

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 460

BY SENATORS SMITH (MR. PRESIDENT) AND WOELFEL

(BY REQUEST OF THE EXECUTIVE)

[Reported February 14, 2025, from the Committee on
Health and Human Resources]

1 A BILL to amend and reenact §16-3-4 of the Code of West Virginia, 1931, as amended, relating
2 to exemptions for compulsory immunization requirements; providing specific duties for the
3 state health officer; removing reporting requirements; revising medical exemption process;
4 eliminating state immunization officer; permitting religious exemption to mandatory
5 vaccination requirements; permitting philosophical exemption to mandatory vaccination
6 requirements; prohibiting entities from excluding participation in extracurricular activities
7 based upon exercising an exemption; prohibiting entities from excluding attendance at
8 school-based events based upon exercising an exemption; permitting a civil action for
9 violations of this section; and setting forth public policy supporting exemptions.

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~~ State Health Officer shall promptly
2 provide parents of the newborn child with information on immunizations mandated by this state
3 or required for admission to a public, private, and parochial school ("school") in this state or a
4 state-regulated child care center.

5 (b) ~~Except as hereinafter provided, a~~ 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 except as otherwise set forth in
8 this section.

9 (c) No child or person may be admitted or received in any of the schools of the state or a
10 state-regulated child care center until he or she has been immunized against chickenpox,
11 hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus, and whooping cough

12 or produces a certificate from the ~~commissioner~~ State Health Officer granting the child or person
13 an exemption from the compulsory immunization requirements of this section except as otherwise
14 set forth in this section.

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

20 ~~(e)~~(d) Persons may be provisionally enrolled under minimum criteria established by the
21 ~~commissioner~~ State Health Officer so that the person's immunization may be completed while
22 missing a minimum amount of school. No person shall be allowed to enter school without at least
23 one dose of each required vaccine except as otherwise set forth in this section.

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

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

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

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

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

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

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

49 ~~(5) The final determination of the State Health Officer is subject to a right of appeal~~
50 ~~pursuant to the provisions of article five, chapter twenty-nine a of this code.~~

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

55 (g) A child shall be exempt from the mandatory vaccination requirements of this section
56 as to a specific immunization for any period of time as to which a physician, physician assistant,
57 or nurse practitioner provides a written statement to the administrator of the child's school or to
58 the operator of the state-regulated child care center that specific immunizations are or may be
59 detrimental to the child's health or are not appropriate.

60 (1) A licensing board shall not take any disciplinary action against a physician, physician
61 assistant, or nurse practitioner who provides a written statement as set forth in subsection (g) of
62 this section; and

63 (2) A physician, physician assistant, or nurse practitioner who provides a written statement
64 as set forth in subsection (g) of this section shall not otherwise be subject to any penalty
65 administrative or criminal in nature related to the letter issued in subsection (g) of this section.

66 (h) A child shall be exempt from the mandatory vaccination requirements of this section if
67 a parent, a guardian of the child, or an emancipated child presents a written statement to the
68 administrator of the child's school or to the operator of the state-regulated child care center to the
69 effect that the mandatory vaccination requirements of this section cannot be met because it
70 conflicts with the religious or philosophical beliefs of the parents, legal guardians, or emancipated
71 child.

72 (i) No school or state-regulated child care center shall prohibit an individual exercising an
73 exemption pursuant to this section from participating in extracurricular activities or from attending
74 school-based events.

75 (j) In the event that a school or state-regulated child care center takes any adverse action
76 against a party that is seeking or is granted an exemption pursuant to this section, the party that
77 is seeking or is granted an exemption may in a civil action recover from the offending school or
78 state-regulated child care center such damages as may be appropriate including, but not limited
79 to, compensatory and punitive damages and equitable relief.

80 (k) The Equal Protection for Religion Act of 2023, codified in §35-1A-1 of this code (2023)
81 mandates that "no state action may...[s]ubstantially burden a person's exercise of religion unless"
82 it "is essential to further a compelling governmental interest" and "is the least restrictive means
83 of" achieving that interest. A number of citizens have religious and moral objections to one or
84 more of the vaccines on the compulsory immunization list contained in this section. Compulsory
85 immunization forces those West Virginians to choose between their religious belief and their
86 children's fundamental right to a public education. Forcing West Virginians to vaccinate their
87 children despite their religious and moral objections substantially burdens the free exercise of

- 88 religion in violation of the Constitutions of the United States and West Virginia and, further, is
89 against the public health policy of this state.

NOTE: The purpose of this bill is to create exemptions to mandatory vaccination requirements to accommodate religious conviction or moral grounds. The bill also revises the existing medical exemption process and eliminates the position of the State Immunization Officer. The bill permits a civil action for violations of this section.

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