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Date 3-26-83

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983

ENROLLED

Committee Substitute for
SENATE BILL NO. 184

(By Mr. Davis, et al)

PASSED March 5, 1983

In Effect ninty days from Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 184

(By MR. DAVIS, MR. HOLLIDAY AND MR. HECK)

[Passed March 5, 1983; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article eight, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said chapter by adding thereto a new article, designated article twenty-eight, relating to private, parochial, or church schools, or schools of a religious order; policy; attendance; health and safety regulations; standardized testing requirements; participation in state programs; notice of intent to operate and terminate; requirements exclusive.

Be it enacted by the Legislature of West Virginia:

That section one, article eight, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said chapter eighteen be further amended by adding thereto a new article, designated article twenty-eight, all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-1. Commencement and termination of compulsory school attendance; exemptions.

- 1 Compulsory school attendance shall begin with the
- 2 seventh birthday and continue to the sixteenth birthday.
- 3 Exemption from the foregoing requirements of

4 compulsory public school attendance shall be made on
5 behalf of any child for the following causes or conditions,
6 each such cause or condition being subject to confirmation
7 by the attendance authority of the county:

8 *Exemption A. Instruction in a private, parochial or*
9 *other approved school.*—Such instruction shall be in a
10 school approved by the county board of education and for a
11 time equal to the school term of the county for the year. In
12 all such schools it shall be the duty of the principal or other
13 person in control, upon the request of the county
14 superintendent of schools, to furnish to the county board of
15 education such information and records as may be required
16 with respect to attendance, instruction, and progress of
17 pupils enrolled between the ages of seven and sixteen years;

18 *Exemption B. Instruction in home or other approved*
19 *place.*—Such instruction shall be in the home of such child
20 or children or at some other place approved by the county
21 board of education and for a time equal to the school term of
22 the county. The instruction in such cases shall be conducted
23 by a person or persons who, in the judgment of the county
24 superintendent and county board of education, are
25 qualified to give instruction in subjects required to be
26 taught in the free elementary schools of the state. It shall be
27 the duty of the person or persons giving the instruction,
28 upon request of the county superintendent, to furnish to the
29 county board of education, such information and records as
30 may be required from time to time with respect to
31 attendance, instruction, and progress of pupils enrolled
32 between the ages of seven and sixteen years receiving such
33 instruction;

34 *Exemption C. Physical or mental incapacity.*—Physical
35 or mental incapacity shall consist of incapacity for school
36 attendance and the performance of school work. In all cases
37 of prolonged absence from school due to incapacity of the
38 child to attend, the written statement of a licensed
39 physician or authorized school nurse shall be required
40 under the provisions of this article: *Provided*, That in all
41 cases incapacity shall be narrowly defined and in no case
42 shall the provisions of this article allow for the exclusion of
43 the mentally, physically, emotionally or behaviorally
44 handicapped child otherwise entitled to a free appropriate
45 education;

46 *Exemption D. Residence more than two miles from*
47 *school or school bus route.*—The distance of residence from
48 a school, or school bus route providing free transportation,
49 shall be reckoned by the shortest practicable road or path,
50 which contemplates travel through fields by right of
51 permission from the landholders or their agents. It shall be
52 the duty of the county board of education, subject to written
53 consent of landholders, or their agents, to provide and
54 maintain safe foot bridges across streams off the public
55 highways where such are required for the safety and
56 welfare of pupils, whose mode of travel from home to school
57 or to school bus route must necessarily be other than along
58 the public highway in order for said road or path to be not
59 over two miles from home to school or to school bus
60 providing free transportation;

61 *Exemption E. Hazardous conditions.*—Conditions
62 rendering school attendance impossible or hazardous to the
63 life, health, or safety of the child;

64 *Exemption F. High school graduation.*—Such
65 exemption shall consist of regular graduation from a
66 standard senior high school;

67 *Exemption G. Granting work permits.*—The county
68 superintendent may, after due investigation, grant work
69 permits to youths under sixteen years of age, subject to state
70 and federal labor laws and regulations: *Provided*, That a
71 work permit may not be granted on behalf of any youth who
72 has not completed the eighth grade of school;

73 *Exemption H. Serious illness or death in the immediate*
74 *family of the pupil.*—It is expected that the county
75 attendance director will ascertain the facts in all cases of
76 such absences about which information is inadequate and
77 report same to the county superintendent of schools;

78 *Exemption I. Destitution in the home.*—Exemption
79 based on a condition of extreme destitution in the home may
80 be granted only upon the written recommendation of the
81 county attendance director to the county superintendent
82 following careful investigation of the case. A copy of the
83 report confirming such condition and school exemption
84 shall be placed with the county director of public
85 assistance. This enactment contemplates every reasonable
86 effort that may properly be taken on the part of both school
87 and public assistance authorities for the relief of home

88 condition officially recognized as being so destitute as to
89 deprive children of the privilege of school attendance.
90 Exemption for this cause shall not be allowed when such
91 destitution is relieved through public or private means;

92 *Exemption J. Church ordinances; observances of*
93 *regular church ordinances.*—The county board of education
94 may approve exemption for religious instruction upon
95 written request of the person having legal or actual charge
96 of a child or children: *Provided, however,* That such
97 exemption shall be subject to the rules and regulations
98 prescribed by the county superintendent and approved by
99 the county board of education.

100 *Exemption K. Alternative private, parochial, church or*
101 *religious school instruction.*—In lieu of the provisions of
102 Exemption A hereinabove, exemption shall be made for any
103 child attending any private school, parochial school, church
104 school, school operated by a religious order, or other
105 nonpublic school which elects to comply with the
106 provisions of article twenty-eight, chapter eighteen of the
107 code of West Virginia.

