

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5561

**FISCAL
NOTE**

By Delegates Kimble, Ridenour, Butler, T. Howell, and

Mazzocchi

[Introduced February 16, 2026; referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §3-1A-6 of the Code of West Virginia, 1931, as amended, relating to
 2 requiring the Secretary of State to refer potential election fraud to the Attorney General for
 3 prosecution instead of a county prosecuting attorney.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1A. STATE ELECTION COMMISSION AND SECRETARY OF STATE.

§3-1A-6. Powers and duties of Secretary of State; exercise of powers by appointees.

1 (a) The Secretary of State shall be the chief election official of the state. Except for those
 2 rules required by the provisions of §3-1A-5 of this code to be promulgated by the commission, the
 3 Secretary of State ~~shall have the authority~~ may, after consultation with the state Election
 4 Commission, of which he or she is a member, ~~to~~ make, amend and rescind such orders and to
 5 promulgate legislative rules, in accordance with ~~the provisions of~~ Chapter 29A of this code, as may
 6 be necessary to standardize and make effective the provisions of this chapter. All election officials,
 7 county commissions, clerks of county commissions, clerks of circuit courts, boards of ballot
 8 commissioners, election commissioners and poll clerks shall abide by any orders that may be
 9 issued and any legislative rules that may be promulgated by the Secretary of State and the
 10 commission.

11 (b) The Secretary of State also ~~shall have authority to~~ may require collection and report of
 12 statistical information and to require other reports by county commissions, clerks of county
 13 commissions and clerks of circuit courts.

14 (c) The Secretary of State shall also advise with election officials; furnish to the election
 15 officials a sufficient number of indexed copies of the current election laws of West Virginia and the
 16 administrative orders and rules issued or promulgated thereunder; investigate the administration
 17 of election laws, frauds and irregularities in any registration or election; report violations of election
 18 laws to the appropriate prosecuting officials; and prepare an annual report.

19 (d) The Secretary of State ~~shall also have the power to~~ may administer oaths and
 20 affirmations, issue subpoenas for the attendance of witnesses, issue subpoena duces tecum to

21 compel the production of books, papers, records, registration records and other evidence and fix
 22 the time and place for hearing any matters relating to the administration and enforcement of this
 23 chapter, or the rules promulgated by the state Election Commission or by the Secretary of State as
 24 the chief election official of the state. In case of disobedience to a subpoena or subpoena duces
 25 tecum, he or she may invoke the aid of any circuit court in requiring the attendance, evidence and
 26 testimony of witnesses and the production of papers, books, records, registration records and
 27 other evidence. In addition, in instances of potential election fraud, the Secretary of State, after a
 28 period of review may refer the matter to the West Virginia Prosecuting Attorneys Institute which
 29 shall appoint a special prosecuting attorney who may initiate criminal proceedings after reviewing
 30 the investigational findings and reports of the Secretary of State.

31 (e) (1) The Secretary of State ~~shall also have the power~~ may, after consultation with the
 32 Secretary of the Department of Military Affairs and Public Safety, ~~to~~ implement emergency
 33 procedures and rules to ensure that all eligible voters have the opportunity to cast a valid ballot
 34 and to uphold the integrity of an election in the event of natural disaster as declared by the
 35 Governor of this state, terrorist attack, war or general emergency, if any of which occur during or
 36 immediately preceding an election.

37 (2) For purposes of this subsection, a "general emergency" means circumstances
 38 preventing the casting of ballots in one or more voting precincts. The chief judge of the circuit court
 39 of the county where the casting of ballots is being prevented must declare by order that a general
 40 emergency exists.

41 (f) All powers and duties vested in the Secretary of State pursuant to this article may be
 42 exercised by appointees of the Secretary of State at his or her discretion, but the Secretary of
 43 State ~~shall~~ is responsible for their acts.

NOTE: The purpose of this bill is to require the Secretary of State to refer potential election fraud to the Attorney General for prosecution instead of a county prosecuting attorney.

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