

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 59

BY SENATORS RUCKER, ROSE, AND THORNE

[Reported February 19, 2026, from the Committee on
the Judiciary]

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

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

24 (c) For purposes of §3-1-3(a)(4):

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

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

30 (d) For purposes of §3-1-3(a)(6):

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

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

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

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

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

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

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

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

- 42 (G) The address listed on a person's government-issued documents;
- 43 (H) The person's tax filings; and
- 44 (I) Other evidence tending to demonstrate or disprove that a person seeks to remain at
- 45 his or her residence indefinitely.
- 46 (e) The amendments to this section enacted during the 2026 regular session of the
- 47 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 ~~must~~ shall be a citizen of the United States and a legal resident of
- 3 the State of West Virginia and of the county where he or she is applying to register, shall be at
- 4 least 18 years of age, except that a person who is at least 17 years of age and who will be 18
- 5 years of age by the time of the next ensuing general election may also be permitted to register,
- 6 and shall not be otherwise legally disqualified: *Provided*, That a registered voter who has not
- 7 reached 18 years of age may vote both partisan and nonpartisan ballots in a federal, state, county,
- 8 municipal, or special primary election if he or she will be 18 years of age by the time of the
- 9 corresponding 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 ~~is not eligible to~~ may not register or ~~to~~ continue
- 12 to be registered to vote while serving his or her sentence, including any period of incarceration,
- 13 probation or parole related ~~thereto~~ to the conviction. Any person who has been declared mentally
- 14 incompetent by a court of competent jurisdiction is disqualified and ~~shall not be eligible to~~ may
- 15 not register or ~~to~~ continue to be registered to vote for 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) In determining the residence of a person offering to register to vote, the following rules
2 and principles shall govern, to the extent they are applicable:

3 (1) A person's residence is that place in which the person's habitation is fixed, and to
4 which, whenever the person is absent, the person has a definite intention to return after any
5 temporary absence.

6 (2) In the event that a person's residence is divided by a state, county, municipal, precinct,
7 ward, or other election district boundary line, then the location of the bedroom or usual sleeping
8 area for that person with respect to the location of the boundary line at issue shall control as to
9 the location of the residence of that person.

10 (3) The residency of any person offering to register to vote may be challenged by the
11 Secretary of State or county clerk. The person challenging the residency of a person offering to
12 register to vote shall complete a form prescribed by the Secretary of State giving the name and
13 address of the person offering to register to vote and the reason for the challenge. The challenge
14 shall be filed as a matter of record in the office of the clerk of the county commission.

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

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

25 (4) The presentation of an accurate and current determination of a person's residence and
26 the boundary line at issue by map, survey, or other means available constitutes prima facie
27 evidence of the geographic location of the residence of that person.

28 (A) In the event that a person's residence is not a traditional residence associated with
29 real property, then the location of the usual sleeping area for that person is controlling as to the
30 residency of that person. Residence shall be broadly construed to provide all persons with the
31 opportunity to register and to vote, including stating a mailing address different from residence
32 address.

33 (B) A person does not lose his or her residence if that person leaves home and goes into
34 another state, county, municipality, precinct, ward, or other election district of this state, for
35 temporary purposes only, with the intention of returning.

36 (C) A person does not gain a residence in any county, municipality, precinct, ward, or other
37 election district of this state, into which that person comes for temporary purposes only, without
38 the intention of making that county, municipality, precinct, ward, or other election district a
39 permanent place of abode.

40 (D) If the person removes to another state or to a county, municipality, precinct, ward, or
41 other election district within this state, with the intention of making that state, county, municipality,
42 precinct, ward, or other election district a permanent residence, that person loses residence in
43 the state, county, municipality, precinct, ward, or other election district from which that person has
44 removed.

45 (E) If a person removes to another state or county, municipality, precinct, ward, or other
46 election district within this state, with the intention of remaining there an indefinite time and making
47 that state, county, municipality, precinct, ward, or other election district that person's place of
48 residence, that person shall be considered to have lost that person's place of residence in this
49 state, county, municipality, precinct, ward, or other election district from which that person has
50 removed, notwithstanding that the person may entertain an intention to return at some future time.

51 (F) If a person goes into another state, county, municipality, precinct, ward, or other
52 election district, or into the District of Columbia, and while there exercises the right of a citizen by
53 voting in an election, that person loses residence in that state, county, municipality, precinct, ward,
54 or other election district from which that person has removed.

55 (5) A school teacher shall not be considered to have lost his or her residence if that person
56 leaves home and temporarily goes into another state, county, municipality, precinct, ward, or other
57 election district in this state for the purposes of teaching, with the intention of returning.

58 (6) If a person removes to the District of Columbia or other federal territory to engage in
59 the government service, that person does not lose residence in this state during the period of
60 such service unless that person votes in the place to which the person removed, and the place at
61 which that person resided at the time of that person's removal is the place of residence.

62 (7) If a person removes to a county, municipality, precinct, ward, or other election district
63 to engage in the service of the state government, that person does not lose residence in the
64 county, municipality, precinct, ward, or other election district from which that person removed,
65 unless that person votes in the place to which the person removed, and the place at which that
66 person resided at the time of that person's removal is the place of residence.

67 (8) The establishment of a secondary residence shall not constitute prima facie evidence
68 of a change of residence.

69 (9) For the purpose of voting a spouse may establish a separate domicile.

70 (10) Any student, otherwise qualified to vote under §3-1-3 of this code, who intends to
71 make a home in the community where the student is physically present for the purpose of
72 attending school may make that home his or her residence for voter registration purposes. The
73 student does not need to intend to stay in the community beyond graduation to establish residency
74 there.

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