

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 5536**

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 §51-12-1, §51-12-2, §51-12-3, §51-12-4, §51-12-5, and §51-12-6, relating to  
 3 the West Virginia Constitutional Authority Clarification Act; making legislative findings;  
 4 establishing the scope of judicial decisions; establishing that a decision of the Supreme  
 5 Court of Appeals has effect when concurrence of four justices exists; holding lower court  
 6 decision of unconstitutionality in abeyance until Supreme Court decision rendered;  
 7 establishing a process for overriding a judicial decision; providing for severability; and  
 8 establishing an effective date.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 12. LEGISLATIVE AUTHORITY OVER JUDICIAL REVIEW.**

**§51-12-1. Short title.**

1 This article shall be known and may be cited as the "West Virginia Constitutional Authority  
 2 Clarification Act."

**§51-12-2. Legislative findings and declarations.**

1 (a) The Legislature finds that Article VI Section 1 of the Constitution of West Virginia vests  
 2 legislative power in the Legislature; and Article VII Section 5 vests chief executive power in the  
 3 Governor; and both branches are subject only to limitations specified in the Constitution.

4 (b) The Legislature further finds that the Constitution does not expressly vest in the  
 5 judiciary an exclusive power to determine the Constitutionality of statutes, legislative acts, or  
 6 executive branch actions.

7 (c) The Legislature declares that judicial review is the important function of identifying  
 8 Constitutional issues and problems, but is not an unchecked power of judicial supremacy over all  
 9 Constitutional matters.

10 (d) The Legislature recognizes and, in accordance with Article V of the Constitution of West  
 11 Virginia, declares that the three branches of state government are co-equal, and equally share  
 12 responsibility in determining the Constitutionality of issues.

13 (e) The Legislature affirms its authority to review, modify, and overrule judicial decisions  
 14 that interpret the Constitution of the United States and the Constitution of West Virginia,  
 15 particularly when those decisions run contrary to the will of the people as expressed through their  
 16 elected representatives. This is in keeping with the separation of powers as set forth in both the  
 17 Constitution of the United States and the Constitution of West Virginia, as well as in the tradition of  
 18 departmentalism, where each branch has a duty to interpret the Constitution within its own  
 19 Constitutional scope.

20 (f) The Legislature recognizes that, as one of only three entities in West Virginia that have a  
 21 role in interpreting the Constitutionality of issues, it has the solemn duty to uphold the Constitution,  
 22 and deliberately and accurately determine whether issues are in line with and adhere to the  
 23 Constitution.

24 (g) It is therefore the policy of the State of West Virginia that:

25 (1) Court decisions are binding only upon the parties directly involved in the controversy,  
 26 unless expressly adopted by the Legislature;

27 (2) Such decisions shall not automatically extend to the entire population unless the  
 28 Legislature specifically enacts them as law;

29 (3) No statute, legislative action, or executive action shall be deemed by the state judiciary  
 30 as unconstitutional except upon heightened concurrence of the Supreme Court of Appeals;

31 (4) Lower court decisions purporting to declare a statute unconstitutional shall not have  
 32 statewide effect until reviewed by the Supreme Court of Appeals; and

33 (5) Both the legislative and executive branches must agree to override any judicial decision  
 34 ruling on a Constitutional issue.

**§51-12-3. Scope of judicial decisions.**

1 (a) A decision of any state court declaring a statute, legislative action, or executive action  
 2 unconstitutional shall bind only the parties to that case.

3 (b) No statute, legislative action, or executive action may be deemed unconstitutional and

4 void in this state except upon the concurrence of at least four justices of the Supreme Court of  
5 Appeals of West Virginia.

**§51-12-4. Abeyance of lower-court rulings.**

1 (a) Any decision of the Intermediate Court of Appeals, circuit court, family court, magistrate  
2 court, or other lower court purporting to determine a statute, legislative action, or executive action  
3 unconstitutional shall be held in abeyance until the Supreme Court of Appeals issues its final  
4 decision.

5 (b) Pending resolution by the Supreme Court of Appeals, the challenged statute or action  
6 shall remain in full force and effect.

**§51-12-5. Process for overriding a judicial decision.**

1 (a) Members of the Legislature may propose a joint resolution to override a judicial  
2 decision on a Constitutional issue, or those aspects of a decision deemed not in accordance with  
3 either the Constitution of the United States or the Constitution of West Virginia. The resolution will  
4 be processed and be voted on as a normal resolution.

5 (b) The Governor may sign or veto the resolution to override a judicial decision on a  
6 Constitutional issue. If the Governor vetoes the resolution to override, then the override is void.

7 (c) The Governor may also propose a joint resolution in the Legislature to override a  
8 judicial decision or aspects of a decision on a Constitutional issue. It will also be processed and be  
9 voted on as a normal resolution. The Governor must sign the resolution to override the judicial  
10 decision.

**§51-12-6. Severability; effective date.**

1 (a) If any provision of this article or its application is held invalid, the invalidity shall not  
2 affect other provisions or applications of this article.

3 (b) This article shall take effect July 1, 2026.

NOTE: The purpose of this bill is to establish the "West Virginia Constitutional Authority

Clarification Act."

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