

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 59

BY SENATORS RUCKER, ROSE, AND THORNE

[Passed March 13, 2026; to take effect January 1,

2027]

1 AN ACT to amend and reenact §3-1-3 and §3-2-2 of the Code of West Virginia, 1931, as
2 amended; and to amend the code by adding a new section, designated §3-2-2a, relating
3 to voter eligibility and residency requirements; requiring that a person be a legal resident
4 of the state, county, or municipality in which he or she offers to vote; defining terms;
5 providing factors for consideration when determining if a person is a legal resident; setting
6 forth rules and principles for the determination of the residence of a person; providing for
7 challenging the residency of a person; and providing effective dates.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-3. Persons entitled to vote.

1 (a) Citizens of the state may vote at all elections held within the precincts of the counties
2 and municipalities in which they respectively reside, but a person may not vote in a federal, state,
3 county, municipal, or special election unless the person:

4 (1) Is registered to vote as required by law;

5 (2) Is 18 years of age, except that a person may vote in a primary election if he or she will
6 reach the age of 18 years on or before the date of the next general election held after the primary
7 election;

8 (3) Has not been determined by a final judgment of a circuit court exercising jurisdiction
9 pursuant to §44A-1-2(c) of this code to be totally mentally incompetent;

10 (4) Has not been convicted of treason, a felony, or bribery in an election or, if convicted,
11 has:

12 (A) Had his or her sentence fully discharged, including any term of incarceration, parole,
13 supervision, or period of probation ordered by any court; or

14 (B) Been pardoned or otherwise formally released from the resulting disability to vote;

15 (5) Is a United States citizen; and

16 (6) Is a legal resident of the state, county, or municipality in which he or she offers to vote.

17 (b) For purposes of §3-1-3(a)(3), a person is requalified to vote upon certification in writing
18 by the clerk of the circuit court of an order or other official determination filed with his or her office
19 that the person is no longer totally mentally incompetent: *Provided*, That a copy of the order or
20 other official determination shall not be provided without further order by a court of competent
21 jurisdiction or written permission signed by the person to whom the order or official determination
22 pertains.

23 (c) For purposes of §3-1-3(a)(4):

24 (1) A person convicted of a disqualifying crime may not vote from the date of adjudication
25 of that crime, notwithstanding any pending sentencing order, post-trial motions, direct appeals, or
26 other post-conviction requests for relief; and

27 (2) A person is not considered to have been convicted of a disqualifying crime where the
28 criminal proceedings are deferred and there is no adjudication of guilt as to the disqualifying crime.

29 (d) For purposes of §3-1-3(a)(6):

30 (1) "Legal resident" means a person who is domiciled in the state, county, or municipality
31 in which he or she offers to vote and includes both physical presence within the state, county, or
32 municipality and an intent to remain in the state, county, or municipality indefinitely.

33 (2) Factors for consideration in determining whether a person is a "legal resident" include,
34 but are not limited to, the following:

35 (A) The physical character of the person's residence;

36 (B) The amount of time spent by the person in the state, county, or municipality;

37 (C) The person's place of employment;

38 (D) The state issuing the person's most recent driver's license or identification card;

39 (E) Registering a vehicle or other property in the state or county;

40 (F) Where the person receives state or federal benefits;

41 (G) The address listed on a person's government-issued documents;

42 (H) The person's tax filings; and

43 (l) Other evidence tending to demonstrate or disprove that a person seeks to remain at
44 his or her residence indefinitely.

45 (e) The amendments to this section enacted during the 2026 regular session of the
46 Legislature become effective on January 1, 2027.

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-2. Eligibility to register to vote.

1 (a) Any person who possesses the constitutional qualifications for voting may register to
2 vote. To be qualified, a person shall be a citizen of the United States and a legal resident of the
3 State of West Virginia and of the county where he or she is applying to register, shall be at least
4 18 years of age, except that a person who is at least 17 years of age and who will be 18 years of
5 age by the time of the next ensuing general election may also be permitted to register, and shall
6 not be otherwise legally disqualified: *Provided*, That a registered voter who has not reached 18
7 years of age may vote both partisan and nonpartisan ballots in a federal, state, county, municipal,
8 or special primary election if he or she will be 18 years of age by the time of the corresponding
9 general election.

10 (b) Any person who has been convicted of a felony, treason, or bribery in an election,
11 under either state or federal law, is disqualified and may not register or continue to be registered
12 to vote while serving his or her sentence, including any period of incarceration, probation or parole
13 related to the conviction. Any person who has been declared mentally incompetent by a court of
14 competent jurisdiction is disqualified and may not register or continue to be registered to vote for
15 as long as that disability continues.

16 (c) For purposes of this section, "legal resident" means a person who is domiciled in the
17 state, county, or municipality in which he or she offers to vote and includes both physical presence
18 within the state, county, or municipality and an intent to remain in the state, county, or municipality
19 indefinitely.

20 (d) Factors for consideration in determining whether a person is a “legal resident” include,
21 but are not limited to, the following:

- 22 (1) The physical character of the person's residence;
- 23 (2) The amount of time spent by the person in the state, county, or municipality;
- 24 (3) The person’s place of employment;
- 25 (4) The state issuing the person’s most recent driver’s license or identification card;
- 26 (5) Registering a vehicle or other property in the state or county;
- 27 (6) Where the person receives state or federal benefits;
- 28 (7) The address listed on a person’s government-issued documents;
- 29 (8) The person’s tax filings; and
- 30 (9) Other evidence tending to demonstrate or disprove that a person seeks to remain at
31 his or her residence indefinitely.

32 (e) The amendments to this section enacted during the 2026 regular session of the
33 Legislature become effective on January 1, 2027.

