

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 3041**

BY DELEGATES FLEISCHAUER, WALKER, HANSEN,

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STORCH AND WILSON

[Introduced February 12, 2019; Referred  
to the Committee on Political Subdivisions then the  
Judiciary.]

1 A BILL to amend and reenact §3-3-2a of the Code of West Virginia, 1931, as amended, relating  
2 to electioneering or distributing literature at early voting locations.

*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 voting and in addition, the commission may designate other locations  
3 as provided in subsection (b).

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 voting, other than the county courthouse or courthouse annex by a majority of the members of  
7 the county commission voting to adopt the same at a public meeting called for that purpose.

8 (1) The county commission shall publish a notice of its intent to designate community  
9 voting location at least 30 days prior to the designation. Notice shall be by publication as a Class  
10 II-0 legal advertisement in compliance with provisions of article three, chapter fifty-nine of this  
11 code. The publication area is the county in which the community voting locations are designated;

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

- 14 (A) Can be scheduled for use during the early voting period;
- 15 (B) Has the physical facilities necessary to accommodate early voting requirements;
- 16 (C) Has adequate space for voting equipment, poll workers, and voters; and
- 17 (D) Has adequate security, public accessibility, and parking.

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

20 (4) Upon the designation of a community voting location, the county clerk shall, not less  
21 than 30 days prior to an election, give notice of the dates, times, and place of community voting

22 locations by publication as a Class II-0 legal advertisement in compliance with provisions of article  
23 three, chapter 59 of this code;

24 (5) Voting shall be conducted at each designated community voting site for a period of not  
25 less than five consecutive days during early in-person voting authorized by section three of this  
26 article, but need not be conducted at each location for the entire period of early in-person voting;

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

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

33 (c) The Secretary of State shall propose legislative and emergency rules in accordance  
34 with the provisions of article three, chapter 29A of this code as may be necessary to implement  
35 the provisions of this section. The rules shall include establishment of criteria to assure neutrality  
36 and security in the selection of community voting locations.

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

39 (1) The official shall provide a sufficient number of voting booths or devices appropriate to  
40 the voting system at which voters may prepare their ballots. The booths or devices are to be in  
41 an area separate from but within clear view of the public entrance area of the official's office or  
42 other area designated by the county commission for absentee voting and are to be arranged to  
43 ensure the voter complete privacy in casting the ballot.

44 (2) The official shall make the voting area secure from interference with the voter and shall  
45 ensure that voted and unvoted ballots are at all times secure from tampering. No person, other  
46 than a person lawfully assisting the voter according to the provisions of this chapter, may be  
47 permitted to come within five feet of the voting booth while the voter is voting. No person, other

48 than the officials or employees of the official designated to supervise and conduct absentee voting  
49 or members of the board of ballot commissioners assigned to conduct absentee voting, may enter  
50 the area or room set aside for voting.

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

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

57 (B) If the voting area is not within clear view of the public entrance of the office of the  
58 official designated to supervise and conduct absentee voting; or

59 (C) If there is no suitable area for absentee in-person voting within the office.

60 Any designated area is subject to the same requirements as the regular absentee voting  
61 area.

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

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

- 74 distribution of campaign materials during in person absentee voting shall conform to the  
75 requirements of §3-9-9 of this code.

NOTE: The purpose of this bill is to provide requirements regarding campaign materials during early in person voting and on election day.

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