

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Committee Substitute

for

House Bill 4071

BY DELEGATES MAYNOR, STEELE, HONAKER, SMITH,
TULLY, KESSINGER, B. WARD, FOSTER, ELLINGTON,
KEATON, AND GEARHEART

[Introduced January 13, 2022; referred to the
Committee on Education then the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §18-8B-1, §18-8B-2, §18-8B-3, §18-8B-4, all relating to creating the Public
3 School Health Rights Act; providing definitions; providing that a public school may not
4 mandate masks for students or employees or mandate COVID-19 tests and quarantine
5 under certain circumstances; providing that parents have the right to determine whether
6 their children wear masks at school and school activities; providing that elected/public
7 official cannot override the provisions of the Act; providing that nothing in the article may
8 prevent any individual from wearing a face covering; and providing injunctive relief.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8B. PUBLIC SCHOOL HEALTH RIGHTS ACT.

§18-8B-1. Short title.

1 This article shall be known and may be cited as the Public School Health Rights Act.

§18-8B-2. Definitions.

1 (a) "COVID-19" means the novel coronavirus identified as SARS-CoV-2, the disease
2 caused by the novel coronavirus SARS-CoV-2, or a virus mutating therefrom, and conditions
3 associated with the disease.

4 (b) "Public school" means any public school or facility under the control of a county board
5 of education, a charter school created pursuant to §18-5G-1, et seq., of this code or the West
6 Virginia School for the Deaf and the Blind.

7 (c) "Employee" means any individual who works for the public school on a full-time, part-
8 time, contractual or volunteer basis.

9 (d) "Student" means any individual who attends the public school on a full or part-time
10 basis.

11 (e) "Quarantine" means a period of physical separation recommended by the Centers for
12 Disease Control and Prevention ("CDC") which should begin after a person comes into close
13 contact with someone who has COVID-19.

§18-8B-3. Public school health rights.

1 (a) Notwithstanding any other law to the contrary, a public school shall not:

2 (1) Impose a COVID-19 mask or face covering requirement on any student or employee;

3 (2) Impose a mandatory COVID-19 testing requirement on any asymptomatic or pre-
4 symptomatic student or employee; or

5 (3) Require a student or employee to quarantine or isolate unless the student or employee
6 has tested positive for COVID-19.

7 (b) A parent or guardian of a student maintains the right to determine whether their child
8 will wear a mask or face covering on school premises or during extracurricular activities.

9 (c) Any period of quarantine shall end after the student or employee has obtained a
10 negative COVID-19 test result or after that student or employee has completed 5 days of
11 quarantine.

12 (d) The rights identified under this act shall not be overridden by any elected or appointed
13 official.

14 (e) Nothing in this article may prevent the right of any individual to wear a face covering.

§18-8B-4. Injunctive relief available.

1 A parent or guardian of a student, a student who is 18 years of age or older, or an
2 employee may file a declaratory judgment action, seeking an injunction against any act or practice
3 that violates this act. A prevailing parent, guardian, student, or employee, as applicable, may be
4 awarded reasonable attorney fees and court costs.

NOTE: The purpose of this bill is to create a Public School Health Rights Act; providing definitions related to schools, students, and COVID-19; providing that a public school may not mandate masks for students or employees, and may not mandate COVID-19 testing or quarantining under certain circumstances; providing that parents have the right to determine whether their children wear masks at school and school activities; providing that elected/public official cannot override the provisions of the Act; providing that nothing in the article may prevent any individual from wearing a face covering; and providing for injunctive relief.

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