

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5274

By Delegates Funkhouser, Hillenbrand, and Ridenour

[By Request of the Secretary of State]

[Introduced ; referred

to the committee on]

1 A BILL to amend and reenact §29-19-15 of the Code of West Virginia, 1931, as amended, relating
2 to enforcement and penalties; and allowing the Secretary of State administer oaths and
3 affirmations, issue subpoenas, involve the aid of the circuit court in the execution of its
4 subpoena power, and request legal and investigative assistance from the Attorney
5 General, when investigating a charitable organization, professional fund-raising counsel or
6 professional solicitor.

Be it enacted by the Legislature of West Virginia:

ARTICLE 19. SOLICITATION OF CHARITABLE FUNDS ACT.

§29-19-15. Enforcement and penalties.

1 (a) The Secretary of State, upon his or her own motion, or upon complaint of any person,
2 may, if he or she finds reasonable ground to suspect a violation, investigate any charitable
3 organization, professional fund-raising counsel or professional solicitor to determine whether such
4 charitable organization, professional fund-raising counsel or professional solicitor has violated the
5 provisions of this article or has filed any application or other information required under this article
6 which contains false or misleading statements.

7 (1) In addition to the powers and duties contained in this article, the Secretary of State may:

8 (A) Administer oaths and affirmations, issue subpoenas for the attendance of witnesses,
9 issue subpoenas duces tecum to compel the production of books, papers, records and all other
10 evidence necessary to any investigation.

11 (B) Involve the aid of any circuit court in the execution of its subpoena power.

12 (C) The Attorney General shall, when requested, provide legal and investigative
13 assistance to the Secretary of State.

14 (b) In addition to the foregoing, any person who willfully and knowingly violates any
15 provision of this article, or who shall willfully and knowingly give false or incorrect information to the
16 Secretary of State in filing statements or reports required by this article, whether such report or

17 statement is verified or not, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be
18 fined upon first conviction thereof in an amount not less than \$100 nor more than \$500, or be
19 imprisoned in the county jail for not more than six months, or be both fined and imprisoned, and for
20 the second and any subsequent offense to pay a fine of not less than \$500 nor more than \$1,000,
21 or be imprisoned for not more than one year, or be both fined and imprisoned.

22 (c) Whenever the Secretary of State, Attorney General or any prosecuting attorney has
23 reason to believe that any charitable organization, professional fund-raising counsel or
24 professional solicitor is operating in violation of the provisions of this article, the Secretary of State,
25 Attorney General or prosecuting attorney may bring an action in the name of the state against such
26 charitable organization and its officers, such professional fund-raising counsel or professional
27 solicitor or any other person who has violated this article in the circuit court of the county wherein
28 the cause of action arises to enjoin such charitable organization or professional fund-raising
29 counsel or professional solicitor or other person from continuing such violation, solicitation or
30 collection, or from engaging therein or from doing any acts in furtherance thereof and for such
31 other relief as the court deems appropriate.

32 (d) In addition to the foregoing, any charitable organization, professional fund-raising
33 counsel or professional solicitor who willfully and knowingly violates any provisions of this article
34 by employing any device, scheme, artifice, false representation or promise with intent to defraud or
35 obtain money or other property shall be guilty of a misdemeanor, and, upon conviction thereof, for
36 a first offense, shall be fined not less than \$100 nor more than \$500, or be confined in the county
37 jail not more than six months, or be both fined and imprisoned; and for a second and any
38 subsequent offense, shall be fined not less than \$500 nor more than \$1,000, or confined in the
39 county jail not more than one year, or be both fined and imprisoned.

40 At any proceeding under this section, the court shall also determine whether it is possible
41 to return to the contributors the contributions which were thereby obtained.

42 If the court finds that the said contributions are readily returnable to the original

43 contributors, it may order the money to be placed in the custody and control of a general receiver,
44 appointed pursuant to the provisions of article six, chapter fifty-one of this code, who shall be
45 responsible for its proper disbursement to such contributors.

46 If the court finds that: (1) It is impossible to obtain the names of over one half the persons
47 who were solicited and in violation of this article, or (2) if the majority of individual contributions was
48 of an amount less than \$5, or (3) if the cost to the state of returning these contributions is equal to
49 or more than the total sum to be refunded, the court shall order the money to be placed in the
50 custody and control of a general receiver appointed pursuant to the provisions of article six,
51 chapter fifty-one of this code. The general receiver shall maintain this money pursuant to the
52 provisions of article eight, chapter thirty-six of this code.

NOTE: The purpose of this bill is to allow the Secretary of State administer oaths and affirmations, issue subpoenas, involve the aid of the circuit court in the execution of its subpoena power, and request legal and investigative assistance from the Attorney General, when investigating a charitable organization, professional fund-raising counsel or professional solicitor.

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