

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5105

By Delegates Kimble, Mazzocchi, Foggin, Ridenour,
Kirby, Phillips, Dean, C. Pritt, McGeehan, Kump and
Steele

[Introduced January 25, 2024; Referred to the
Committee on Health and Human Resources then the
Judiciary]

1 A BILL to amend and reenact §16-3-4 of the Code of West Virginia, 1931, as amended, relating to
2 eliminating the vaccine requirements for public virtual schools.

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 childcare
4 center.

5 (b) Except as hereinafter provided, a child entering school or a state-regulated childcare
6 center in this state must be immunized against chickenpox, hepatitis-b, measles, meningitis,
7 mumps, diphtheria, polio, rubella, tetanus, and whooping cough.

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

13 (d) Any school or state-regulated childcare center personnel having information
14 concerning any person who attempts to be enrolled in a school or state-regulated childcare center
15 without having been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps,
16 diphtheria, polio, rubella, tetanus, and whooping cough shall report the names of all such persons
17 to the commissioner.

18 (e) Persons may be provisionally enrolled under minimum criteria established by the

19 commissioner so that the person's immunization may be completed while missing a minimum
20 amount of school. No person shall be allowed to enter school without at least one dose of each
21 required vaccine.

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

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

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

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

39 (2) The commissioner is authorized to appoint and employ an Immunization Officer to
40 make determinations on request for an exemption to the compulsory immunization requirements
41 of this section, on a statewide basis, and delegate to the Immunization Officer the authority
42 granted to the commissioner by this subsection.

43 (3) A person appointed and employed as the Immunization Officer must be a physician
44 licensed under the laws of this state to practice medicine.

45 (4) The Immunization Officer’s decision on a request for an exemption to the compulsory
46 immunization requirements of this section may be appealed to the State Health Officer.

47 (5) The final determination of the State Health Officer is subject to a right of appeal
48 pursuant to the provisions of §29A-5-1 *et seq.*, of this code.

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

53 (j) Any child attending public, virtual school shall be exempt from the requirements of this
54 article.

NOTE: The purpose of this bill is to eliminate the vaccine requirements for public virtual schools.

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