

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

Introduced

### Senate Bill 459

FISCAL  
NOTE

BY SENATORS RUCKER, AZINGER, KARNES, AND SMITH

[Introduced February 1, 2018; Referred  
to the Committee on the Judiciary; and then to the  
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §15-15-1, §15-15-2, §15-15-3, §15-15-4, §15-15-5, §15-15-6, §15-15-7, and  
 3 §15-15-8, all relating to enacting the Refugee Absorptive Capacity Act; providing a short  
 4 title; defining terms; designating a state office within the Department of Health and Human  
 5 Services which deals with refugees; providing for a moratorium on applications and  
 6 cessations; providing for a fiscal impact assessment; requiring reports; and providing for  
 7 administration and severability.

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

**ARTICLE 15. REFUGEE ABSORPTIVE CAPACITY ACT.**

**§15-15-1. Short title.**

1 This article shall be known and may be cited as the “The West Virginia Refugee Absorptive  
 2 Capacity Act.”

**§15-15-2. Definitions.**

1 As used in this article:

2 “Absorptive capacity” is as determination made by the Governor or by a local government  
 3 evaluating:

4 (1) The capacity of the social service agencies, child welfare agencies, child care facilities,  
 5 educational facilities, healthcare facilities, translation and interpreter services, and law-  
 6 enforcement agencies of the state or in the jurisdiction of the local government to meet the existing  
 7 needs of the community's current residents considering budgetary and other restraints;

8 (2) The capacity to provide medical care to refugees who at the time of resettlement in the  
 9 state or in the jurisdiction of the local government are determined to have medical conditions  
 10 requiring, or medical histories indicating a need for treatment or observation, or affecting the  
 11 public health, both with or without expenditures by this state, including expenditures under this  
 12 state's approved Medicaid state plan in accordance with Section 1902(a)(10)(C) of the Social  
 13 Security Act, State Children's Health Insurance Program (CHIP), or other public assistance

14 programs:

15 (3) The capacity to provide affordable housing, low-cost housing, or both, considering  
16 existing waiting lists for such housing in the state or in the jurisdiction of the local government;

17 (4) The capacity of the local school district in the jurisdiction of the local government to  
18 meet the needs of the existing or anticipated refugee population, including education of  
19 unaccompanied refugee minors and provision of English language training;

20 (5) The capacity of the economy of the state or in the jurisdiction of the local government  
21 to absorb new workers, including the likelihood of refugees placed in the jurisdiction of the local  
22 government becoming employed, self-sufficient, and free from long-term dependence on public  
23 assistance, without causing competition with local residents for job opportunities, displacing  
24 existing local workers, or adversely affecting the wages or working conditions of the local  
25 workforce;

26 (6) The capacity of state and local law enforcement in the jurisdiction of the local  
27 government to assure that law and order can be maintained and ensure that the refugee  
28 population and the general public can be protected from crime, including child abuse, domestic  
29 abuse and sex trafficking, as well as threats to national security; and

30 (7) The capacity of the state and local government to provide services considering whether  
31 the jurisdiction of the local government has been highly impacted by the presence of refugees or  
32 comparable populations, including the proportion of refugees and comparable entrants in the  
33 population in the state or in the jurisdiction of the local government, the amount of secondary  
34 migration of refugees to the state or to the jurisdiction of the local government, and the proportion  
35 of refugees in the state or in the jurisdiction of the local government receiving cash or medical  
36 assistance through public assistance.

37 “Local government” or “local governments” refers to either the city council or county  
38 commission that regulates any host community being considered for refugee resettlement activity.

39 “Local educational agency” means:

40 (A) A public board of education or other public authority legally constituted within a state  
41 for either administrative control of or direction of, or to perform service functions for, public  
42 elementary or secondary schools in:

43 (i) A county; or

44 (ii) Such combination of school districts or counties the state recognizes as an  
45 administrative agency for its public elementary or secondary schools; or

46 (B) Any other public institution or agency that has administrative control and direction of a  
47 public elementary or secondary school.

48 “Refugee resettlement organization” means any organization that receives federal  
49 funding for refugee resettlement, including any replacement designee.

50 “State office dealing with refugees” means the state office within the Department of Health  
51 and Human Resources that administers the refugee program for this state, or the entity or agency  
52 to whom the state has delegated such function and that has been designated and recognized by  
53 the federal government to administer such program.

54 “State refugee coordinator” means the official designated by the state office dealing with  
55 refugees.

