

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 503

BY SENATORS HELTON AND ROSE

[Reported March 4, 2025, from the Committee on the
Judiciary]

1 A BILL to amend and reenact §6-3-1 of the Code of West Virginia, 1931, as amended, relating to
2 appointment of more than one chief deputy by the sheriff; limiting the engagement in
3 certain political activities by chief deputies; providing for the removal of chief deputies who
4 violate these restrictions; and removing the current restrictions on county conservators
5 carrying firearms or other weapons by allowing these conservators to carry such weapons
6 in compliance with West Virginia law.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. DEPUTY OFFICERS AND CONSERVATORS OF THE PEACE.

§6-3-1. Appointment of deputies, chief deputies, and local conservators of the peace; chief deputies' political activities; powers and duties; compensation; vacating appointment of deputy sheriff; removal of conservators.

1 (a) (1) The clerk of the Supreme Court of Appeals, or of any circuit, criminal, common
2 pleas, intermediate, or county ~~court~~ commission, or of any tribunal established by law in lieu
3 thereof, may, with the consent of the court, or such tribunal, duly entered of record, appoint any
4 person or persons his or her deputy or deputies.

5 (2) A sheriff, surveyor of lands, or assessor may, with the consent of the county ~~court~~
6 commission duly entered of record, appoint any person or persons his or her deputy or deputies:
7 Provided, That the sheriff may have and appoint more than one chief deputy by and with the
8 consent of the county commission.

9 (3) Chief deputies may not:

10 (A) Solicit any assessment, subscription, or contribution for any political party, committee,
11 or candidate from any person who is a member or employee of the county sheriff's department
12 by which they are employed;

13 (B) Use any official authority or influence, including, but not limited to, the wearing by a
14 chief deputy sheriff of his or her uniform, for the purpose of interfering with or affecting the
15 nomination, election, or defeat of any candidate or the passage or defeat of any ballot issue:

Provided, That this subdivision does not prohibit any chief deputy sheriff from casting his or her vote at any election while wearing his or her uniform;

(C) Coerce or command anyone to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for the nomination, election, or defeat of a ballot issue;
or

(D) Be a candidate for or hold any other public office in the county in which he or she is employed.

(4) Other types of partisan or nonpartisan political activities not inconsistent with the provisions of subsection (a) of this section are permissible political activities for chief deputy sheriffs.

(5) Any chief deputy sheriff violating the provisions of this section shall have his or her appointment vacated and he or she shall be removed from their position as chief deputy, in accordance with the pertinent provisions of this section.

~~(3)~~ (6) A sheriff, when, in the opinion of the judge of the circuit court, the public interest requires it, may, with the assent of ~~said court~~ the commission, duly entered of record, appoint any person or persons his or her deputy or deputies to perform any temporary service or duty.

~~(4)~~ (7) Each deputy so appointed shall take the same oath of office required of ~~his principal,~~ the sheriff, and may, during his or her continuance in office, perform and discharge any of the official duties of ~~his principal~~ the sheriff, and any default or misfeasance in office of the deputy shall constitute a breach of the conditions of the official bond of ~~his principal~~ the sheriff.

~~(5)~~ (8) A sheriff in any county in which there are more than four deputies shall devote his or her full time to the performance of the services or duties required by law of ~~such~~ the sheriff, and he or she shall not receive any compensation or reimbursement, directly or indirectly, from any person, firm, or corporation for the performance of any private or public services or duties:
Provided, That any such the sheriff may retain or make any investment and receive income therefrom, unless ~~such~~ the investment is otherwise prohibited by law or will impair his or her

