

HB 5105 (veto)

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENROLLED

2024 MAR 27 P 5: 34
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

FILED

Committee Substitute

for

House Bill 5105

BY DELEGATES KIMBLE, MAZZOCCHI, FOGGIN, RIDENOUR,
KIRBY, PHILLIPS, DEAN, C. PRITT, MCGEEHAN, KUMP,
AND STEELE

[Passed March 9, 2024; in effect ninety days from
passage.]

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1 AN ACT to amend and reenact §16-3-4 of the Code of West Virginia, 1931, as amended, relating
2 to eliminating the vaccine requirements for private schools, parochial schools, or virtual
3 public schools in specified situations; providing private or parochial school may elect to
4 develop a policy that exempts the private or parochial school from the mandatory
5 vaccination requirements; providing no cause of action against private or parochial school,
6 administrator, employee, board, owner or operator who choose to maintain compliance
7 with mandatory vaccination requirements; providing no cause of action against private or
8 parochial school, administrator, employee, board, owner or operator who choose to adopt
9 a policy of exemption provided certain requirements are met; requiring all students in any
10 West Virginia Secondary School Activities Commission sponsored activities meet the
11 mandatory vaccination requirements or have an exemption; requiring all students
12 participating in any school sponsored club activities resulting in competition meet the
13 mandatory vaccination requirements or have an exemption; providing that a full time virtual
14 public school student meeting specified circumstances is exempt from the mandatory
15 vaccination requirements; and requiring that a student enrolled in virtual public school
16 classes that also attend a private or parochial school shall be subject to specific
17 requirements.

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 childcare
4 center.

5 (b) Except as hereinafter provided, a child entering school or a state-regulated childcare
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 childcare 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, except as provided in subsections (j)
13 and (l).

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

19 (e) Persons may be provisionally enrolled under minimum criteria established by the
20 commissioner so that the person's immunization may be completed while missing a minimum
21 amount of school. No person shall be allowed to enter school without at least one dose of each
22 required vaccine.

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

26 (g) Health officers and physicians who provide vaccinations must present the person
27 vaccinated with a certificate free of charge showing that they have been immunized against
28 chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus, and

29 whooping cough, or he or she may give the certificate to any person or child whom he or she
30 knows to have been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps,
31 diphtheria, polio, rubella, tetanus, and whooping cough.

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

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

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

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

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

48 (5) The final determination of the State Health Officer is subject to a right of appeal
49 pursuant to the provisions of §29A-5-1 *et seq.* of this code.

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

54 (j) A private or parochial school may elect by informing the West Virginia Department of
55 Health, in writing, to develop a policy that exempts the private or parochial school from the
56 mandatory vaccination requirements of this section.

57 (1) For private or parochial schools who choose to maintain compliance with the
58 mandatory vaccination requirements of this section, there shall be no cause of action against any
59 school, administrator, employee, board, owner, or operator of the private or parochial school; and

60 (2) For private or parochial schools who choose to adopt a policy of exemption pursuant
61 to subsection (j) of this section, there shall be no cause of action against any school, administrator,
62 employee, board, owner, or operator of the private or parochial school: *Provided, however,* in
63 order for the protections established by this subdivision to apply, a private or parochial school,
64 shall upon enrollment and on an annual basis thereafter inform, in writing, all parents and
65 guardians of children attending the private or parochial school, regarding the private or parochial
66 schools' election pursuant to subsection (j) and shall require signed acknowledgement form
67 indicating that the parents or guardians are aware of the school's election to be exempt from the
68 mandatory vaccination requirements of this section. A copy of the acknowledgement shall be
69 maintained by the school.

70 (k) All students participating in any activity sponsored by the West Virginia Secondary
71 School Activities Commission or any school sponsored club activities which result in competition
72 with other schools shall meet the requirements of this section or have obtained an exemption
73 under subsection (h).

74 (l) A full time virtual public school student who does not physically attend public school
75 shall be exempt from the requirements of subsection (c): *Provided,* That students enrolled in
76 virtual public school classes that also attend a private or parochial school shall be subject to the
77 requirements of subsection (j).

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

Steve Hannon
.....
Clerk of the House of Delegates

Joe Levin
.....
Clerk of the Senate

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

FILED

Originated in the House of Delegates.

In effect ninety days from passage.

Reginald Haskew
.....
Speaker of the House of Delegates

C. P. Blount
.....
President of the Senate

The within is *disapproved* this the *27th*
Day of *March* 2024.

James Justice
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 21 2024

Time 10:42am