

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 185**

By Senator Helton

[Introduced January 14, 2026; referred

to 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.

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

**ARTICLE 3. DEPUTY OFFICERS AND CONSERVATORS OF THE PEACE.**

**§6-3-1. Appointment of deputies and local conservators of the peace; 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) A sheriff, when in the opinion of the judge of the circuit court the public interest requires  
10 it, may, with the assent of said court the commission, duly entered of record, appoint any person or  
11 persons his or her deputy or deputies to perform any temporary service or duty.

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

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

21 unless such the investment is otherwise prohibited by law or will impair his or her independence of  
22 judgment in the exercise of, or might reasonably tend to conflict with the proper discharge of, the  
23 services or duties of his or her office. A sheriff in any county in which there are four or fewer  
24 deputies, or a deputy sheriff in any county irrespective of the number of deputies, need not devote  
25 his or her full time to the services or duties of his or her office as sheriff or his or her employment as  
26 deputy sheriff, as the case may be; but any such sheriff or deputy sheriff shall may not engage in  
27 any business or transaction, accept other employment or make any investment which is otherwise  
28 prohibited by law or which will impair his or her independence of judgment in the exercise of, or  
29 might reasonably tend to conflict with the proper discharge of, the services or duties of his or her  
30 office as sheriff or his or her employment as deputy sheriff, as the case may be. A sheriff and his or  
31 her deputies in any county, irrespective of the number of deputies, shall may receive for the  
32 performance of their public services and duties no compensation or remuneration except such as  
33 may be regularly provided and paid out of public funds to the amount and in the manner provided  
34 by law. No sheriff or deputy sheriff in any county, irrespective of the number of deputies, may  
35 receive, directly or indirectly, any gift or donation from any person, firm or corporation.

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

42 (7) Circuit courts shall may have jurisdiction in equity and mandamus, and the Supreme  
43 Court of Appeals shall may have jurisdiction in mandamus, upon the filing of a petition by the  
44 prosecuting attorney, the Attorney General, or any three or more citizens of the county, to require  
45 any sheriff and the county court commission to vacate the appointment of any deputy, the  
46 appointment of which is made or continued in violation of the provisions hereof. Any such

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

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

73     she shall be entitled to witness and mileage fees when a witness in a court of record. Each local  
74     conservator so appointed shall take the same oath of office required of his or her principal and any  
75     default or misfeasance in the office of such the local conservator shall constitute constitutes a  
76     breach of the conditions of the official bond of his or her principal.

77         (2) When the sheriff shall have has been petitioned for the appointment of a local  
78     conservator and has determined that the appointment is proper, he or she shall select the person  
79     whom he or she proposes to have appointed such conservator and shall notify the county court  
80     commission of the community for which such the conservator is to be appointed and the name of  
81     the person proposed for such that appointment. The county court commission shall thereupon  
82     cause notice that the sheriff has recommended the appointment of the person named as  
83     conservator for the community named to be published as a Class II legal advertisement in  
84     compliance with the provisions of article three, chapter fifty-nine of this code, and the publication  
85     area for such publication shall be the county. The notice shall designate a day not less than five  
86     days after the date of the last publication when the county court commission will act upon the  
87     petition and recommendation. Neither the county court commission nor the judge of the circuit  
88     court shall may assent and approve the appointment of such the local conservator until such the  
89     publication has been made. The costs of the publication shall be paid by the person or persons  
90     petitioning for the appointment of the conservator.

91         No local conservator shall may be appointed except it be made to appear to the  
92     satisfaction of the county court commission and the judge of the circuit court that because of the  
93     lack of sufficient funds, geographical location of the unincorporated community for which such the  
94     conservator is to be appointed, or other good reason, the sheriff and his or her regular deputies  
95     and the constables of the county are not sufficient to afford proper local policing of such the  
96     community and that the person or persons moving for the appointment of such the local  
97     conservator have made satisfactory arrangements to compensate him or her for his or her  
98     services as such the local conservator of the peace.

119 (4) Any local conservator appointed to perform the duties of conservator of the peace shall  
120 be a public officer and the payment, or contribution to the payment of compensation of such the  
121 local conservator shall may not constitute the person, firm or corporation making such the  
122 payment or contribution the employer of such local conservator and no person, firm or corporation  
123 paying, or contributing to the payment of compensation to such local conservator shall be  
124 answerable in law or in equity for any damages to person or property resulting from any official act

125 of such local conservator.

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

129 (6) Not more than one local conservator of the peace shall may be appointed, to perform  
130 the duties of conservator of the peace, for each 2,500 inhabitants of the county as ascertained by  
131 the last regular decennial census after deducting the number of inhabitants of the county residing  
132 in the incorporated cities, towns and villages in ~~such~~ the county. Not more than one local  
133 conservator shall may be appointed for any unincorporated community unless the population  
134 thereof ~~exceed~~ exceeds 1,500 people and in such case not more than two conservators shall may  
135 be appointed for ~~such~~ that community.

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

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

146 (9) No local conservator shall may act as an election official or remain in, about or near any  
147 voting place or place of political convention, further than is necessary for him or her to promptly  
148 cast his or her vote and retire from the voting place.

149 (10) Any local conservator violating any of the provisions of subdivisions (3) and (9) of this  
150 subsection shall be is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less

151 than \$50 nor more than \$300, or be confined in the county jail not more than six months, or both  
152 ~~fined and confined, in the discretion of the court; and it shall be the duty of the sheriff and the~~  
153 ~~county court commission to~~ shall forthwith revoke his or her appointment irrespective of any  
154 criminal prosecution. A proceeding in mandamus or injunction shall lie in the circuit court and a  
155 proceeding in mandamus shall lie in the Supreme Court of Appeals at the instance of the  
156 prosecuting attorney, the Attorney General, or of any three or more citizens of the community for  
157 which such the conservator is appointed, to require the performance of such that duty by the sheriff  
158 and the county court commission.

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

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

NOTE: The purpose of this bill is to allow the appointment of more than one chief deputy by the sheriff.

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