42 independence of judgment in the exercise of, or might reasonably tend to conflict with the proper
43 discharge of, the services or duties of his or her office. A sheriff in any county in which there are
44 four or fewer deputies, or a deputy sheriff in any county irrespective of the number of deputies,
45 need not devote his or her full time to the services or duties of his or her office as sheriff or his or
46 her employment as deputy sheriff, ~~as the case may be~~; but ~~any such~~ the sheriff or deputy sheriff
47 shall not engage in any business or transaction, accept other employment, or make any
48 investment which is otherwise prohibited by law or which will impair his or her independence of
49 judgment in the exercise of, or might reasonably tend to conflict with the proper discharge of, the
50 services or duties of his or her office as sheriff or his or her employment as deputy sheriff, ~~as the~~
51 ~~case may be~~. A sheriff and his or her deputies in any county, irrespective of the number of
52 deputies, shall not receive any compensation or remuneration for the performance of their public
53 services and duties, ~~no compensation or remuneration except such as may be~~ that which is
54 regularly provided and paid out of public funds to the amount and in the manner provided by law.
55 A sheriff or deputy sheriff in any county, irrespective of the number of deputies, may not receive,
56 directly or indirectly, any gift or donation from any person, firm, or corporation.

57 ~~(6)~~ (9) Except as ~~hereinafter expressly~~ provided by subsection (b) of this section, ~~no a~~
58 sheriff shall not appoint or continue the appointment of any deputy contrary to the provisions
59 ~~hereof~~ of this section. Any sheriff or deputy sheriff who ~~shall violate~~ violates any of the provisions
60 of this section ~~shall be~~ is guilty of a misdemeanor and, upon conviction thereof, shall be fined not
61 less than \$500 nor more than \$5,000, or confined in jail not to exceed one year, or both, ~~in the~~
62 ~~discretion of the court~~ fined and confined.

63 ~~(7)~~ (10) Circuit courts ~~shall~~ have jurisdiction in equity and mandamus, and the Supreme
64 Court of Appeals ~~shall have~~ has jurisdiction in mandamus, upon the filing of a petition by the
65 prosecuting attorney, the Attorney General, or any three or more citizens of the county, to require
66 any sheriff and the county ~~court~~ commission to vacate the appointment of any deputy, the
67 appointment of which is made or continued in violation of the provisions ~~hereof~~ of this section.

~~Any such~~ A proceeding may be instituted and prosecuted by the Attorney General either in the circuit court of Kanawha County or in the county for which ~~such~~ the appointment was made.

(b) (1) Any resident or group of residents of any unincorporated community, as hereinafter defined, may petition the sheriff for the appointment of a local conservator of the peace and ~~such~~ the sheriff, when in his or her opinion the public interests require it, may with the assent of ~~said~~ the county ~~court~~ commission and the judge of the circuit court duly entered of record, either in term or vacation of ~~any such~~ the court, appoint any person or persons a local conservator or conservators of the peace to perform the duties of a conservator of the peace outside of any incorporated city, town, or village. ~~No~~ A person shall not be appointed ~~such~~ local conservator of the peace who has not been a bona fide resident and taxpayer of the county for at least one year prior to his or her appointment. ~~Such~~ The local conservator of the peace during his or her continuance in office, may perform and discharge any of the official duties of the sheriff, subject nevertheless to the provisions of this section. ~~No~~ An appointed local conservator ~~so appointed~~ shall be is not subject to the direction or control of any person other than his or her principal and he or she shall not perform any services or duties, either private or public, except the duties required by law of conservators of the peace pursuant to the provisions ~~hereof~~ of this subsection, for any person, firm, or corporation. ~~No such~~ A local conservator ~~shall be~~ is not entitled to collect or receive any fees provided by law to be paid to the sheriff or to a deputy sheriff, but all fees provided by law for the sheriff, when ~~such~~ the duties and services are rendered by ~~such~~ the local conservator, shall be paid to the sheriff as regular collections of the sheriff's office. The local conservator shall be paid for the public services performed by him or her a salary of not less than \$75 per month out of the county treasury from a fund to be paid into ~~such~~ the treasury by a resident or the residents of the community for which he or she is appointed, for the sole purpose of compensating ~~such~~ the local conservator or conservators and ~~no such~~ a local conservator shall not receive any other compensation, directly or indirectly, from any person, firm, or corporation, for any private or public service, except the salary payable to him or her for his or her public

94 services and duties and from such fund, except that he ~~or she shall be~~ is entitled to witness and
95 mileage fees when a witness in a court of record. Each appointed local conservator ~~so appointed~~
96 shall take the same oath of office required of his ~~or her principal~~ sheriff and any default or
97 misfeasance in the office of ~~such the~~ local conservator ~~shall constitute~~ constitutes a breach of the
98 conditions of the official bond of his ~~or her principal~~ sheriff.

