

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 187

By Senator Chapman

[Introduced January 14, 2026; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §7-4-1 of the Code of West Virginia, 1931, as amended, relating to
2 providing for a recall process of a prosecutor under certain circumstances.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. PROSECUTING ATTORNEY, REWARDS AND LEGAL ADVICE.

§7-4-1. Duties of prosecuting attorney; further duties upon request of Attorney General.

1 (a) The prosecuting attorney shall attend to the criminal business of the state in the county
2 in which he or she is elected and qualified and when the prosecuting attorney has information of
3 the violation of any penal law committed within the county, the prosecuting attorney shall institute
4 and prosecute all necessary and proper proceedings against the offender and may, in such case,
5 issue or cause to be issued a summons for any witness the prosecuting attorney considers
6 material. Every public officer shall give the prosecuting attorney information regarding the
7 commission of any criminal offense committed within his or her county. The prosecuting attorney
8 shall also attend to civil suits in the county in which the state or any department, commission, or
9 board thereof, is interested, and to advise, attend to, bring, prosecute, or defend, as the case may
10 be, all matters, actions, suits, and proceedings in which such county or any county board of
11 education is interested.

12 (b) (1) In furtherance of a prosecuting attorney's duty to investigate and prosecute criminal
13 offenses, a prosecuting attorney and assistant prosecuting attorneys under his or her supervision
14 shall have the authority to arrest any person committing a violation of the criminal laws of the State
15 of West Virginia, the United States, or a violation of Rule 42 of the West Virginia Rules of Criminal
16 Procedure which occur within the office of the prosecuting attorney and committed in the presence
17 of the prosecuting attorney or assistant prosecuting attorney.

18 (2) For purposes of subdivision (1) of this subsection, the arrest authority of a prosecuting
19 attorney or assistant prosecuting attorney shall be consistent with that authority vested in a deputy
20 sheriff within the geographic limitations set forth in said subdivision.

21 (3) Should a prosecuting attorney desire to establish a program authorizing prosecuting

attorneys and assistant prosecuting attorneys to carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U. S. C. § 926B, the following criteria must be met:

(A) The prosecuting attorney's office shall have a written policy authorizing the prosecuting attorney and his or her assistant prosecuting attorneys to carry a concealed firearm for self-defense purposes;

(B) There shall be in place in the office of the prosecuting attorney a requirement that the prosecuting attorney and assistant prosecuting attorneys must regularly qualify in the use of a firearm with standards therefor which are equal to or exceed those required of sheriff's deputies in the county in which the prosecuting attorney was elected or appointed;

(C) The office of the prosecuting attorney shall issue a photographic identification and certification card which identify the prosecuting attorney or assistant prosecuting attorneys as law-enforcement employees of the prosecuting attorney's office pursuant to the provisions of §30-29-12 of this code.

(4) Any policy instituted pursuant to paragraph (A), subdivision (3) of this subsection shall include provisions which: (i) Preclude or remove a person from participation in the concealed firearm program who is subject to any disciplinary or legal action which could result in the loss of the authority to participate in the program; (ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and; (iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(5) Any prosecuting attorney or assistant prosecuting attorney who participates in a program authorized by the provisions of this subsection shall be responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) It is the intent of the Legislature in enacting the amendments to this section during the 2017 regular session of the Legislature to authorize prosecuting attorney's offices wishing to do so to allow prosecuting attorneys and assistant prosecuting attorneys to meet the requirements of the

48 federal Law-Enforcement Officer's Safety Act, 18 U.S.C. § 926B.

49 (c) The prosecuting attorney shall keep his or her office open in the charge of a responsible
50 person during the hours when polls are open during statewide general and primary election days,
51 and the prosecuting attorney, or the prosecuting attorney's assistant, if any, shall be available for
52 the purpose of advising election officials. The prosecuting attorney, when requested by the
53 Attorney General, shall perform or assist the Attorney General in performing, in the county in which
54 the prosecuting attorney is elected, any legal duties required to be performed by the Attorney
55 General and which are not inconsistent with the duties of the prosecuting attorney as the legal
56 representative of the county. The prosecuting attorney, when requested by the Attorney General,
57 shall perform or assist the Attorney General in performing, any legal duties required to be
58 performed by the Attorney General in any county other than that in which the prosecuting attorney
59 is elected and for the performance of these duties in any county other than that in which the
60 prosecuting attorney is elected, the prosecuting attorney shall be paid his or her actual expenses.

61 (d) Upon the request of the Attorney General, the prosecuting attorney shall make a written
62 report of the state and condition of the several causes in which the state is a party, pending in his or
63 her county, and upon any matters referred to the prosecuting attorney by the Attorney General as
64 provided by law.

65 (e) A prosecutor may be recalled if he or she commits prosecutorial misconduct, including
66 but not limited to refusing to repeatedly prosecute violent or other serious crimes.

67 (1) If a citizen, party to a criminal proceeding, or judicial officer believes that a prosecutor
68 should be recalled for prosecutorial misconduct, he or she may petition the Attorney General.

69 (2) The Attorney General shall review the matter to determine if a prosecutor should be
70 recalled.

NOTE: The purpose of this bill is to provide for a recall process of a prosecutor under certain circumstances.

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