction under this section the parent of a child receiving
48 home instruction shall present to the county superintendent or county board a notice of intent to
49 provide home instruction that includes the name, address, and age of any child of compulsory
50 school age to be instructed and assurance that the child shall receive instruction in reading,
51 language, mathematics, science, and social studies, and that the child shall be assessed annually
52 in accordance with this subdivision. The person providing home instruction shall notify the county
53 superintendent upon termination of home instruction for a child who is of compulsory attendance
54 age. Upon establishing residence in a new county, the person providing home instruction shall
55 notify the previous county superintendent and submit a new notice of intent to the superintendent
56 of the new county of residence: *Provided*, That if a child is enrolled in a public school, notice of
57 intent to provide home instruction shall be given on or before the date home instruction is to begin.

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

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

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

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

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

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

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

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

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

95 (E) The parent or legal guardian shall submit to the county superintendent the results of the
96 academic assessment of the child at grade levels three, five, eight, and 11, as applicable, by June
97 30 of the year in which the assessment was administered.

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

105 (d) A child is exempt from the compulsory school attendance requirement set forth in §18-
106 8-1a of this code if the requirements of this subsection, relating to physical or mental incapacity,
107 are met. Physical or mental incapacity consists of incapacity for school attendance and the
108 performance of school work. In all cases of prolonged absence from school due to incapacity of
109 the child to attend, the written statement of a licensed physician or authorized school nurse is
110 required. Incapacity shall be narrowly defined and in any case the provisions of this article may not
111 allow for the exclusion of the mentally, physically, emotionally, or behaviorally handicapped child
112 otherwise entitled to a free appropriate education.

113 (e) A child is exempt from the compulsory school attendance requirement set forth in §18-
114 8-1a of this code if conditions rendering school attendance impossible or hazardous to the life,
115 health, or safety of the child exist.

116 (f) A child is exempt from the compulsory school attendance requirement set forth in §18-8-
117 1a of this code upon regular graduation from a standard senior high school or alternate secondary
118 program completion as determined by the state board.

119 (g) A child is exempt from the compulsory school attendance requirement set forth in §18-
120 8-1a of this code if the child is granted a work permit pursuant to the subsection. After due
121 investigation the county superintendent may grant work permits to youths under the termination
122 age designated in §18-8-1a of this code, subject to state and federal labor laws and regulations. A
123 work permit may not be granted on behalf of any youth who has not completed the eighth grade of
124 school.

125 (h) A child is exempt from the compulsory school attendance requirement set forth in §18-
126 8-1a of this code if a serious illness or death in the immediate family of the child has occurred. It is
127 expected that the county attendance director will ascertain the facts in all cases of such absences
128 about which information is inadequate and report the facts to the county superintendent.

129 (i) A child is exempt from the compulsory school attendance requirement set forth in §18-8-
130 1a of this code if the requirements of this subsection, relating to destitution in the home, are met.
131 Exemption based on a condition of extreme destitution in the home may be granted only upon the
132 written recommendation of the county attendance director to the county superintendent following
133 careful investigation of the case. A copy of the report confirming the condition and school
134 exemption shall be placed with the county director of public assistance. This enactment
135 contemplates every reasonable effort that may properly be taken on the part of both school and
136 public assistance authorities for the relief of home conditions officially recognized as being so
137 destitute as to deprive children of the privilege of school attendance. Exemption for this cause is
138 not allowed when the destitution is relieved through public or private means.

139 (j) A child is exempt from the compulsory school attendance requirement set forth in §18-8-
140 1a of this code if the requirements of this subsection, relating to church ordinances and
141 observances of regular church ordinances, are met. The county board may approve exemption for
142 religious instruction upon written request of the person having legal or actual charge of a child or
143 children. This exemption is subject to the rules prescribed by the county superintendent and
144 approved by the county board.

145 (k) A child is exempt from the compulsory school attendance requirement set forth in §18-
146 8-1a of this code if the requirements of this subsection, relating to alternative private, parochial,
147 church, or religious school instruction, are met. Exemption shall be made for any child attending
148 any private school, parochial school, church school, school operated by a religious order, or other
149 nonpublic school which elects to comply with the provisions of §18-28-1 *et seq.* of this code.

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

152 (m) A child is exempt from the compulsory school attendance requirements set forth in
153 §18-8-1a of this code if the child is an eligible recipient participating in the Hope Scholarship
154 Program, as provided for in §18-31-1 *et seq.* of this code and provides a notice of intent to
155 participate in the Hope Scholarship Program to the county superintendent. The county
156 superintendent shall enter the following into the West Virginia Education Information System
157 (WVEIS):

158 (1) The filing of the notice of intent pursuant to this subsection;

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

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

165 (n) A child is exempt from the compulsory school attendance requirement set forth in §18-
166 8-1a of this code if the child participates in a learning pod or microschool pursuant to this
167 subsection.

168 (1) For the purposes of this subsection:

169 (A) "Learning pod" means a voluntary association of parents choosing to group their
170 children together to participate in their elementary or secondary academic studies as an

171 alternative to enrolling in a public school, private school, homeschool, or microschool, including
172 participation in an activity or service provided to the children in exchange for payment; and

173 (B) "Microschool" means a school initiated by one or more teachers or an entity created to
174 operate a school that charges tuition for the students who enroll and is an alternative to enrolling in
175 a public school, private school, homeschool, or learning pod.

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

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

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

196 (A) The child participating in a learning pod or microschool takes a nationally normed

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

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

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

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

217 (5) A parent or legal guardian shall maintain copies of each student's Academic
218 Assessment for three years. When the annual assessment fails to show acceptable progress, the
219 person or persons providing instruction shall initiate a remedial program to foster acceptable
220 progress. The county board upon request shall notify the parents or legal guardian of the child, in
221 writing, of the services available to assist in the assessment of the child's eligibility for special
222 education services. Identification of a disability does not preclude the continuation of participation

223 in a learning pod or microschool. In the event that the child does not achieve acceptable progress
224 for a second consecutive year, the person or persons providing instruction shall submit to the
225 county superintendent additional evidence that appropriate instruction is being provided.

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

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

237 (8) No learning pod or microschool which meets the requirements of this subsection is
238 subject to any other provision of law relating to education: *Provided*, That any learning pod or
239 microschool which has a student requiring special education instruction must comply with the
240 provisions of §18-20-11 of this code, including, but not limited to, placement of video cameras for
241 the protection of that exceptional student.

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

NOTE: The purpose of this bill is to establish "Raylee's Law" and prohibit the authorizing of home schooling when there is a pending child abuse or neglect investigation against a child's parent or guardian or against a person instructing the child.

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

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