99 (2) When the sheriff ~~shall have~~ has been petitioned for the appointment of a local
100 conservator and has determined that the appointment is proper, he ~~or she~~ shall select the person
101 whom he ~~or she~~ proposes to have appointed ~~such as~~ as conservator and shall notify the county ~~court~~
102 commission of the community for which ~~such the~~ conservator is to be appointed and the name of
103 the person proposed for ~~such that~~ appointment. The county ~~court~~ commission shall thereupon
104 cause notice that the sheriff has recommended the appointment of the person named as
105 conservator for the community named to be published as a Class II legal advertisement in
106 compliance with the provisions of ~~article three, chapter fifty-nine~~ §59-3-1 et seq. of this code, and
107 the publication area for ~~such the~~ publication ~~shall be~~ is the county. The notice shall designate a
108 day not less than five days after the date of the last publication when the county ~~court~~ commission
109 will act upon the petition and recommendation. Neither the county ~~court~~ commission nor the judge
110 of the circuit court shall assent and approve the appointment of ~~such the~~ local conservator until
111 ~~such the~~ publication has been made. The costs of the publication shall be paid by the person or
112 persons petitioning for the appointment of the conservator.

113 ~~No~~ A local conservator shall not be appointed except it be made to appear to the
114 satisfaction of the county ~~court~~ commission and the judge of the circuit court that because of the
115 lack of sufficient funds, geographical location of the unincorporated community for which ~~such the~~
116 conservator is to be appointed, or other good reason, the sheriff and his ~~or her~~ regular deputies
117 and the constables of the county are not sufficient to afford proper local policing of ~~such the~~
118 community and that the person or persons moving for the appointment of ~~such the~~ local

conservator have made satisfactory arrangements to compensate him or her for his or her services as ~~such the~~ local conservator of the peace.

(3) ~~Such~~ The local conservator of the peace ~~shall have~~ may exercise all the powers and shall carry out all the duties of a regularly appointed deputy sheriff except that he or she ~~shall~~ may not execute any civil process except such process ~~as may be~~ that is necessary to bring parties before the court in any action at law or suit in equity and subpoenas for witnesses within the unincorporated community for which he or she is appointed and within a distance of one mile outside the boundaries thereof, except as hereinafter expressly provided, but he or she shall not participate in any strike, unemployment boycott, or other industrial or labor dispute, nor serve any court process of any character relating thereto. He or she shall act as ~~such the~~ local conservator only in the unincorporated community for which he or she is appointed, and within a distance of one mile from the boundaries thereof as fixed by the county ~~court~~ commission: *Provided, however,* That the authority of one local conservator shall not extend into any other unincorporated community for which another local conservator is appointed and acting, except as otherwise expressly provided by subdivision (6) of this subsection, except that in fresh pursuit he or she may effect arrests anywhere in the county. He or she may also exercise the powers of a regularly appointed deputy anywhere in the county when required to guard or assist in guarding a payroll, or any other property of value in transit to or from the unincorporated community for which he or she is appointed. Any person arrested by ~~such the~~ local conservator shall, with all convenient speed, be turned over to the sheriff, or one of his or her regular deputies, or to a regular constable of the county to be dealt with according to law, and his or her authority for that purpose ~~shall be~~ is coextensive with the county.

