

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **House Bill 3199**

BY DELEGATE PHILLIPS

[Introduced March 16, 2021; Referred to the  
Committee on Education then the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §18-9-9, relating to ensuring that students use the bathroom or restroom that  
 3 correlates with their biological sex.

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

**ARTICLE 9. SCHOOL FINANCES.**

**§18-9-9. School restrooms; requirements for male and female restrooms; elimination of  
 funding; sanctions for violations.**

1 (a) Each elementary and secondary school in this state that receives any type of public  
 2 funding from this state or a local government, or both, shall require that each student attending  
 3 such a school shall use a restroom that correlates with the biological sex as indicated on the  
 4 student's original birth certificate issued at the time of birth. A school shall not accept any birth  
 5 certificate for purposes of using another restroom that has been revised or amended with respect  
 6 to the sex of a student.

7 (b) An elementary school or secondary school that violates subsection (a) is immediately  
 8 ineligible to continue to receive public funds of any type from this state or a local government. If  
 9 the department of education and a court of competent jurisdiction, through the issuance of a  
 10 declaratory order, find that the school is in compliance with this section, public funding shall be  
 11 restored.

12 (c) Sanctions for violation:

13 (1) The Attorney General shall bring a civil action in circuit court against a state or local  
 14 official who willfully and intentionally commits an act that violates, or that is designed or intended  
 15 to violate or frustrate, this section. In conducting a trial under this subsection (c)(1), the court  
 16 shall conduct the trial in the same manner as the court would conduct a criminal trial, and the  
 17 official or person against whom the civil action is brought has the same rights as a person charged  
 18 with a criminal offense for purposes of conducting the trial.

19 (2) The civil penalty for a violation of this section may not exceed \$10,000.

20           (3) Upon a finding that a state or local official has willfully and intentionally committed  
21 an act that violates, or that is designed or intended to violate or frustrate this section, the office  
22 of the official is immediately vacated, and the former official is not eligible to hold public office  
23 or a position as a school administrator or principal for a period of five years.

24           (d) As used in this section, "local official" includes a school administrator and principal.

25           (e) This section shall take effect upon becoming a law, the public welfare requiring it.

NOTE: The purpose of this bill is to ensure that students using school restrooms use the appropriate restroom that correlates with their biological sex.

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