

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 5243**

By Delegates Crouse, W. Clark, C. Pritt, Willis,  
Linville, Cannon, Moore, Foster, Kimble, Mazzocchi  
and Warner

[Introduced January 26, 2024; Referred to the  
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §16-67-1, §16-67-2, §16-67-3, §16-67-4, §16-67-5, and §16-67-6, all relating  
 3 to the Women's Bill of Rights; providing short title; setting forth purpose; establishing  
 4 application of act; defining terms; allowing for language substitution; establishing certain  
 5 single sex environments are not discriminatory; creating parameters for certain data  
 6 collection; and allowing severability.

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

**ARTICLE 67. WEST VIRGINIA WOMEN'S BILL OF RIGHTS ACT.**

**§16-67-1. Name, Purpose, and General Application.**

1 (a) This act shall be known and may be cited as the "West Virginia Women’s Bill of Rights"  
 2 or "The West Virginia Act to Define Sex-Based Terms Used in State Law, Help Protect Single Sex  
 3 Spaces, and Ensure the Accuracy of Public Data Collection."

4 (b) The purpose of the West Virginia Women’s Bill of Rights is to bring clarity, certainty, and  
 5 uniformity to the laws of West Virginia regarding sex discrimination, equality of the sexes, and  
 6 benefits or services specifically provided to males/men and to females/women.

7 (c) The West Virginia Women’s Bill of Rights applies wherever West Virginia, or an  
 8 instrumentality of the state, classifies people on the basis of sex or otherwise defines people as  
 9 being female or male, women or men, girls or boys; the definitions contained in §16-67-2 of this  
 10 code apply.

**§16-67-2. Definitions of Terms Used in State Statutes and Administrative Rules.**

1 (a) As used in West Virginia statutes, administrative rules, regulations, and/or official public  
 2 policies:

3 (1) A "woman" is an adult human of the female sex, and a "man" is an adult human of the  
 4 male sex;

5 (2) A "girl" is a human female who has not yet reached adulthood, and a "boy" is a human  
 6 male who has not yet reached adulthood;

7 (3) A "mother" is a female parent of a child or children as defined in West Virginia law; a  
8 "father" is a male parent of a child or children as defined in West Virginia law;

9 (4) A "female", when used in reference to a natural person, is an individual who has, had,  
10 will have, or would have (but for a developmental anomaly, genetic anomaly, or accident) the  
11 reproductive system that at some point produces ova;

12 (5) A "male", when used in reference to a natural person, means an individual who has,  
13 had, will have, or would have (but for a developmental anomaly, genetic anomaly, or accident) the  
14 reproductive system that at some point produces sperm for fertilization of female ova;

15 (6) "Equal" does not mean "same" or "identical" with respect to equality of the sexes;

16 (7) A person's "sex" is his or her biological sex (either male or female) at birth.

17 (A) There are only two sexes, and every individual is either male or female;

18 (B) "Sex" is objective and fixed; and

19 (C) "Sex" does not include "gender identity" or any other terms intended to convey a  
20 person's subjective sense of self; "gender identity" and other subjective terms may not be used as  
21 synonyms or substitutes for "sex."

22 (b) Individuals with "differences in sex development" (also known as "DSD" or "intersex  
23 conditions") are not a third sex. Individuals with a congenital and medically verifiable DSD  
24 diagnosis must be accommodated consistent with state and federal law.

**§16-67-3. Language Substitution.**

1 Wherever used in West Virginia law, the word "gender" standing alone (as opposed to the  
2 phrase "gender identity") is hereby deleted and replaced with the word "sex", as defined herein.

**§16-67-4. Sex Discrimination and Single-Sex Environments.**

1 (a) Any policy, program, or statute that prohibits sex discrimination shall be construed to  
2 forbid unfair treatment of females or males in relation to similarly-situated members of the opposite  
3 sex.

4 (b) Because the State of West Virginia has an important interest in preventing unjust

5 discrimination and in maintaining safety, privacy, and fairness, West Virginia and its political  
 6 subdivisions and instrumentalities may provide separate single-sex environments for males and  
 7 females where the sexes are not similarly situated, particularly with respect to biology. As  
 8 illustrative, non-exhaustive examples, public entities in West Virginia may distinguish between the  
 9 sexes with respect to athletics, living facilities, locker rooms, bathrooms, domestic violence  
 10 shelters, and rape crisis centers without running afoul of anti-discrimination mandates.

11 (c) Wherever West Virginia or its political subdivisions or instrumentalities, in fact, provide  
 12 separate single-sex environments for males and females, the definitions established in §16-67-2  
 13 of this code must apply.

**§16-67-5. Data Collection.**

1 (a) Any West Virginia public school, public school district, agency, department, or  
 2 instrumentality of the state that collects vital statistics related to sex for the purpose of complying  
 3 with state or federal anti-discrimination laws or for the purpose of gathering accurate public health,  
 4 crime, economic, or other data shall identify each natural person who is part of the collected data  
 5 set as either male or female as defined in this Act.

6 (b) Compliance with this section shall not require the collection of data regarding sex  
 7 unless otherwise required by law, and it shall not prevent the collection of additional data points  
 8 other than biological sex.

**§16-67-6. Severability.**

1 If any provision of this Act, an amendment made by this Act, or the application of such  
 2 provision or amendment to any person or circumstance is held to be unconstitutional, the  
 3 remainder of this Act, the amendments made by this Act, and the application of the provisions of  
 4 such to any person or circumstance shall not be affected thereby.

NOTE: The purpose of this bill is to establish the West Virginia Women's Bill of Rights.

Strike-throughs indicate language that would be stricken from a heading or the present law

and underscoring indicates new language that would be added.