

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5335

By Delegates Kirby, Dean, Bridges, Ross, Foggin,
Steele, Butler, Brooks, Maynor, Ridenour, and Dillon

[Introduced January 29, 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 compulsory immunization and when a child is exempt.

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 child care
4 center.

5 (b) Except as hereinafter provided, a child entering school or a state-regulated child care
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 child care 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 child care center personnel having information
14 concerning any person who attempts to be enrolled in a school or state-regulated child care 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 may be allowed to enter school without at least one dose of
21 each 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 article five, chapter twenty-nine a 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 A child is exempt from the requirements of this section as to a specific immunization for any
54 period of time as to which a physician provides a written statement that a specific immunization is
55 or may be detrimental to the child's health or is not appropriate.

56 A child is exempt from this section if a parent or guardian of the child presents a written
57 statement to the administrator of the child's school or operator of the state-regulated child care
58 center to the effect that the requirements of this part cannot be met because of an objection to
59 immunization.

NOTE: The purpose of this bill is to compulsory immunization and when a child is exempt.

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