

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 785**

SENATORS TRUMP AND CLINE, *original sponsors*

[Originating in the Committee on the Judiciary;

reported on February 21, 2020]



1 A BILL to amend and reenact §3-3-2a of the Code of West Virginia, 1931, as amended, relating  
2 to prohibiting electioneering within 100 feet from the outside entrance of community voting  
3 locations during early voting periods.

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

**ARTICLE 3. VOTING BY ABSENTEES.**

**§3-3-2a. Early voting areas; prohibition against display of campaign material.**

1 (a) The county commission shall designate the courthouse or annex to the courthouse as  
2 the primary location for early in-person voting and, in addition, the commission may designate  
3 other locations as provided in subsection (b) of this section.

4 (b) The county commission may, with the approval of the county clerk or other official  
5 charged with the administration of elections, designate community voting locations for early  
6 in-person voting, other than the county courthouse or courthouse annex, by a majority of the  
7 members of the county commission voting to adopt the same at a public meeting called for that  
8 purpose.

9 (1) The county commission shall publish a notice of its intent to designate a community  
10 voting location at least 30 days prior to the designation. Notice shall be by publication as a Class  
11 II-0 legal advertisement in compliance with provisions of §59-3-1 *et seq.* of this code. The  
12 publication area is the county in which the community voting location or locations are designated;

13 (2) Community voting locations shall comply with requirements of this article for early  
14 in-person voting, criteria prescribed by the Secretary of State, and the following criteria:

15 (A) The location can be scheduled for use during the early voting period;

16 (B) The location has the physical facilities necessary to accommodate early voting  
17 requirements;

18 (C) The location has adequate space for voting equipment, poll workers, and voters; and

19 (D) The location has adequate security, public accessibility, and parking.

20 (3) The county executive committees of the two major political parties may nominate sites  
21 to be used as community voting locations during the early voting period;

22 (4) Upon the designation of a community voting location, the county clerk shall, not less  
23 than 30 days prior to an election, give notice of the ~~dates, times, and place of community voting~~  
24 ~~locations~~ community voting location address and the dates and times when the location will be  
25 open for early voting by publication as a Class II-0 legal advertisement in compliance with  
26 provisions of §59-3-1 *et seq.* of this code;

27 (5) Voting shall be conducted at each designated community voting ~~site~~ location for a  
28 period of not less than five consecutive days during the early in-person voting period authorized  
29 by §3-3-3 of this code, but need not be conducted at each location for the entire period of early  
30 in-person voting;

31 (6) The county commission, with the approval of the county clerk, may authorize  
32 community voting locations on a rotating basis, wherein a community voting location may be  
33 utilized for less than the full period of early in-person voting; and

34 (7) If more than one community voting location is designated, each location shall be  
35 utilized for an equal number of voting days and permit voting for the same number of hours per  
36 day.

37 (c) The Secretary of State shall propose legislative and emergency rules in accordance  
38 with the provisions of §29A-3-1 *et seq.* of this code as may be necessary to implement the  
39 provisions of this section. The rules shall include establishment of criteria to assure neutrality and  
40 security in the selection of community voting locations.

41 (d) Throughout the period of early in-person voting, the official designated to supervise  
42 and conduct ~~absentee~~ early in-person voting shall make the following provisions for voting:

43 (1) The official shall provide a sufficient number of voting booths or devices appropriate to  
44 the voting system at which voters may prepare their ballots. The booths or devices are to be in  
45 an area separate from, but within clear view of, the public entrance area of the official's office or

46 other area designated by the county commission for ~~absentee~~ early in-person voting and are to  
47 be arranged to ensure the voter complete privacy in casting the ballot.

48 (2) The official shall make the voting area secure from interference with the voter and shall  
49 ensure that voted and unvoted ballots are at all times secure from tampering. No person, other  
50 than a person lawfully assisting the voter according to the provisions of this chapter, may be  
51 permitted to come within five feet of the voting booth while the voter is voting. No person, other  
52 than the officials or employees of the official designated to supervise and conduct ~~absentee~~ early  
53 in-person voting or members of the board of ballot commissioners assigned to conduct ~~absentee~~  
54 early in-person voting, may enter the area or room set aside for voting.

55 (3)(A) The official designated to supervise and conduct ~~absentee~~ early in-person voting  
56 shall request the county commission designate another area within the county courthouse, any  
57 annex of the courthouse or any other designated as early in-person community voting locations  
58 within the county, as a portion of the official's office, for the purpose of ~~absentee~~ early in-person  
59 voting in the following circumstances:

60 (A) (i) If the voting area is not accessible to voters with physical disabilities;

61 (B) (ii) If the voting area is not within clear view of the public entrance of the office of the  
62 official designated to supervise and conduct ~~absentee~~ early in-person voting; or

63 (C) (iii) If there is no suitable area for ~~absentee~~ early in-person voting within the office.

64 (B) Any designated area is subject to the same requirements as the ~~regular absentee~~  
65 ~~voting area~~ primary location for early in-person voting.

66 (4) The official designated to supervise and conduct ~~absentee~~ early in-person voting shall  
67 have at least two representatives to assist with ~~absentee~~ early in-person voting: *Provided*, That  
68 the two representatives may not be registered with the same political party affiliation or be two  
69 persons registered with no political party affiliation. The representatives may be full-time  
70 employees, temporary employees hired for the period of ~~absentee~~ early in-person voting in  
71 person, or volunteers.

72           (5) No person may do any electioneering nor may any person display or distribute in any  
73 manner, or authorize the display or distribution of, any literature, posters, or material of any kind  
74 which tends to influence the voting for or against any candidate or any public question on the  
75 property of the county courthouse, any annex facilities, or within 100 feet of the outside entrance  
76 of any other designated early voting locations within the county during the entire period of regular  
77 early in-person ~~absentee~~ voting. The official designated to supervise and conduct ~~absentee~~ early  
78 in-person voting is authorized to remove the material and to direct the sheriff of the county to  
79 enforce the prohibition.

NOTE: The purpose of this bill is to establish a uniform electioneering prohibition area.

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