

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5199

By Delegates Crouse, Petitto, Lucas, Smith, Young,

Hornby, Adkins, and Dean

[Introduced January 25, 2024; Referred to the

Committee on Education]

1 A BILL to amend and reenact §18-2-7a of the Code of West Virginia, 1931, as amended, relating to
 2 permitting parents to exempt their children from participating in this program by submitting
 3 a request in writing to the school that their children attend.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-7a. Legislative findings; required physical education; program in physical fitness; exemption.

1 (a) The Legislature hereby finds that obesity is a problem of epidemic proportions in this
 2 state. There is increasing evidence that all segments of the population, beginning with children,
 3 are becoming more sedentary, more overweight and more likely to develop health risks and
 4 diseases including Type II Diabetes, high blood cholesterol and high blood pressure. The
 5 Legislature further finds that the promotion of physical activity during the school day for school
 6 children is a crucial step in combating this growing epidemic and in changing the attitudes and
 7 behavior of the residents of this state toward health promoting physical activity.

8 (b) As a result of these findings, the state Department of Education shall establish the
 9 requirement that each child enrolled in the public schools of this state actively participates in
 10 physical education classes during the school year to the level of his or her ability as follows:

11 (1) *Elementary school grades.* — Not less than thirty minutes of physical education,
 12 including physical exercise and age-appropriate physical activities, for not less than three days a
 13 week.

14 (2) *Middle school grades.* — Not less than one full period of physical education, including
 15 physical exercise and age-appropriate physical activities, each school day of one semester of the
 16 school year.

17 (3) *High school grades.* — Not less than one full course credit of physical education,
 18 including physical exercise and age-appropriate physical activities, which shall be required for
 19 graduation and the opportunity to enroll in an elective lifetime physical education course.

20 (c) Enrollment in physical education classes and activities required by the provisions of this
21 section shall not exceed, and shall be consistent with, state guidelines for enrollment in all other
22 subjects and classes: *Provided*, That schools which do not currently have the number of certified
23 physical education teachers, do not currently have the required physical setting or would have to
24 significantly alter academic offerings to meet the physical education requirements may develop
25 alternate programs that will enable current staff, physical settings and offerings to be used to meet
26 the physical education requirements established herein. These alternate programs shall be
27 submitted to the state Department of Education and the Healthy Lifestyle Council for approval.
28 Those schools needing to develop alternate programs shall not be required to implement this
29 program until the school year commencing 2006.

30 (d) The state board shall prescribe a program within the existing health and physical
31 education program which incorporates fitness testing, reporting, recognition, fitness events and
32 incentive programs which requires the participation in grades four through eight and the required
33 high school course. The program shall be selected from nationally accepted fitness testing
34 programs designed for school-aged children that test cardiovascular fitness, muscular strength
35 and endurance, flexibility and body composition: *Provided*, That nothing in this subsection shall be
36 construed to prohibit the use of programs designed under the auspices of the President's Council
37 on Physical Fitness and Sports. The program shall include modified tests for exceptional students.
38 Each school in the state shall participate in National Physical Fitness and Sports Month in May of
39 each year and shall make every effort to involve the community it serves in the related events.

40 (e) The state board shall promulgate a rule in accordance with the provisions of §29A-3b-1
41 *et seq.* of this code that includes at least the following provisions to provide for the collection,
42 reporting and use of body mass index data in the public schools:

43 (1) The data shall be collected using the appropriate methodology for assessing the body
44 mass index from student height and weight data;

45 (2) The data shall be collected on a scientifically drawn sample of students;

46 (3) The data shall be collected and reported in a manner that protects student
47 confidentiality;

48 (4) The data shall be reported to the Department of Education; and

49 (5) All body mass index data shall be reported in aggregate to the Governor, the state
50 Board of Education, the Healthy Lifestyles Coalition and the Legislative Oversight Commission on
51 Health and Human Resources Accountability for use as an indicator of progress toward promoting
52 healthy lifestyles among school-aged children.

53 (f) Parents may exempt their children from participating in this program by submitting a
54 request in writing to the school that their children attend.

NOTE: The purpose of this bill is to permit parents to exempt their children from participating in this program by submitting a request in writing to the school that their children attend.

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