

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

## **House Bill 2728**

BY DELEGATES WORRELL, STEELE, D. JEFFRIES,

PAYNTER AND BRIDGES

[Introduced February 24, 2021; Referred to the  
Committee on Education then Health and Human  
Resources]

1 A BILL to amend and reenact §16-3-4 of the Code of West Virginia, 1931, as amended, clarifying  
2 that the commissioner shall not expand the compulsory immunizations for school children  
3 unless explicitly authorized by the Legislature.

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

**ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER  
INFECTIOUS DISEASES.**

**§16-3-4. Compulsory immunization of school children; information disseminated;  
offenses; penalties.**

1 (a) Whenever a resident birth occurs, the commissioner shall promptly provide parents of  
2 the newborn child with information on immunizations mandated by this state or required for  
3 admission to a public, private and parochial school in this state or a state-regulated child care  
4 center.

5 (b) Except as hereinafter provided, a child entering school or a state-regulated child care  
6 center in this state must be immunized against chickenpox, hepatitis-b, measles, meningitis,  
7 mumps, diphtheria, polio, rubella, tetanus and whooping cough. The commissioner shall not  
8 expand the compulsory immunization requirements for school children set forth in this article  
9 unless the Legislature explicitly authorizes such expansion.

10 (c) No child or person may be admitted or received in any of the schools of the state or a  
11 state-regulated child care center until he or she has been immunized against chickenpox,  
12 hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough  
13 or produces a certificate from the commissioner granting the child or person an exemption from  
14 the compulsory immunization requirements of this section.

15 (d) Any school or state-regulated child care center personnel having information  
16 concerning any person who attempts to be enrolled in a school or state-regulated child care center  
17 without having been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps,

18 diphtheria, polio, rubella, tetanus and whooping cough shall report the names of all such persons  
19 to the commissioner.

20 (e) Persons may be provisionally enrolled under minimum criteria established by the  
21 commissioner so that the person's immunization may be completed while missing a minimum  
22 amount of school. No person shall be allowed to enter school without at least one dose of each  
23 required vaccine.

24 (f) County health departments shall furnish the biologicals for this immunization for  
25 children of parents or guardians who attest that they cannot afford or otherwise access vaccines  
26 elsewhere.

27 (g) Health officers and physicians who provide vaccinations must present the person  
28 vaccinated with a certificate free of charge showing that they have been immunized against  
29 chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and  
30 whooping cough, or he or she may give the certificate to any person or child whom he or she  
31 knows to have been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps,  
32 diphtheria, polio, rubella, tetanus and whooping cough.

33 (h) The commissioner is authorized to grant, renew, condition, deny, suspend, or revoke  
34 exemptions to the compulsory immunization requirements of this section, on a statewide basis,  
35 upon sufficient medical evidence that immunization is contraindicated or there exists a specific  
36 precaution to a particular vaccine.

37 (1) A request for an exemption to the compulsory immunization requirements of this  
38 section must be accompanied by the certification of a licensed physician stating that the physical  
39 condition of the child is such that immunization is contraindicated or there exists a specific  
40 precaution to a particular vaccine.

41 (2) The commissioner is authorized to appoint and employ an immunization officer to make  
42 determinations on request for an exemption to the compulsory immunization requirements of this  
43 section, on a statewide basis, and delegate to the immunization officer the authority granted to

44 the commissioner by this subsection.

45 (3) A person appointed and employed as the immunization officer must be a physician  
46 licensed under the laws of this state to practice medicine.

47 (4) The immunization officer's decision on a request for an exemption to the compulsory  
48 immunization requirements of this section may be appealed to the state health officer.

49 (5) The final determination of the state health officer is subject to a right of appeal pursuant  
50 to the provisions of article five, chapter twenty-nine a of this code.

51 (i) A physician who provides any person with a false certificate of immunization against  
52 chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and  
53 whooping cough is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$25  
54 nor more than \$100.

NOTE: The purpose of this bill is to clarify that the commissioner of Public Health shall not expand compulsory immunization requirements for school children unless the Legislature explicitly authorizes such expansion.

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