

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### House Bill 4298

FISCAL  
NOTE

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REYNOLDS, CAMPBELL AND COOPER

[Introduced January 27, 2016; referred to the  
committee on Education then Finance.]

1 A BILL to amend and reenact §18-5-18 of the Code of West Virginia, 1931, as amended; and to  
 2 amend and reenact §18-8-1a, all relating to changing the age effective date of children for  
 3 whom county boards of education must provide kindergarten programs from September  
 4 1 to August 1; and changing the age effective date for students who are compelled to  
 5 attend school from September 1 to August 1.

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

1 That §18-5-18 of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted; and that §18-8-1a of said code be amended and reenacted, all to read as follows:

**ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-18. Kindergarten programs.**

1 (a) County boards shall provide kindergarten programs for all children who have attained  
 2 the age of five prior to ~~September~~ August 1, of the school year in which the pupil enters the  
 3 kindergarten program and may, pursuant to the provisions of section forty-four, article five,  
 4 chapter eighteen of this code, establish kindergarten programs designed for children below the  
 5 age of five. The programs for children who shall have attained the age of five shall be full-day  
 6 everyday programs.

7 (b) Persons employed as kindergarten teachers, as distinguished from paraprofessional  
 8 personnel, shall be required to hold a certificate valid for teaching at the assigned level as  
 9 prescribed by rules established by the state board. The state board shall establish the minimum  
 10 requirements for all paraprofessional personnel employed in kindergarten programs established  
 11 pursuant to the provisions of this section and no such paraprofessional personnel may be  
 12 employed in any kindergarten program unless he or she meets the minimum requirements.  
 13 Beginning July 1, 2014, any person previously employed as an aide in a kindergarten program  
 14 and who is employed in the same capacity on and after that date and any new person employed  
 15 in that capacity in a kindergarten program on and after that date shall hold the position of aide  
 16 and either Early Childhood Classroom Assistant Teacher I, Early Childhood Classroom Assistant

17 Teacher II or Early Childhood Classroom Assistant Teacher III. Any person employed as an aide  
18 in a kindergarten program that is eligible for full retirement benefits before July 1, 2020, may  
19 remain employed as an aide in that position and shall be granted an Early Childhood Classroom  
20 Assistant Teacher permanent authorization by the state superintendent pursuant to section two-  
21 a, article three, chapter eighteen-a of this code.

22 (c) The state board with the advice of the state superintendent shall establish and  
23 prescribe guidelines and criteria relating to the establishment, operation and successful  
24 completion of kindergarten programs in accordance with the other provisions of this section.  
25 Guidelines and criteria so established and prescribed also are intended to serve for the  
26 establishment and operation of nonpublic kindergarten programs and shall be used for the  
27 evaluation and approval of those programs by the state superintendent, provided application for  
28 the evaluation and approval is made in writing by proper authorities in control of the programs.  
29 The state superintendent, annually, shall publish a list of nonpublic kindergarten programs,  
30 including Montessori kindergartens that have been approved in accordance with the provisions of  
31 this section. Montessori kindergartens established and operated in accordance with usual and  
32 customary practices for the use of the Montessori method which have teachers who have training  
33 or experience, regardless of additional certification, in the use of the Montessori method of  
34 instruction for kindergartens shall be considered to be approved.

35 (d) Pursuant to the guidelines and criteria, and only pursuant to the guidelines and criteria,  
36 the county boards may establish programs taking kindergarten to the homes of the children  
37 involved, using educational television, paraprofessional personnel in addition to and to  
38 supplement regularly certified teachers, mobile or permanent classrooms and other means  
39 developed to best carry kindergarten to the child in its home and enlist the aid and involvement  
40 of its parent or parents in presenting the program to the child; or may develop programs of a more

41 formal kindergarten type, in existing school buildings, or both, as the county board may determine,  
42 taking into consideration the cost, the terrain, the existing available facilities, the distances each  
43 child may be required to travel, the time each child may be required to be away from home, the  
44 child's health, the involvement of parents and other factors as each county board may find  
45 pertinent. The determinations by any county board are final and conclusive.

## **ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**

### **§18-8-1a. Commencement and termination of compulsory school attendance; public school entrance requirements; exceptions.**

1 (a) Notwithstanding the provisions of section one of this article, compulsory school  
2 attendance begins with the school year in which the sixth birthday is reached prior to ~~September~~  
3 August 1 of such year or upon enrolling in a publicly supported kindergarten program and, subject  
4 to subdivision (3) of this subsection, continues to the sixteenth birthday or for as long as the  
5 student continues to be enrolled in a school system after the sixteenth birthday.

6 (1) A child may be removed from such kindergarten program when the principal, teacher  
7 and parent or guardian concur that the best interest of the child would not be served by requiring  
8 further attendance: *Provided*, That the principal shall make the final determination with regard to  
9 compulsory school attendance in a publicly supported kindergarten program.

10 (2) The compulsory school attendance provision of this article shall be enforced against a  
11 person eighteen years of age or older for as long as the person continues to be enrolled in a  
12 school system, and may not be enforced against the parent, guardian, or custodian of the person.

13 (3) Beginning with the 2011-2012 high school freshman cohort class of students, and  
14 notwithstanding the provisions of section one of this article, compulsory school attendance begins  
15 with the school year in which the sixth birthday is reached prior to September 1 of such year or  
16 upon enrolling in a publicly supported kindergarten program and continues to the seventeenth

17 birthday or for as long as the student continues to be enrolled in a school system after the  
18 seventeenth birthday.

19 (b) Attendance at a state-approved or Montessori kindergarten, as provided in section  
20 eighteen, article five of this chapter, is deemed school attendance for purposes of this section.  
21 Prior to entrance into the first grade in accordance with section five, article two of this chapter,  
22 each child must have either:

23 (1) Successfully completed such publicly or privately supported, state-approved  
24 kindergarten program or Montessori kindergarten program; or

25 (2) Successfully completed an entrance test of basic readiness skills approved by the  
26 county in which the school is located. The test may be administered in lieu of kindergarten  
27 attendance only under extraordinary circumstances to be determined by the county board.

28 (c) Notwithstanding the provisions of this section and of section five, article two of this  
29 chapter and section eighteen, article five of this chapter, a county board may provide for advanced  
30 entrance or placement under policies adopted by said board for any child who has demonstrated  
31 sufficient mental and physical competency for such entrance or placement.

32 (d) This section does not prevent a student from another state from enrolling in the same  
33 grade in a public school in West Virginia as the student was enrolled at the school from which the  
34 student transferred.

NOTE: The purpose of this bill is to change the age effective date of children for whom county boards of education must provide kindergarten programs from September 1 to August 1. The bill changes the age effective date for students who are compelled to attend school from September 1 to August 1.

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