

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 105**

BY SENATORS TRUMP AND GAUNCH

[Introduced January 13, 2016;

Referred to the Committee on Education; and then to  
the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §18-2-25b, relating to education; providing for the Tim Tebow Act; permitting  
 3 a child instructed at home, by a private tutor or at a nonpublic school to participate in  
 4 extracurricular athletic or other extracurricular activities in public schools and at nonpublic  
 5 schools that accept the student; providing requirements, standards and insurance  
 6 coverage; and providing that accommodating schools may not be impeded from  
 7 competing against other schools.

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

1 That the Code of West Virginia, 1931, as amended, be amended, by adding thereto a new  
 2 section, designated §18-2-25b, to read as follows:

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

**§18-2-25b. Tim Tebow Act; permitting students who are home-schooled or taught by a  
 private tutor, or enrolled in a private, parochial or church school or school operated  
 by a religious order to participate in public school extracurricular activities.**

1 (a)(1) This act shall be known and may be cited as the Tim Tebow Act.

2 (2) The purpose of this act is to allow students instructed at home or by a private tutor or  
 3 enrolled in a private, parochial or church school or a school operated by a religious order, and  
 4 who is subject to provisions of article twenty-eight of this chapter, to participate in extracurricular  
 5 activities, including athletic teams, at public schools.

6 (3) For purposes of this act, the term public school includes a nonpublic school if the  
 7 nonpublic school permits a child to participate in its extracurricular activities.

8 (4) For purposes of this act, the term extracurricular activities includes all athletic programs  
 9 of the school for individuals or team sports.

10 (b) A student who is home schooled or instructed by a private tutor or enrolled in a school  
 11 subject to provisions of article twenty-eight of this chapter may participate in extracurricular  
 12 activities sponsored by or engaged in by a public school system, or in a nonpublic school, if the

13 nonpublic school permits the student to participate at the school. The student shall register with  
14 the local board of education in the district where the student resides. Participation is conditioned  
15 on all of the following:

16 (1) The student registering with the school an intention to participate in the extracurricular  
17 activities as a representative of the school;

18 (2) The student paying any participation or activity fee in an amount equal to the fee  
19 charged to a public school participant;

20 (3) The student adhering to the same standards of behavior, responsibility, performance  
21 and code of conduct as other participants of the team or activity. If the student is convicted of, or  
22 is found to have committed, a felony or a delinquent act which would have been a felony if  
23 committed by an adult, regardless of whether adjudication is withheld, the participation of the  
24 student in interscholastic extracurricular activities is contingent on established and published  
25 district school board policy.

26 (4) The student adhering to the same academic standards as other participants of the  
27 team or activity, with those standards confirmed by appropriate documentation provided to the  
28 public school providing the activity in which the student is to participate. The student shall be able  
29 to participate in curricular activities if that is a requirement of the extracurricular activity, including,  
30 but not limited to, weight training. Appropriate documentation shall consist of the student's  
31 transcript for the previous year and either of the following:

32 (A) The results of a nationally recognized standardized test, such as the ACT/Explore or  
33 Plan College Readiness Test, Stanford Achievement Test, Comprehensive Test of Basic Skills,  
34 Iowa Assessments, Terra Nova, or California Achievement Test, which demonstrate that the  
35 student is on grade level or if grade equivalency is not available, that the student scores at a  
36 minimum of the twenty-fifth percentile nationally without special accommodation, or.

37 (B) A portfolio of the previous year's school work demonstrating the student's proficiency  
38 appropriate for his or her grade level at the discretion of the school principal or guidance

39 counselor. If the student was enrolled in a public or nonpublic school during the immediately  
40 preceding school year, the student's eligibility shall be based on his or her academic performance  
41 at that school.

42 (5) The student satisfies the same residency requirements as other students in the school  
43 at which the student participates.

44 (c) A student of a public school or nonpublic school who has been unable to maintain  
45 academic eligibility for participation in extracurricular activities is ineligible to participate in the  
46 activities as a student who is instructed by a private tutor or taught at home, until the student has  
47 successfully satisfied standards to regain eligibility that are equivalent to those imposed on other  
48 students at the same grade level.

49 (d) A student instructed by a private tutor, taught at home, or enrolled in a private, parochial  
50 or church school or school of a religious order who transfers to a public school before or during  
51 the first grading period of the school year is academically eligible to participate in extracurricular  
52 activities during the first grading period provided the student has a successful evaluation from the  
53 previous year.

54 (e) A student instructed by a private tutor, taught at home or enrolled in a private, parochial  
55 or church school or school of a religious order, who participates in an extracurricular activity at a  
56 public school is committed to and may only participate in that extracurricular activity at that public  
57 school for the duration of the school year. Notwithstanding the foregoing, a student may  
58 participate in different extracurricular activities at the same public school.

59 (f) Student standards for participation in interscholastic extracurricular activities shall be  
60 applied beginning with the first semester of the seventh grade year of the student. A local board  
61 of education may not establish requirements for participation in interscholastic extracurricular  
62 activities which make participation in the activities less accessible to students who are instructed  
63 at home or by a private tutor, or enrolled in a private, parochial or church school or school operated  
64 by a religious order than to other students. Except as set forth in subdivision five of subsection

65 (b) of this section, evaluation processes or requirements that are placed on student participants  
66 who are instructed at home or by a private tutor or are enrolled in a private, parochial or church  
67 school or school operated by a religious order may not exceed those that apply to those students  
68 generally.

69 (g) Any insurance provided by a district school board for participants in extracurricular  
70 activities shall cover a student permitted to participate by provisions of this section. If there is an  
71 additional premium for the coverage, the participating student shall pay the additional premium.

72 (h)(1) No public school athletic team or group shall be impeded from competing against  
73 any other public or nonpublic school team or group because the team or group includes students  
74 participating pursuant to this section.

75 (2) A public school is prohibited from membership in any organization or entity which  
76 regulates or governs interscholastic extracurricular activities and discriminates against eligible  
77 students in public or nonpublic schools, or students eligible to participate pursuant to provisions  
78 of this section.

79 (i) This section does not guarantee that a student trying out for an interscholastic sport or  
80 other extracurricular activity will make the team or become part of another extracurricular activity,  
81 but only that the student shall not be prohibited from trying out for the team or activity if the student  
82 is otherwise eligible, as outlined herein and under the rules of an organization or association that  
83 regulates interscholastic sports.

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NOTE: The purpose of this bill is to provide that students being taught at home or by private tutor, or enrolled in a private, parochial or church school or a school operated by a religious order may participate in extracurricular activities, including sports teams of a public school..

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