

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 515

By Senators Grady, Smith, Taylor, Roberts, Tarr,
Stuart, Deeds, Karnes, Maynard, Azinger, Woodrum,
and Rucker

[Introduced January 23, 2024; referred
to the Committee on Education; and then to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §18-5-29, relating to prohibiting a public school student from being required to
 3 participate in instruction related to sexual orientation and gender identity if a parent,
 4 custodian, or guardian of the student objects in writing; requiring each public school to
 5 afford the parent, custodian, or guardian of a child subject to instruction with respect to
 6 sexual orientation and gender identity advance written notification of such instruction and
 7 of their right to exempt the child from participation; prohibiting a public school and the
 8 county board employees assigned to the school from knowingly giving false or misleading
 9 information to the parent, custodian, or guardian of a student regarding the student's
 10 gender identity or intention to transition to a gender that is different than the sex listed on a
 11 student's official birth certificate or certificate issued upon adoption if the certificate was
 12 issued at or near the time of the student's birth; requiring a public school employee to
 13 report a student's request for an accommodation that is intended to affirm the student's
 14 gender identity from a person employed by the public school to an administrator employed
 15 by the county board and assigned to the school; requiring the administrator to report the
 16 student's request to the student's parent, custodian, or guardian; allowing for legal action in
 17 certain instances of violations; allowing State Board of Education to promulgate rules to;
 18 and providing that the provisions of this act are severable.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-29. Allowing objection to sexual orientation and gender identity instruction;
requiring advance notice of sexual orientation and gender identity instruction;
prohibiting false information regarding student's gender identity or intention to
transition; requiring certain student requests to be reported to parent.

(a) For the purposes of this section:

"Custodian" means a person who has some allocation of physical custody of the child or

3 who has provided to the school written permission of a parent to have access to the notices and
4 information contemplated by this section;

5 "Gender identity" means a category of social identity and refers to an individual's
6 identification as male, female, or occasionally, some category other than male or female;

7 "Guardian" means a person other than a parent or custodian who, pursuant to a court
8 order, acts in loco parentis for the child;

9 "Parent" means a parent who has some allocation of physical custody of the child or who
10 has some share of joint decision-making authority for the child;

11 "Sexual orientation" means an individual's actual or perceived orientation as heterosexual,
12 homosexual, or bisexual; and

13 "Transition to a gender" means the process in which a person goes from identifying with
14 and living as a gender that corresponds to the person's biological sex to identifying with and living
15 as a gender different from the person's biological sex and may involve social, legal, or physical
16 changes.

17 (b) No public school student may be required to participate in instruction related to sexual
18 orientation and gender identity, whether it is offered as part of a health education class or program
19 or as part of any other class or program, if a parent, custodian, or guardian of the student objects in
20 writing to such participation.

21 (1) Each public school shall afford the parent, custodian, or guardian of a child subject to
22 instruction with respect to sexual orientation and gender identity, whether it is offered as part of a
23 health education class or program or as part of any other class or program, advance written
24 notification of such instruction and of their right to exempt the child from participation in such
25 instruction by giving notice to that effect in writing to the school principal.

26 (2) The prior written notification required by subdivision (1) of this subsection shall include
27 a list of the audio-visual or written curriculum and materials to be used in the instruction, along with
28 information regarding how to access the same, consistent with the provisions of §18-5-27 of this

29 code.

30 (3) The provisions of subdivision (1) of this subsection may not be construed to require
31 written notification prior to:

32 (A) A teacher responding to student questions during class regarding sexual orientation
33 and gender identity as it relates to any topic of instruction;

34 (B) Referring to the sexual orientation or gender identity of any historic person, group, or
35 public figure when such information provides necessary context in relation to any topic of
36 instruction; or

37 (C) Referring to sexual orientation and gender identity if necessary to address a
38 disciplinary matter, such as an instance of bullying.

39 (c) The provisions of this section may not be construed to require that a public school offer
40 instruction of any kind regarding sexual orientation or gender identity.

41 (d) A public school and the county board employees assigned to the school may not
42 knowingly give false or misleading information to the parent, custodian, or guardian of a student
43 regarding the student's gender identity or intention to transition to a gender that is different than the
44 sex listed on a student's official birth certificate or certificate issued upon adoption if the certificate
45 was issued at or near the time of the student's birth.

46 (e) If a student enrolled in a public school requests an accommodation that is intended to
47 affirm the student's gender identity from a person employed by the public school, including a
48 request that the student be addressed using a name or pronoun that is different than the name or
49 pronoun assigned to the student in the public school's registration forms or records, the public
50 school employee shall report the student's request to an administrator employed by the county
51 board and assigned to the school, and the administrator shall report the student's request to the
52 student's parent, custodian or guardian.

53 (f) A parent, custodian, or legal guardian who is impacted, or whose child is impacted, by a
54 violation of this section may bring a civil action against the public school in question. The Court in

55 any such action may award compensatory damages, injunctive relief, or any other appropriate
56 relief. Additionally, the court shall award court costs and reasonable attorney fees to a prevailing
57 party who established a violation of provisions of this section.

58 (g) The Attorney General may bring an action to enforce compliance with this section.

59 (h) The state board of education shall promulgate rules pursuant to §29A-3B-1 et seq. of
60 this code to implement this section.

61 (i) If a provision of this section or its application to any person or circumstance is held
62 invalid, the invalidity does not affect other provisions or applications of the section that can be
63 given effect without the invalid provision or application, and to this end the provisions of this act are
64 severable.

NOTE: The purpose of this bill is to prohibit a public school student from being required to participate in instruction related to sexual orientation and gender identity if a parent, custodian, or guardian of the student objects in writing; require each public school to afford the parent, custodian, or guardian of a child subject to instruction with respect to sexual orientation and gender identity advance written notification of such instruction and of their right to exempt the child from participation; prohibit a public school and the county board employees assigned to the school from knowingly giving false or misleading information to the parent, custodian, or guardian of a student regarding the student's gender identity or intention to transition to a gender that is different than the sex listed on a student's official birth certificate or certificate issued upon adoption if the certificate was issued at or near the time of the student's birth; require a public school employee to report a student's request for an accommodation that is intended to affirm the student's gender identity from a person employed by the public school to an administrator employed by the county board and assigned to the school; and require the administrator to report the student's request to the student's parent, custodian, or guardian.

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