

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5533

By Delegates Ridenour, Masters, B. Ward, and

Hillenbrand

[Introduced February 16, 2026; referred to the

Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §51-13-1, §51-13-2, §51-13-3, §51-13-4, §51-13-5, §51-13-6, §51-13-7, §51-
3 13-8, §51-13-9, §51-13-10, §51-13-11, and §51-13-12; to amend the code by adding a new
4 article, designated §51-13A-1, §51-13A-2, §51-13A-3, and §51-13A-4; and to amend the
5 code by adding a new section, designated §61-5-34, all relating to clarifying the
6 constitutional authority of the State of West Virginia and limiting the effect of
7 unconstitutional federal judicial dictates; establishing executive and legislative review
8 processes; creating the Joint Committee on Constitutional Review; linking constitutional
9 review to legislative rule oversight; and creating criminal penalties for enforcement of
10 nullified dictates.

Be it enacted by the Legislature of West Virginia:

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 13. STATE REVIEW AND EFFECT OF CERTAIN JUDICIAL DECISIONS.

§51-13-1. Legislative findings and declarations of constitutional authority; interpretive standards.

1 (a) Constitutional basis. The Legislature declares its authority to enact this article pursuant
2 to:
3 (1) Article VI, Section 1 of the Constitution of West Virginia, which vests "the legislative
4 power of the State" in the Legislature;
5 (2) Article VII, Section 5, which directs the Governor to "take care that the laws be faithfully
6 executed";
7 (3) Article X, Section 1, which provides that "the powers of government reside in the
8 people, and all free governments are founded on their authority and instituted for their benefit"; and
9 (4) The Tenth Amendment to the Constitution of the United States, which reserves to the
10 states and to the people all "...powers not delegated to the United States by the Constitution, nor

11 prohibited by it to the States...."

12 (b) Sovereign authority affirmed. The Legislature affirms that:

13 (1) The several states of the Union are coequal sovereigns within their respective
14 constitutional spheres;

15 (2) Judicial decisions of the United States courts, while entitled to respect, do not displace
16 the sovereign lawmaking power of the people of West Virginia as exercised through their elected
17 representatives;

18 (3) No branch of government may bind the State of West Virginia by actions that are ultra
19 vires, unconstitutional, or issued without lawful jurisdiction; and

20 (4) It is the solemn duty of this State to preserve its constitutional integrity and safeguard
21 the rights, privileges, and immunities of its citizens from federal or judicial encroachment.

22 (c) Interpretive standard. For all purposes of this article and related provisions of law,
23 constitutional validity shall be judged according to the text, structure, and original public meaning
24 of the Constitution of the United States and of the Constitution of West Virginia as understood at
25 the time of their adoption, together with their historical context and lawful enactments consistent
26 therewith. Courts and officers of this State shall apply this standard in construing this article and
27 any determination made under it.

28 (d) Purpose. It is the intent of the Legislature, consistent with the state and federal
29 constitutions, to establish mechanisms by which the State of West Virginia may review, reject, and
30 nullify judicial dictates that are demonstrably wrong in constitutional interpretation, exceed lawful
31 jurisdiction, or infringe upon the reserved powers of this State or its people.

§51-13-2. Legislative findings and purpose.

1 (a) The Legislature finds that—

2 (1) The Constitutions of the United States and West Virginia are the supreme law within
3 their respective jurisdictions;

4 (2) Judicial decisions demonstrably wrong in their interpretation of constitutional or

5 statutory text threaten the sovereignty of the State of West Virginia and the separation of powers;

6 (3) Federal courts of limited jurisdiction are bound by the geographic and subject-matter
7 confines of the districts and circuits established by Congress, and decisions purporting to reach
8 beyond those confines lack legitimate force in this State; and

9 (4) West Virginia has a compelling interest to ensure that the people of this state are
10 governed only by lawful, constitutional commands and not by ultra vires or unconstitutional judicial
11 dictates.

12 (b) The purpose of this article is to establish clear processes within both the Executive and
13 Legislative branches to identify, review, and, as warranted, declare specific federal judicial
14 decisions, or aspects of specific judicial decisions, null and void in West Virginia, and to direct the
15 actions of state officers in response.

§51-13-3.

Definitions.

