

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 3228**

By Delegates Clark, Ridenour, Mazzocchi, Hornby,  
and Willis

[Introduced February 02, 2023; Referred to the  
Committee on Education]

1 A BILL to amend the Code of West Virginia 1931, as amended, by adding thereto a new section,  
 2 designated §18-2E-12, relating to the creation of the Heart Health Equity Inclusion  
 3 Program; providing for legislative findings; and providing for required physical education  
 4 program in physical fitness.

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

**ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**

**§18-2E-12. Heart Health Equity Inclusion Program; legislative findings; required physical education program in physical fitness.**

1 (a) Legislative Findings:

2 (1) The Legislature hereby finds that obesity is a significant problem of epidemic  
 3 proportions in this state.

4 (2) There is increasing evidence that all segments of the population, beginning with  
 5 children, are becoming more sedentary, more overweight, and more likely to develop health risks  
 6 and diseases, including Type II Diabetes, high blood cholesterol, and high blood pressure.

7 (3) The Legislature further finds that the promotion of physical activity during the school  
 8 day for school children is a crucial step in combating this growing epidemic and in changing the  
 9 attitudes and behavior of the residents of this state toward health-promoting physical activity.

10 (b) Enactment. – The West Virginia Department of Education shall establish the  
 11 requirement that each child enrolled in the public schools of this state actively participates in  
 12 nutrition, and aerobic exercise classes during the month of February for four weeks straight to the  
 13 level of his or her ability as follows:

14 (1) Heart heath education shall be taught during the month of February, and shall require  
 15 the teaching of proper nutrition, and aerobic exercise, consisting of at least 20 minutes of aerobic  
 16 exercise in conjunction with numeracy and literacy at least 3 days per week.

17 (2) Selected programs need to be aligned to the state literacy, numeracy, and health  
 18 standards. Upon completion of the program required herein, the child shall receive a pass or fail

19 grade.

20 (3) The program required herein shall be selected from nationally accepted nutrition and  
21 aerobic exercise programs designed for school-aged children that test nutrition knowledge,  
22 cardiovascular fitness, muscular strength, and endurance. The program shall include modified  
23 tests for exceptional students.

24 (4) Each school in the state of West Virginia shall participate in Heart Health education  
25 during the month of February for four weeks straight and shall make available to schools within the  
26 district a program in which the subject of proper nutrition and aerobic exercise education is taught  
27 that focuses on the importance of how nutrition (nutrients) and regular aerobic exercise improve  
28 heart health to prevent hypertension, obesity, diabetes, and heart disease.

29 (5) The heart health program shall include a provision for evidence-based nutrition and  
30 aerobic exercise education for all teachers and children in grades three through six. The education  
31 for teachers shall include all classroom teachers, including physical education teachers and  
32 teachers teaching health.

33 (6) The program shall be four weeks long and shall include the provision of all third-through  
34 sixth-grade teachers and students with complete access to turnkey, evidence- based nutrition and  
35 aerobic exercise education to implement in the classroom, during school, before school, after  
36 school, and/or at home with the family.

37 (7) The nutrition and aerobic exercise education may be in the form of book, DVD, CD,  
38 online, or another form of technology. Each school in a school district shall ensure the following:

39 (A) Time is allowed during the school day for the classroom, physical education, and/or  
40 health education teaching personnel to provide students with up to 30 minutes of aerobic exercise  
41 and education to learn how exercise improves heart health;

42 (B) Time is allowed during the school day for the classroom, physical education, and/or  
43 health education teaching personnel to provide students with proper nutrition education that  
44 teaches about the nutrients and their relationship to improving heart health;

45 (C) Time is allowed during the school day for the classroom, physical, and/or health  
46 education teaching personnel to provide both students and the teacher with time to fill out a journal  
47 to track information relating to any of the following: Food, nutrient, and exercise. The nutrient  
48 information may include information such as the amounts of water, carbohydrates, protein, fat,  
49 minerals, and vitamins consumed;

50 (D) All data that is necessary to comply with the accountability measures set forth by the  
51 Department of Education and its service providers. Data collected pursuant to this program is  
52 subject to state and federal data privacy laws to protect the privacy and confidentiality of individual  
53 students and not subject to disclosure under the West Virginia Freedom of Information Act set forth  
54 in §29B-1-1 et seq. of this code.

55 (8) School districts may issue a request for proposals to contract with qualified service  
56 providers on a per-student rate to provide evidence-based nutrition and aerobic exercise  
57 programs and/or products consisting of nutrition education, aerobic exercise, use of technology,  
58 and associated licenses for teachers and students in grades three through six in school districts  
59 provided for under this section.

60 (9) School districts may consider all providers of programs and products that meet the  
61 following criteria:

62 (A) The provider has operated for 10 or more years in schools serving primarily  
63 underserved, low-income students; and

64 (B) The provider has at least 10 years of empirical research data demonstrating  
65 improvement in students' nutrition knowledge, heart health measurements, such as blood  
66 pressure and resting heart rate, and strength endurance, such as through push-ups and sit-ups.

67 (10) Programs implemented pursuant to this section shall include the following  
68 accountability measures:

69 (A) Annually, school districts shall report the identity of the participating schools and  
70 accountability measures in the aggregate to the West Virginia Department of Education, which

71 shall make such reports available to the general public.

72 (B) At a minimum, reports submitted to the West Virginia Department of Education shall  
73 include aggregated student pre- and post-testing data in the areas of:

74 (i) Nutrition knowledge;

75 (ii) Heart health using such measures as blood pressure and heart rate;

76 (iii) Strength endurance using such measures as push-ups and sit-ups;

77 (C) The pre-testing required by subdivision of this subsection shall occur prior to the  
78 beginning of the nutrition and aerobic exercise instruction each school year, and the post-testing  
79 shall occur each school year near or after the conclusion of the instruction.

NOTE: The purpose of this bill is to create the heart health equity inclusion program. The bill provides for legislative findings. Finally, the bill provides for required physical education program in physical fitness.

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