**§15-15-3. State office within the Department of Health and Human Services dealing with**  
**refugees.**

1 The state office within the Department of Health and Human Services which deals with  
2 refugees shall:

3 (1) Meet at least quarterly with representatives of local governments to plan and  
4 coordinate the appropriate placement of refugees in advance of the refugees’ arrival; at least 30  
5 days public notice shall be provided, and specific notice shall be provided to all persons who make  
6 a request to receive direct notice through the means of the person's choosing, including, but not  
7 limited to, certified mail, regular United States mail, or electronic mail;

8 (2) Ensure that representatives of local resettlement agencies, local community service

9 agencies, and other publicly-funded or tax-exempt agencies that serve refugees in this state shall  
10 meet at least quarterly with representatives of local governments, including representatives of law  
11 enforcement and local educational agencies, to plan and coordinate the appropriate placement  
12 of refugees in the host community in advance of the refugees' arrival;

13 (3) Execute a letter of agreement with each agency providing refugee resettlement  
14 services in this state. The letter of agreement shall require the parties to mutually consult and  
15 prepare a plan for the initial placement of refugees in a host community and set forth the  
16 continuing process of consultation between the parties. The provisions of the letter agreement  
17 shall be consistent with federal law regulating the resettlement of refugees;

18 (4) Provide a certification that the refugees settled in the state do not pose a security or  
19 health risk to the citizens of the state; and

20 (5) At least quarterly, transmit copies of the letters of agreement and any initial refugee  
21 placement plans prepared thereunder to the chairman of the House and Senate committees on  
22 Veterans Affairs and Homeland Security and the Judiciary of the Legislature, respectively, to the  
23 chairman of the budget committee of the local government hosting the host refugee community,  
24 to the Secretary of the Department of Military Affairs and Public Safety, to the Attorney General  
25 of the state, to the head of all local law-enforcement agencies in the state, to the Superintendent  
26 of the West Virginia State Police, to the sheriff of every county in this state, to the West Virginia  
27 Superintendent of Schools, and to the superintendent of schools for all counties in the state.

28 (6) On or before July 1, 2018, the state refugee coordinator shall provide to the chairman  
29 of the House and Senate committees on Veterans Affairs and Homeland Security and the  
30 Judiciary of the Legislature, respectively, to the chairman of the budget committee of the local  
31 government hosting the host refugee community, to the Secretary of the Department of Military  
32 Affairs and Public Safety, to the Attorney General of the state, to the head of all local law-  
33 enforcement agencies in the state, to the Superintendent of the West Virginia State Police, to the  
34 sheriff of every county in this state, to the West Virginia Superintendent of Schools, and to the

35 superintendent of schools for all counties in the state, the fiscal impact refugees have had on the  
36 state and the economic impact refugees have had on the state from July 1, 2015, through July 1,  
37 2018.

38 (7) Within 30 days of the close of the calendar year, transmit to the chairman of the House  
39 and Senate committees on Veterans Affairs and Homeland Security and the Judiciary of the  
40 Legislature, respectively to the chairman of the budget committee of the local government hosting  
41 the host refugee community, to the Secretary of the Department of Military Affairs and Public  
42 Safety, to the Attorney General of the state, to the head of all local law-enforcement agencies in  
43 the state, to the Superintendent of the West Virginia State Police, to the sheriff of every county in  
44 this state, to the West Virginia Superintendent of Schools, and to the superintendent of schools  
45 for all counties in the state, the following data for the prior fiscal or calendar year:

46 (A) Copies of statistical and programmatic information provided to the federal government,  
47 including any Reception and Placement Program Proposal or resettlement abstract, but this  
48 information shall be provided prior to being provided to the federal government:

49 (B) Copies of the written policies of the Refugee Cash Assistance program, including  
50 agency policies regarding eligibility standards, the duration and amount of cash assistance  
51 payments, the requirements for participation in services, the penalties for noncooperation and  
52 client rights and responsibilities to ensure that refugees understand what they are eligible for,  
53 what is expected of them, and what protections are available to them;

54 (C) Copies of any written public/private Refugee Cash Assistance program operating at  
55 any time in the calendar year;

56 (D) A report documenting the number of refugees sanctioned for failure to comply with the  
57 requirements of the Refugee Cash Assistance Program, and the number of determinations  
58 concerning employability, or failure or refusal to carry out job search or to accept an appropriate  
59 offer of employability services or employment, resulting in denial or termination of assistance;

60 (E) A certification that women have the same opportunities as men to participate in all

61 services provided, including job placement services;

62 (F) Any reports, either submitted or received, of crime committed by a refugee who has  
63 been resettled in the state, or crime committed against a refugee who has been resettled in the  
64 state, including incidents of child abuse, female genital mutilation, domestic abuse, sex trafficking,  
65 human trafficking, or terrorism, whether prosecuted or not; and

66 (G) A report delineating:

67 (i) The total number of refugees resettled;

68 (ii) The total number of refugees under the age of 18 resettled;

69 (iii) The total number of refugees between the ages of 18 and 40 resettled;

70 (iv) The total number of refugees between the ages of 40 and 65 resettled;

71 (v) The total number of refugees over the age of 65;