108 The completion of the eighth grade shall not exempt any
109 child under sixteen years of age from the compulsory
110 attendance provision of this article: *Provided,* That there is
111 a public high school or other public school of advanced
112 grades or a school bus providing free transportation to any
113 such school the route of which is within two miles of the
114 child's home by the shortest practicable route or path as
115 hereinbefore specified under Exemption D of this section.

**ARTICLE 28. PRIVATE, PAROCHIAL OR CHURCH SCHOOLS, OR
SCHOOLS OF RELIGIOUS ORDER.**

§18-28-1. Policy.

1 In conformity with the constitutions of the United States
2 and of West Virginia, it is the public policy of the state in
3 matters of education that no human authority shall, in any
4 case whatever, control or interfere with the rights of
5 conscience or with religious liberty and that no person shall
6 be enforced, restrained, molested or burdened, in body or
7 goods, or otherwise suffer, on account of his or her religious
8 opinions or belief but all people shall be free to profess, and
9 by argument, to maintain their opinions in matters of
10 religion; and further be free to select their religious

11 instructor, and to make for his or her support, such private
 12 contract as they shall please, and that religion, morality and
 13 knowledge being necessary to good government and the
 14 happiness of humankind, the means of education shall
 15 forever be encouraged.

§18-28-2. Attendance; health and safety regulations.

1 Each private, parochial, or church school or school of
 2 religious order shall observe a minimum instructional term
 3 of one hundred eighty days, with an average of five hours of
 4 instruction per day, and shall make and maintain annual
 5 attendance and disease immunization records for each
 6 pupil enrolled and regularly attending classes. Such
 7 attendance records shall be made available to the parents or
 8 legal guardians. Upon the request of the county
 9 superintendent of schools, any school to which this applies
 10 (or a parents organization composed of the parents or
 11 guardians of children enrolled in said school) shall furnish
 12 to the county board of education a list of the names and
 13 addresses of all children enrolled in such school between
 14 the ages of seven and sixteen years. Attendance by a child at
 15 any school to which this article relates and which complies
 16 with this article shall satisfy the requirements of
 17 compulsory school attendance. Each such school shall be
 18 subject to reasonable fire, health and safety inspections by
 19 state, county and municipal authorities as required by law,
 20 and shall further be required to comply with the West
 21 Virginia school bus safety regulations.

§18-28-3. Standardized testing requirements.

1 Each private, parochial, or church school or school of a
 2 religious order or other nonpublic school electing to operate
 3 under this statute in lieu of the approval requirements set
 4 forth as part of section one, article eight, chapter eighteen,
 5 Exemption A shall administer on an annual basis during
 6 each school year to every child enrolled therein between the
 7 ages of seven and sixteen years either the Comprehensive
 8 Test of Basic Skills, the California Achievement Test or the
 9 Stanford Achievement Test, which test will be selected by
 10 the chief administrative officer of each school in the
 11 subjects of English, grammar, reading, social studies,
 12 science and mathematics; and shall be administered under

13 standardized conditions as set forth by the published
14 instructions of the selected test.

15 Each child's testing results and the school composite test
16 results shall be made available to such child's parents or
17 legal guardians. Upon request of a duly authorized
18 representative of the West Virginia department of
19 education, the school composite test results shall be
20 furnished by the school or by a parents organization
21 composed of the parents or guardians of children enrolled
22 in said school to the state superintendent of schools.

23 Each school to which this article applies shall:

24 (A) Establish curriculum objectives, the attainment of
25 which will enable students to develop the potential for
26 becoming literate citizens.

27 (B) Provide an instructional program that will make
28 possible the acquisition of competencies necessary to
29 become a literate citizen.

30 If such school composite test results for any single year
31 for English, grammar, reading, social studies, science and
32 mathematics fall below the fortieth percentile on the
33 selected tests, the school as herein described shall initiate a
34 remedial program to foster achievement above that level. If
35 after two consecutive calendar years, school composite test
36 results are not above the fortieth percentile level,
37 attendance at the school may no longer satisfy the
38 compulsory school attendance requirement exemption of
39 Exemption K, section one, article eight, chapter eighteen,
40 until such time as the percentile standards herein set forth
41 are met.

§18-28-4. Voluntary participation in state programs.

1 Any private, parochial, or church school or school of a
2 religious order or other nonpublic school complying with
3 the provisions of this article may, on a voluntary basis,
4 participate in any state operated or state sponsored
5 program otherwise made available to such schools by law.

§18-28-5. New school notice requirements; termination.

1 (A) Any new school to which this article relates shall
2 send to the state superintendent of schools of the state of
3 West Virginia a notice of intent to operate, name and
4 address of the school, and name of the school's chief
5 administrator.

6 (B) Any school to which this article applies shall notify
7 the state superintendent of schools of the state of West
8 Virginia upon termination.

§18-28-6. Requirements exclusive.

1 No private, parochial or church school or school operated
2 by any other religious group or body as part of its religious
3 ministry or other nonpublic school which complies with the
4 requirements of this article, shall be subject to any other
5 provision of law relating to education except requirements
6 of law respecting fire, safety, sanitation and immunization.

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

James L. Davis
.....
Chairman Senate Committee

Armed Guello
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Todd C. Hulse
.....
Clerk of the Senate

Donald L. Hopp
.....
Clerk of the House of Delegates

Walter R. McLean
.....
President of the Senate

W. M. Seely, Jr.
.....
Speaker House of Delegates

The within... *in opened* ... this the *26* ...
day of... *March* ..., 198*8*

.....
John A. DeLoach
Governor

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SECY. OF STATE