(4) Any local conservator appointed to perform the duties of conservator of the peace ~~shall~~ be is a public officer and the payment, or contribution to the payment of compensation of ~~such the~~ local conservator, ~~shall~~ does not constitute the person, firm, or corporation making ~~such the~~ payment or contribution as the employer of ~~such the~~ local conservator, and ~~no~~ a person, firm or

corporation paying, or contributing to the payment of compensation to ~~such the~~ local conservator ~~shall be~~ is not answerable in law or in equity for any damages to person or property resulting from any official act of ~~such the~~ local conservator.

(5) ~~No~~ A person appointed ~~such~~ local conservator ~~shall thereby be entitled to~~ may carry weapons, ~~but such the local conservator may carry weapons when he or she shall be is duly licensed and shall have~~ has given bond as provided by §61-7-2 of this code. as otherwise permitted under West Virginia law.

(6) ~~Not~~ No more than one local conservator of the peace shall be appointed, to perform the duties of conservator of the peace, for each 2,500 inhabitants of the county as ascertained by the last regular decennial census after deducting the number of inhabitants of the county residing in the incorporated cities, towns, and villages in ~~such the~~ county. ~~Not~~ No more than one local conservator shall be appointed for any unincorporated community unless the population thereof ~~exceed~~ exceeds 1,500 people and, in such case, ~~not~~ no more than two conservators shall be appointed for ~~such that~~ community.

(7) The phrase "unincorporated community" within the meaning of this section ~~shall mean~~ means any center of population ~~wherein~~ in which 50 or more persons reside within an area of not more than one square mile.

(8) The county ~~court~~ commission and the judge of the circuit court in approving the appointment of a local conservator shall enter of record an order making ~~such the~~ appointment and shall show ~~therein~~ in the order the necessity for the appointment, the person or persons on whose motion the appointment is made, the arrangement for the payment of compensation to ~~such the~~ local conservator, and the unincorporated community or communities, for which the appointment is made, including the general boundary of each unincorporated community for which he or she is appointed.

169 (9) ~~No~~ A local conservator ~~shall~~ may not act as an election official or remain in, about or
170 near any voting place or place of political convention, further than is necessary for him or her to
171 promptly cast his or her vote and ~~retire from~~ leave the voting place.

172 (10) Any local conservator violating any of the provisions of subdivisions (3) and (9) of this
173 subsection ~~shall be~~ is guilty of a misdemeanor and, upon conviction thereof, shall be fined not
174 less than \$50 nor more than \$300, or be confined in the county jail not more than six months, or
175 both fined and confined, ~~in the discretion of the court~~; and it ~~shall be the duty of~~ the sheriff and
176 the county ~~court~~ commission ~~to~~ shall ~~forthwith~~ immediately revoke his or her appointment
177 irrespective of any criminal prosecution. A proceeding in mandamus or injunction shall lie in the
178 circuit court and a proceeding in mandamus shall lie in the Supreme Court of Appeals at the
179 instance of the prosecuting attorney, the Attorney General, or of any three or more citizens of the
180 community for which ~~such~~ the conservator is appointed, to require the performance of ~~such~~ that
181 duty by the sheriff and the county ~~court~~ commission.

182 (11) ~~Such~~ The local conservator shall serve during the joint will and pleasure of the sheriff
183 and the county ~~court~~ commission and his or her appointment may be revoked by order entered of
184 record by the county ~~court~~ commission either with or without the assignment of cause therefor.

185 A local conservator may be removed by the judge of the circuit court, either in term or vacation,
186 for drunkenness, gross immorality, incompetence, neglect of duty, or other good cause, upon the
187 petition of three or more residents of the community for which he or she has been appointed. The
188 petition shall set forth the cause or causes for which ~~such~~ the removal is asked and shall show
189 that demand for removal has been made of the sheriff and the county ~~court~~ commission and that
190 the sheriff and the county ~~court~~ commission have failed to remove the local conservator. At least
191 three copies of the petition shall be filed, and upon the filing of the petition the judge shall fix a
192 time and place for a hearing thereon, which time shall not be less than 10 days after the filing of
193 the petition, and shall cause a copy thereof to be served upon the sheriff, county commission,
194 and ~~such~~ the local conservator at least 10 days before the hearing thereon.