

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 3118**

BY DELEGATE SYPOLT

[Introduced February 12, 2019; Referred  
to the Committee on Education then the Judiciary.]

1 A BILL to amend and reenact §4-1-6 the Code of West Virginia, 1931, as amended; to amend  
 2 said code by adding thereto a new section, designated §4-2A-5a; and to amend said code  
 3 by adding thereto a new section, designated §18A-5-7a, all relating to mandatory drug  
 4 testing for state legislators and teachers.

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

## **CHAPTER 4. THE LEGISLATURE.**

### **ARTICLE 1. OFFICERS, MEMBERS AND EMPLOYEES; APPROPRIATIONS; INVESTIGATIONS; DISPLAY OF FLAGS; RECORDS; USE OF CAPITOL BUILDING; PREFILING OF BILLS AND RESOLUTIONS; STANDING COMMITTEES; INTERIM MEETINGS; NEXT MEETING OF THE SENATE.**

#### **§4-1-6. Administration of oaths to members of Legislature, officers and witnesses.**

1 (a) The Legislature finds and declares that members of the Legislature, as public figures,  
 2 have a reduced expectation of privacy and that the job responsibilities of legislators greatly impact  
 3 public safety. As a result, establishing a requirement for members of the Legislature to be drug  
 4 free is a reasonable government function.

5 (b) Despite any provisions of this code to the contrary, no oath shall be administered to  
 6 any newly elected member of the Legislature until he or she successfully passes a drug test for  
 7 all known illegal drugs and any legal drugs for which he or she does not have a prescription. The  
 8 test shall be conducted by December 31 of the newly elected member's election year. Each newly  
 9 elected legislator shall pay the cost of his or her drug test.

10 (c) The presiding officer or clerk of either house may administer the oaths of office to any  
 11 member or officer of such house, and the oath to any witness to be examined before such house  
 12 or its committee, or before any joint committee.

13 When any committee of either house, or joint committee, is authorized to examine  
 14 witnesses, or to send for persons and papers, the ~~chairman of such committee,~~ committee

15 chairman or in his or her absence any member thereof, may administer the oath to any witness  
16 produced to testify before it.

**ARTICLE 2A. COMPENSATION FOR AND EXPENSES OF MEMBERS OF THE  
LEGISLATURE.**

**§4-2A-5a. Drug testing of legislators.**

1 (a) Notwithstanding any provisions of this code to the contrary, no member of the  
2 Legislature may receive any compensation or expense reimbursement pursuant to this article  
3 until he or she successfully passes an annual drug test for all known illegal drugs and any legal  
4 drugs for which he or she does not have a prescription. The test shall be conducted annually by  
5 December 31. Failure to pass or take a drug test pursuant to this section precludes that legislator  
6 from receiving any compensation or expense reimbursement for any legislative session or activity  
7 in which he or she would otherwise be authorized to receive compensation or reimbursement  
8 under this article. Each legislator shall pay the cost of his or her drug test.

**CHAPTER 18. EDUCATION.**

**ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.**

**§18A-5-7A. Required drug testing of teachers.**

1 (a) The Legislature finds and declares that as educators of the state’s youth, public school  
2 teachers have a reduced expectation of privacy and that the job responsibilities of teachers impact  
3 public safety. As a result, establishing a requirement for public school teachers to be drug free is  
4 a reasonable government function.

5 (b) Despite any provisions of this code to the contrary, beginning July 1, 2019, initial and  
6 continuing employment of public school teachers in West Virginia is contingent upon successfully  
7 passing a drug test for all known illegal drugs and any legal drugs for which he or she does not  
8 have a prescription. The test shall be conducted by December 31 of each year for all teachers  
9 either newly hired or currently employed under §18A-1-1 et seq. of this code. The state shall pay

10 the cost of any required drug tests.

NOTE: The purpose of this bill is to require legislators and public school teachers to initially and then annually pass a drug test for employment or to receive any compensation or expense reimbursement.

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