1 As used in this article:

2 (1) "Constitutional validity" means consistency with the text, original public meaning,
3 structure, and history of the Constitution of the United States and the Constitution of West Virginia,
4 and with laws duly enacted consistent therewith;

5 (2) "Demonstrably wrong" or "demonstrably erroneous" means clearly erroneous in
6 interpretation of constitutional or statutory text under subdivision (1) of this section, including
7 reliance on authority outside a court's geographic jurisdiction, or not based on constitutional
8 grounds;

9 (3) "Dictate" means any order, judgment, mandate, injunction, directive, or similar
10 command of a court;

11 (4) "Geographic jurisdiction" means the territory of the federal judicial district within the
12 federal judicial circuit as provided by 28 U.S.C. §§ 81-131 and 41, respectively; and

13 (5) "Suspect judicial decision" means any decision of a federal court that (A) appears
14 demonstrably wrong as defined in subdivision (2) of this section, or (B) purports to bind West

15 Virginia while issued by a federal court acting outside its geographic jurisdiction.

§51-13-4. Effect of federal judicial decisions issued outside geographic jurisdiction; suits filed outside jurisdiction of a federal court.

1 (a) Any dictate of a United States district court or a United States court of appeals that is
 2 issued outside that court's geographic jurisdiction, to the extent that it purports to bind the State of
 3 West Virginia, its officers, or its political subdivisions, is null and void and without force or effect in
 4 West Virginia.

5 (b) Any lawsuit regarding an action or law of the State of West Virginia filed in a federal
 6 district court that is outside its geographic jurisdiction, insofar as it seeks to compel or restrain the
 7 State of West Virginia, its officers, or its political subdivisions, is null and void in West Virginia.

§51-13-5. Executive and legislative review of suspect federal judicial decisions; written determination.

1 (a) Upon issuance or notice of a suspect federal judicial decision, the Executive Branch
 2 shall conduct a constitutional review.

3 (b) Following review, the Governor or the Attorney General shall issue a written opinion
 4 stating whether the decision or aspects of the decision are constitutional or were properly based
 5 the Constitution of the United States, and shall articulate the specific rationale for the
 6 determination, including citations of constitutional text, history, and controlling law.

7 (c) The written opinion shall be filed with the Office of the Secretary of State and
 8 transmitted to the President of the Senate and the Speaker of the House of Delegates.

9 (e) Independent legislative review. Any member of the Legislature may introduce a joint
 10 resolution under §51-13-6 of this code challenging the constitutional validity of any federal judicial
 11 decision, or aspects of specific judicial decisions, affecting the State of West Virginia or its laws,
 12 without prior executive referral. The introduction of such a resolution shall have the same
 13 procedural and legal effect as a determination submitted by the Governor or Attorney General
 14 under this section.

§51-13-6. Submission to the Legislature; vote on constitutional validity.

1 (a) If the Governor, the Attorney General, or any member of the Legislature determines a
2 suspect federal judicial decision, or aspects of specific judicial decisions, to be unconstitutional or
3 not based on constitutional grounds, a joint resolution may be introduced declaring the decision or
4 aspects of the decision unconstitutional as applied to West Virginia.

5 (b) The Legislature shall consider the resolution in the regular manner prescribed for joint
6 resolutions, and may refer it to a Joint Committee on Constitutional Review created under §51-13-
7 12 of this code for analysis and recommendation.

8 (c) Upon adoption by both houses of a joint resolution declaring a federal judiciary
9 decision, or aspects thereof, unconstitutional, the Governor may sign or veto the resolution. If
10 vetoed, the resolution is invalid.

11 (d) Upon enactment, such resolution shall constitute a formal finding by the State of West
12 Virginia of constitutional invalidity under this article, and the federal judicial decision is null and
13 void in West Virginia.

§51-13-7. Effect of nullification; directives to state officers; withholding of resources.

1 (a) Upon nullification of a federal judicial decision, or aspects thereof, under §51-13-6 of
2 this code, the decision shall have no force or effect within West Virginia, and no state or local
3 officer, employee, company engaged in a contract with the State of West Virginia, or agent may
4 expend funds, provide personnel, or otherwise assist in enforcing the decision.

5 (b) The Governor, in consultation with the Attorney General and the presiding officers of
6 the Legislature, shall issue a public proclamation announcing West Virginia's determination of the
7 constitutionality of the judicial decision, summarizing the constitutional rationale, and identifying
8 the actions the state will take, including directives to agencies.

9 (c) Nothing in this section shall be construed to impair the due process rights of any person
10 in a pending case to which that person is a party.

§51-13-8. Duty of the Attorney General to initiate civil action.

3 (b) If any provision of this article or its application is held invalid, the remainder of the article
4 or the application of the provision to other persons or circumstances is not affected.

5 (c) This article takes effect upon passage and shall apply to any federal judicial decisions
6 noticed, and, to the extent practicable, to ongoing enforcement efforts relating to earlier decisions.

§51-13-12. Joint Committee on Constitutional Review.

1 (a) Creation and composition.

2 There is hereby created a permanent joint legislative body to be known as the Joint
3 Committee on Constitutional Review.

4 (b) Officers and meetings.

5 (1) The committee shall elect a co-chair from each chamber.