72 (vi) The total number of refugees who are women and men, respectively;

73 (vii) The public assistance benefit programs that the refugees have applied for or enrolled  
74 into;

75 (viii) The total number of refugee minors enrolled in a public school;

76 (ix) The total of refugee minors accessing English language learner services;

77 (x) The education levels of the refugees resettled by gender;

78 (xi) The locations by zip code of initial resettlement for refugees resettled that year;

79 (xii) The locations by zip code of refugees who have migrated from the zip code at which  
80 they were initially resettled;

81 (xiii) The numbers of refugees resettled with and without family already residing in the  
82 United States;

83 (xiv) The number of refugees for which the President of the United States, the Secretary  
84 of State, the Attorney General, or the Secretary of Homeland Security exercised discretionary  
85 authority granted by Section 212(d)(3)(B)(i) of the Immigration and Nationality Act, 79 Fed. Reg.  
86 6913 not to apply the material support inadmissibility provisions of Section 212(a)(3)(B) of the

87 Immigration and Nationality Act to admit the refugee into the United States;

88 (xv) The fiscal impact refugees have on the state;

89 (xvi) The economic impact refugees have on the state;

90 (xvii) The process by which the refugees entering the state were determined to not pose  
91 a security risk to the citizens of the state;

92 (xviii) For each and every refugee a description as to what vaccinations the refugee has  
93 received and the diseases for which the refugee has been screened;

94 (xix) For each and every refugee their five previous employers and incomes;

95 (xx) The total number of refugees needing translation services throughout the year; and

96 (xxi) A certification that all of the requirements found in this section have been met.

**§15-15-4. Moratorium.**

1 (a) The State Office for Refugees or the Governor shall accept an application from a local  
2 government to a moratorium on new refugee resettlement activities in a host community that lacks  
3 sufficient absorptive capacity.

4 (b) A host community lacks sufficient absorptive capacity where the local government,  
5 after consultation with the state refugee coordinator, holds a public hearing and issues findings  
6 based on the factors in §15-15-2(a) of this code that further resettlement of refugees in the host  
7 community would result in an adverse impact to existing residents.

8 (c) Upon notice of a determination made pursuant to subsection (b) of this section, the  
9 State Office for Refugees or the Governor shall thereafter suspend additional resettlement of  
10 refugees in that community until the state refugee coordinator and the local government have  
11 jointly determined that sufficient absorptive capacity for refugee resettlement exists to implement  
12 the initial refugee placement plan prepared for the host refugee community.

13 (d) The period of validity of a moratorium described in subsection (c) of this section or any  
14 extension thereof may not exceed one year.

**§15-15-5. Fiscal impacts.**



1           (a) The state office in the Department of Health and Human Services which deals with  
2 refugees may collect fees stated in this section and each year shall assess the fiscal impact  
3 refugees have on the state.

4           (b) On or before July 1 of each year, the state refugee coordinator shall make a  
5 determination regarding the total fiscal impact on the state that is not reimbursable through the  
6 federal government or otherwise.

7           (c) The amount each refugee resettlement organization must reimburse to the state shall  
8 be proportional to the number of refugees the refugee resettlement organization has facilitated  
9 bringing into the state.

10           (d) The amount each refugee resettlement organization must reimburse to the state will  
11 be transmitted to every refugee resettlement organization each and every year before July 1 of  
12 each year.

13           (e) Payment pursuant to this section shall be made on or before August 1 of each year.

**§15-15-6. Executive order.**

1           The Governor may issue findings based on the factors in §15-15-2 of this code that further  
2 resettlement of refugees in the state would result in an adverse impact to existing residents of the  
3 state and issue an executive order declaring that the state, through any entity or designee, will  
4 not, until revocation of the executive order, participate in the resettlement of refugees.

**§15-15-7. Administration of article.**

1           Nothing in this article creates a new agency for administering the implementation of this  
2 article. The Department of Health and Human Services, as referenced in the West Virginia  
3 Refugee Resettlement Program Plan (the Plan) along with persons and programs referenced in  
4 the plan shall enforce this article. This is the same plan signed by the Governor on July 28, 2016.  
5 This is the same plan that was created pursuant to the provisions of the United States Code of  
6 Federal Regulations 45 CFR §400.5.

**§15-15-8. Severability.**

- 1           If any section, subsection, subdivision, paragraph, sentence clause or phrase of this article  
2 is for any reason held to be invalid, unlawful or unconstitutional, that decision does not affect the  
3 validity of the remaining portions of this article or any part thereof.

NOTE: The purpose of this bill is to enact the Refugee Absorptive Capacity Act. The bill provides a short title. The bill defines terms. The bill designates a state office within the Department of Health and Human Services which deals with refugees. The bill provides for a moratorium applications and cessations. The bill provides for a fiscal impact assessment. The bill requires reports. The bill provides for administration and severability.

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