§3-2-2a. Residence determinations, challenges for registration and voting.

1 (a) The residency of any person offering to register to vote may be challenged by the
2 Secretary of State or county clerk. The person challenging the validity of residency shall be
3 governed by the following rules, so far as they may apply:

4 (1) That place shall be considered the residence of a person in which that person’s
5 habitation is fixed, and to which, whenever that person is absent, that person has the intention of
6 returning. In the case of a challenge:

7 (A) In the event that a person’s usual habitation is divided by a state, county, municipal,
8 precinct, ward, or other election district, then the location of the bedroom or usual sleeping area
9 for that person with respect to the location of the boundary line at issue shall be controlling as the
10 residency of that person.

11 (B) The person challenging the residency must complete a form prescribed by the
12 Secretary of State stating, at a minimum, the name and address of the person offering to register
13 to vote and the reason for the proffered challenge. The challenge shall be filed as a matter of
14 record in the office of the applicable county clerk.

15 (i) Upon receipt of the challenge, that county clerk shall mail a notice by certified mail,
16 return receipt requested, to the person offering to register to vote, providing notice that the voter's
17 registration application will be declined if the person offering to register to vote does not appear
18 in person during business hours at the clerk's office within a period of 30 days from the mailing of
19 the notice and present to the clerk evidence of his or her residency. The form of the notice of
20 challenge transmitted by the clerk shall be prescribed by the Secretary of State.

21 (ii) If the notice of challenge is returned as undeliverable at the address of the residence
22 contained on the person's voter registration application, or, if the person offering to register to
23 vote does not appear and present evidence of residence within the prescribed time, then, the
24 person's voter registration application shall be declined. Returned mail shall constitute prima facie
25 evidence of the registrant's ineligibility.

26 (iii) If the person offering to register does appear in a timely manner, and, present evidence
27 of his or her residency, then the clerk shall determine the person's eligibility to be registered as a
28 voter as in any other case. If the reason for ineligibility is that the person offering the to register
29 does not reside at the address on the voter registration application and the person offering to
30 register to vote presents evidence of his or her residence elsewhere in the same county, then the
31 county clerk shall allow the person to complete and file a new voter registration application with
32 the correct residential address.

33 (iv) The presentation of a determination of a person's residence and the boundary line at
34 issue by a map, or, by another means available, shall constitute prima facie evidence of the
35 geographic location of the residence of that person.

36 (C) In the event that a person's residence is not a traditional residence associated with
37 real property, then the location of the usual sleeping area for that person shall be the controlling
38 factor as to the residency of that person. Residence shall be broadly construed to provide all
39 persons with the opportunity to register to vote, including their stating a mailing address different
40 from a residence address.

41 (D) A person shall not be considered to have lost his or her residence if that person leaves
42 home and goes into another state, county, municipality, precinct, ward, or other election district
43 of this State, for temporary purposes only, with the intention of returning.

44 (E) A person shall not be considered to have gained a residence in any county,
45 municipality, precinct, ward, or other election district of this State, into which he or she comes for
46 temporary purposes only, without the intention of making that county, municipality, precinct, ward,
47 or other election district a permanent place of abode.

48 (4) If the person removes to another state or county, municipality, precinct, ward, or other
49 election district within this State, with the intention of making that place a permanent residence,
50 that person shall be considered to have lost residence in the state, county, municipality, precinct,
51 ward, or other election district from which he or she has removed.

52 (5) If a person removes to another state or county, municipality, precinct, ward, or other
53 election district within this State, with the intention of remaining there an indefinite period of time
54 and making it the person's place of residence, that person shall be considered to have lost
55 residence in the state, county, municipality, precinct, ward, or other election district from which he
56 or she has removed, notwithstanding that person may possess an intention to return at some
57 future time.

58 (6) If a person goes into another state, county, municipality, precinct, ward, or other
59 election district, or into the District of Columbia, and while there exercises the right of a citizen by
60 voting in an election, that person shall be considered to have lost residence in the state, county,
61 municipality, precinct, ward, or other election district from which he or she removed.

62 (7) School teachers shall not be considered to have lost his or her residence if that person
63 leaves home and temporarily goes into another state, county, municipality, precinct, ward or other
64 election district in this State for the purposes of teaching, with the intention of returning.

65 (8) If a person removes to the District of Columbia or other federal territory to engage in
66 government service, that person shall not be considered to have lost residence in this State during
67 the period of such service unless that person votes in the place to which the person removed,
68 and the place at which that person resided at the time of that person's removal shall be considered
69 and held to be the place of residence.

70 (9) If a person removes to a county, municipality, precinct, ward, or other election district
71 to engage in the service of the government of this State, that person shall not be considered to
72 have lost residence in the county, municipality, precinct, ward, or other election district from which
73 that person removed, unless that person votes in the place to which the person removed, and the
74 place at which that person resided at the time of that person's removal shall be considered and
75 held to be the place of residence.

76 (10) The establishment of a secondary residence by an elected official outside the district
77 of the elected official shall not constitute prima facie evidence of a change of residence.

78 (11) For the purpose of voting, a spouse shall be eligible to establish a separate domicile.

79 (12) Students who intend to make a home in the community where the student attends
80 school may make that home his or her residence for voter registration purposes. The student
81 need not intend to stay in the community beyond graduation in order to establish residency there.

82 (b) This section, created by the Legislature during the 2026 regular session, becomes
83 effective on January 1, 2027.

The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the Senate

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Clerk of the House of Delegates

Originated in the Senate.

To take effect January 1, 2027.

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President of the Senate

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Speaker of the House of Delegates

The within is this the.....
Day of, 2026.

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Governor