WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4071

By Delegates Maynor, Steele, Honaker, Smith, Tully, Kessinger, B. Ward, Foster, Ellington, Keaton, and Gearheart

[Introduced January 13, 2022; Referred to the Committee on Education then the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-8B-1, §18-8B-2, §18-8B-3, §18-8B-4, all relating to creating the Parent and Student Health Rights Act; providing definitions; providing that schools, educational institutions, and elected or appointed local officials may not mandate masks for school students or school employees, and may not mandate COVID-19 tests and quarantine under certain circumstances; and providing injunctive relief.

Be it enacted by the Legislature of West Virginia:

Article 8B. Parent and Student Health Rights Act.

§18-8B-1. Short title.

This article shall be known and may be cited as the Parent and Student Health Rights Act.

§18-8B-2. Definitions.

(a) “Confirmed outbreak” in a school setting is defined as:

(1) Multiple COVID-19 cases comprising at least 10 percent of students, teachers, or staff, within a specified core group (e.g., classroom, extracurricular activity, sports team); or

(2) At least three cases within a specified core group (e.g., classroom, extracurricular activity, sports team).

(b) “COVID-19” or “coronavirus” means the novel coronavirus identified as SARS-CoV-2, the disease caused by the novel coronavirus SARS-CoV-2, or a virus mutating therefrom, and conditions associated with the disease.

(c) “Educational institution” means any school or facility under the control of a county board of education; a charter school; and the West Virginia Schools for the Deaf and the Blind.

(d) “Quarantine” means a period of physical separation recommended by the Centers for Disease Control and Prevention (“CDC”) which should begin after a person comes into close contact with someone who has COVID-19.

§18-8B-3. Parent and student health rights.

(a) Notwithstanding any other law to the contrary, and regardless of a confirmed outbreak, no school, educational institution, or elected or appointed local official may impose a COVID-19 mask or face covering requirement for any school student, grade K-12, or school employee.

(b) A parent of a student maintains the right to determine whether their child will wear a mask or face covering on school premises or during extracurricular activities.

(c) No school, educational institution, or elected or appointed local official may impose a mandatory COVID-19 testing requirement on any asymptomatic or pre-symptomatic student and/or school employee.

(d) No school, educational institution, or elected or appointed local official may require a student or school employee to quarantine or isolate unless a case of COVID-19 is confirmed by a positive test result.

(e) Any period of quarantine shall end after a negative test result for COVID-19 or after 5 days of quarantine.

§18-8B-4. Injunctive relief available.

A parent of a student or a student who is 18 years of age or older may bring an action against the school or educational institution to obtain a declaratory judgment that an act or practice violates this section and to seek injunctive relief. A prevailing parent or student, as applicable, may be awarded reasonable attorney fees and court costs.

NOTE: The purpose of this bill is to create a Parent and Student Health Rights Act; providing definitions related to schools, students, and COVID-19; providing that schools, educational institutions, and elected or appointed local officials may not mandate masks for school students or school employees, and may not mandate COVID-19 testing or quarantining under certain circumstances; and providing for injunctive relief.

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