WEST virginia legislature

2022 regular session

Committee Substitute

for

House Bill 4753

By Delegates Skaff and Pack

[Introduced February 15, 2022; referred to the Committee on the Judiciary]

A BILL to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-12-24, relating to prohibiting locating certain homeless facilities near schools and certain daycares; defining homeless encampment; defining authorize or permit; prohibiting municipalities, governing bodies of a municipality, or agencies of municipality from authorizing or permitting homeless encampments within 1,000 feet of a school or licensed child care center effective January 1, 2022; declaring it a public nuisance for the authorization or permitting of a homeless encampment; providing a private cause of action for enforcement; and providing for enforcement through §53-1-1 *et seq.* of this code and for attorney’s fees.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIEs.

§8-12-24. Limitation on location of certain homeless facilities near schools and daycares.

(a) For purposes of this section, “homeless encampment” includes temporary outdoor encampments or temporary small homes on-site or tiny homes sheltering homeless persons.

(b) For purposes of this section, “authorize or permit” means official action taken by a municipality, a governing body of a municipality, or any agency of a municipality to enact an ordinance or issue any regulatory license or permit required to establish a homeless encampment.

(c) Effective January 1, 2022, a municipality, the governing body of a municipality, or an agency of a municipality may not, by ordinance or otherwise, authorize or permit the establishment of a homeless encampment within one thousand feet of a public or private elementary or secondary school, or a licensed child care center.

(d) Any homeless encampment that is established within one thousand feet of a public or private elementary or secondary school, or a licensed child care center in a municipality shall constitute a public nuisance. A private right of action exists as a public nuisance for enforcement of the provisions of this section.

(e) In addition to any private right of action for a public nuisance, redress for an alleged violation of this section may also be sought through the provisions of §53-1-1 *et seq.* of this code, which may include the awarding of reasonable attorney’s fees and costs, if the petitioner prevails.

NOTE: The purpose of this bill is to prohibit locating certain homeless facilities near schools and certain daycares; define homeless encampment; define authorize or permit; prohibiting municipalities, governing bodies of a municipality, or agencies of municipality from authorizing or permitting homeless encampments within 1,000 feet of a school or licensed child care center effective January 1, 2022; declare it a public nuisance for the authorization or permitting of a homeless encampment; provide a private cause of action for enforcement; and provide for enforcement through §53-1-1 *et seq.* of this code and for attorney’s fees.

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