6 (2) The committee shall meet at least quarterly, and additionally at the call of either co-
7 chair, the Governor, the Attorney General, or the presiding officers of either house.

8 (c) Duties.

9 The committee shall:

10 (1) Review federal and state judicial decisions of potential constitutional concern as
11 referred by members of the Legislature, the Governor, or the Attorney General;

12 (2) Analyze the constitutional implications and recommend whether a joint resolution
13 should be introduced under §51-13-6 of this code;

14 (3) Coordinate with the Governor, the Attorney General, and relevant legislative
15 committees regarding the preparation and drafting of resolutions;

16 (4) Maintain a public record of determinations, recommendations, and rationales for
17 legislative reference; and

18 (5) Submit an annual report to the Legislature summarizing its reviews, recommendations,
19 and any resulting resolutions or actions.

20 (d) Authority.

21 The committee may request information, reports, and testimony from any state officer,

22 department, or agency relevant to its constitutional review functions.

ARTICLE 13A. RELATIONSHIP TO LEGISLATIVE RULE-MAKING REVIEW.

§51-13A-1. Purpose.

1 The purpose of this article is to ensure that the nullification or constitutional determination
2 of any judicial dictate under §51-13-1 et seq. of this code is fully integrated with the oversight of
3 legislative rules and executive regulations in the State of West Virginia.

§51-13A-2. Cross-reference to the Legislative Rule-Making Review Committee.

1 (a) The Legislative Rule-Making Review Committee, established under §29A-3-11 of this
2 code, shall coordinate with the Joint Committee on Constitutional Review when any judicial
3 decision forming the basis or authority of an executive rule or agency action has been declared
4 unconstitutional or null under §51-13-1 et seq. of this code.

5 (b) Upon such determination, the Legislative Rule-Making Review Committee shall:

6 (1) Identify any rule, regulation, or administrative policy derived from, or relying upon, the
7 nullified judicial dictate;

8 (2) Suspend consideration, approval, or continuation of the rule pending legislative
9 direction; and

10 (3) Recommend repeal or amendment of such rules as necessary to conform to the
11 Legislature’s constitutional determination.

§51-13A-3. Effect of constitutional determination on administrative rules.

1 (a) Any rule, regulation, executive order, or policy promulgated or maintained under the
2 authority of a judicial dictate declared unconstitutional or null under §51-13-6 of this code shall be
3 deemed suspended and unenforceable within the State of West Virginia unless re-authorized by
4 an act of the Legislature.

5 (b) No state officer or agency may expend funds, enforce, or give effect to such suspended
6 rule unless the Legislature subsequently re-adopts it.

§51-13A-4. Notification and publication.

1 (a) The Joint Committee on Constitutional Review shall notify the Legislative Rule-Making
2 Review Committee, the Secretary of State, and affected agencies upon the nullification of any
3 judicial dictate under §51-13-1 et seq. of this code.

4 (b) The Secretary of State shall annotate the Code of State Rules to indicate rules
5 suspended pursuant to this article.

6 (c) Notice of such suspension shall be published in the State Register.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.

§61-5-34. Unlawful enforcement of invalid judicial dictates; penalties; no immunity.

1 (a) Offense. A person commits the felony offense of unlawful enforcement of an invalid
2 judicial dictate if the person knowingly and willfully enforces, attempts to enforce, or conspires to
3 enforce in West Virginia a judicial dictate that has been declared null and void pursuant to §51-13-
4 5 of this code.

5 (b) Penalty. Upon conviction, the person shall be confined in a state correctional facility for
6 not less than one year nor more than five years and fined not less than \$5,000 nor more than
7 \$25,000.

8 (c) No immunity defense. Judicial, qualified, prosecutorial, or similar immunity shall not
9 constitute a defense to prosecution under this section.

10 (d) Venue. Venue lies in any county where enforcement was attempted or occurred, or
11 where an affected state officer or political subdivision is located.

12 (e) Construction. This section does not criminalize good-faith compliance with a dictate
13 prior to its nullification under §51-13-5 of this code, nor impair the rights of parties to pursue or
14 defend claims in a court of competent jurisdiction.

NOTE: The purpose of this bill is to reaffirm the constitutional sovereignty of the State of West Virginia; establish constitutional review and nullification mechanisms for unconstitutional judicial dictates; bind interpretive standards to the text, structure, and original public meaning of the state and federal constitutions; to declare certain federal

judicial dictates outside their jurisdiction null within West Virginia; authorize legislative and executive review; create the Joint Committee on Constitutional Review; coordinate with the Legislative Rule-Making Review Committee to suspend dependent executive rules on nullified federal dictates; to direct the Attorney General to defend state sovereignty; and create penalties for enforcement of unconstitutional judicial actions in West Virginia.

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