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OFFICE OF THE GOVERNOR

No. 1039

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



# ENROLLED

Com. Sub. for  
HOUSE BILL No. 1039

(By Mr. Rogers & Mr. Whitlow)



Passed March 12, 1983

In Effect Ninety Days From Passage



**ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**H. B. 1039**

**(By MRS. ROGERS and MR. WHITLOW)**

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[Passed March 12, 1983; in effect ninety days from passage.]

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AN ACT to amend and reenact section one, article five, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authority, rights and responsibilities of school personnel; authority of school principals to administer corporal punishment; requiring the state board of education and county boards of education to adopt rules and regulations regarding corporal punishment; governing and permitting the administration of corporal punishment by open hand and paddle; and limiting imposition of corporal punishment.

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

That section one, article five, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.**

**§18A-5-1. Authority of teachers and other school personnel; exclusion of pupils having infectious diseases; suspension or expulsion of disorderly pupils; authority of principals to administer corporal punishment.**

1 The teacher shall stand in the place of the parent or

2 guardian in exercising authority over the school, and shall  
3 have control of all pupils enrolled in the school from the  
4 time they reach the school until they have returned to their  
5 respective homes, except that where transportation of pupils  
6 is provided, the driver in charge of the school bus or other  
7 mode of transportation shall exercise such authority and  
8 control over the children while they are in transit to and  
9 from the school. Subject to the rules of the state board of  
10 education, the teacher shall exclude from the school any  
11 pupil or pupils known to have or suspected of having any  
12 infectious disease, or any pupil or pupils who have been  
13 exposed to such disease, and shall immediately notify the  
14 proper health officer, or medical inspector, of such exclu-  
15 sion. Any pupil so excluded shall not be readmitted to  
16 the school until such pupil has complied with all the require-  
17 ments of the rules governing such cases, or has presented  
18 a certificate of health signed by the medical inspector or  
19 other proper health officer. The teacher shall have authority  
20 to suspend any pupil guilty of disorderly, refractory, indecent  
21 or immoral conduct, and the district board of education may  
22 expel or exclude any such pupil if, on investigation, the  
23 conduct of such pupil is found to be detrimental to the  
24 progress and the general conduct of the school.

25 The principal shall have the authority to administer moder-  
26 ate corporal punishment by means of the open hand or a pad-  
27 dle subject to the following restrictions:

28 (1) Corporal punishment should be administered only as a  
29 last resort after use of alternative methods of discipline have  
30 failed to correct the inappropriate pupil behavior;

31 (2) Pupils are informed of the rules and regulations that  
32 govern the school;

33 (3) The pupil is informed of the school rule or rules al-  
34 legedly violated and is given an opportunity to explain his or  
35 her behavior prior to the administration of corporal punish-  
36 ment;

37 (4) Punishment is administered without anger or malice.  
38 The amount of physical force used is not wanton or in excess

39 of the offense, is suitable to the pupil's age and mental and  
40 physical conditions and is applied without discrimination;

41 (5) The punishment is administered by the school principal  
42 or by a specific designee authorized by the principal to ad-  
43 minister such punishment and in either case in the presence of  
44 another adult professional employee and not in the presence of  
45 another pupil;

46 (6) The punishment is administered by use of the open  
47 hand or a paddle to the buttocks;

48 (7) A report, which includes a description of the pupil's  
49 conduct prompting the use of corporal punishment and the  
50 name of the witness, is attempted to be made informally by  
51 telephone or notice sent with the child to the parent or guar-  
52 dian at least twelve hours prior to administration of the corp-  
53 oral punishment and is made orally in the school office by  
54 the end of the school day and a written report is filed in the  
55 school office within twenty-four hours of the incident;

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56 (8) The parent or guardian of the pupil is notified in writ-  
57 ing of each instance of corporal punishment within three  
58 school days;

59 (9) Each school principal shall be responsible for the main-  
60 tenance of discipline in his school;

61 (10) Corporal punishment shall not be administered to a  
62 pupil: (a) identified as handicapped, learning, hearing, men-  
63 tally, or behaviorally disabled; or (b) whose parent has peti-  
64 tioned in writing to the school principal that corporal punish-  
65 ment not be administered to the pupil and attached a certifi-  
66 cate from a physician that by reason of a physical or emotional  
67 condition the pupil should not be subjected to corporal pun-  
68 ishment; or (c) if medical information available to school  
69 authorities indicates that the pupil should not be subjected to  
70 corporal punishment.

71 The West Virginia board of education and county boards  
72 of education shall adopt policies consistent with the provisions  
73 of this section encouraging the use of alternatives to corporal  
74 punishment, providing for the training of school personnel in

75 alternatives to corporal punishment and for the involvement of  
76 parents and guardians in the maintenance of school discipline.

77 For the purpose of this section: (1) "Pupil" shall include  
78 any child, youth, or adult who is enrolled in any instructional  
79 program or activity conducted under board authorization and  
80 within the facilities of or in connection with any program  
81 under public school direction: *Provided*, That in the case of  
82 adults the pupil-teacher relationship shall terminate when the  
83 pupil leaves the school or other place of instruction or activity;  
84 (2) "teacher" shall mean all professional educators as defined  
85 in section one, article one, chapter eighteen-a of this code and  
86 shall include the driver of a school bus or other mode of  
87 transportation.

88 Teachers shall exercise such other authority and perform  
89 such other duties as may be prescribed for them by law or by  
90 the rules of the state board of education not inconsistent with  
91 the provisions of this chapter and chapter eighteen.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Signature]*  
Chairman Senate Committee

*[Signature]*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*[Signature]*  
Clerk of the Senate

*[Signature]*  
Clerk of the House of Delegates

*[Signature]*  
President of the Senate

*[Signature]*  
Speaker House of Delegates

The within is approved this the 29  
day of March, 1983.

*[Signature]*  
Governor

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