

1 **Senate Bill No. 197**

2 (By Senators Sypolt and Jenkins)

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4 [Introduced January 18, 2011; referred to the Committee on
5 Education; and then to the Committee on Finance.]
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**FISCAL
NOTE**

7
8 A BILL to amend the Code of West Virginia, 1931, as amended, by
9 adding thereto a new section, designated §18-2-39, relating to
10 requiring the State Board of Education to create a school drug
11 safety program; specifying minimum requirements for the
12 program; and applying the drug safety program only to
13 employees hired after June 30, 2011.

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

15 That the Code of West Virginia, 1931, as amended, be amended
16 by adding thereto a new section, designated §18-2-39, to read as
17 follows:

18 **ARTICLE 2. STATE BOARD OF EDUCATION.**

19 **§18-2-39. School drug safety program.**

20 (a) The Legislature recognizes that the safety issues which
21 face schools are constantly changing. The Legislature finds the
22 safety of school children should be a priority of the state. The
23 Legislature further finds that all employees of a county board of
24 education who are employed in a school are employed in safety

1 sensitive positions and that the use of illegal drugs by these
2 employees could endanger the lives and safety of school children.

3 (b) (1) The state board shall create a school drug safety
4 program which shall include drug testing of all individuals prior
5 to hiring, transferring or promoting to positions within a school.
6 The program shall also include random drug testing of all
7 individuals employed in a school.

8 (2) The program shall include, at a minimum, provisions:

9 (A) Prohibiting employees of county boards of education from
10 manufacturing, distributing, dispensing, being under the influence
11 of, purchasing, possessing, using or attempting to purchase or
12 obtain in the workplace or in the performance of duties, alcohol or
13 any narcotic drug, hallucinogenic drug, amphetamine, barbiturate,
14 marijuana or any other controlled substance as defined in chapter
15 sixty-a of this code;

16 (B) Providing that employees who personally use or who are
17 designated to administer to a student a drug authorized by and
18 administered in accordance with a prescription from a health
19 professional are not violating the program;

20 (C) Requiring, prior to hiring, promoting or transferring an
21 individual into an employment position in a school, the individual
22 to submit to a urinalysis test for the purpose of detecting illegal
23 use of drugs;

24 (D) Requiring all individuals employed in a school when the
25 program takes effect, to take the initial drug testing required for

1 preemployment;

2 (E) Establishing a random drug testing program for all
3 individuals employed in a school;

4 (F) Providing a process to reasonably ensure employee privacy
5 during the taking of samples, security of samples once obtained and
6 designation of laboratory services that are accurate and reliable;

7 (G) Requiring that appropriate measures are taken to protect
8 confidentiality throughout the testing process and in the handling
9 of test results;

10 (H) Restricting access to drug testing results on a need-to-
11 know basis to those persons in positions designated by the county
12 superintendent;

13 (I) Providing that each county board of education will be
14 responsible for the cost of all testing required under the program;
15 and

16 (J) Specifying disciplinary actions for those found in
17 violation of the program.

18 (c) As used in this section "individuals employed in a school"
19 include all employees of a county board who may have contact with
20 students as a part of their job responsibilities and all other
21 persons who are permitted by a school or a county board to have
22 contact with students either on or off of school property,
23 including, but not limited to, field trips and athletic events.

24 (d) This section shall apply only to those employees hired
25 after June 30, 2011.

NOTE: The purpose of this bill is to require the State Board of Education to create a school drug safety program. The bill would require the program to include drug testing of individuals prior to being hired, transferred or promoted to positions within a school and include random drug testing of all individuals employed in a school. The bill only applies to new employees hired after June 30, 2011.

This section is new; therefore, strike-throughs and underscoring have been omitted.