

# **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]



1 A BILL to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a  
2 new section, designated §8-12-24, relating to prohibiting locating certain homeless  
3 facilities near schools and certain daycares; defining homeless encampment; defining  
4 authorize or permit; prohibiting municipalities, governing bodies of a municipality, or  
5 agencies of municipality from authorizing or permitting homeless encampments within  
6 1,000 feet of a school or licensed child care center effective January 1, 2022; declaring it  
7 a public nuisance for the authorization or permitting of a homeless encampment; providing  
8 a private cause of action for enforcement; and providing for enforcement through §53-1-1  
9 *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.**

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

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

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

10 (d) Any homeless encampment that is established within one thousand feet of a public or  
11 private elementary or secondary school, or a licensed child care center in a municipality shall

12 constitute a public nuisance. A private right of action exists as a public nuisance for enforcement  
13 of the provisions of this section.

14 (e) In addition to any private right of action for a public nuisance, redress for an alleged  
15 violation of this section may also be sought through the provisions of §53-1-1 et seq. of this code,  
16 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.