

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 838**

By Senator Morris

[Introduced February 9, 2026; referred  
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,  
 2 designated §3-2-2a, relating to defining residence for the purpose of registration and  
 3 voting in West Virginia.

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

**ARTICLE 2. REGISTRATION OF VOTERS.**

**§3-2-2a. Residence defined for registration and voting.**

1 (1) All election officials in determining the residence of a person offering to register or vote,  
 2 shall be governed by the following rules, so far as they may apply:

3 (A) That place shall be considered the residence of a person in which that person's  
 4 habitation is fixed, and to which, whenever that person is absent, that person has the intention of  
 5 returning, subject to the following:

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

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

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

20 (iv) If the notice of challenge is returned as undeliverable at the residence address

21 contained on the person's voter registration application, or if the person offering to register to vote  
22 does not appear and present evidence of residence within the prescribed time, the person's voter  
23 registration application shall be declined.

24 (v) The presentation of an accurate and current determination of a person's residence and  
25 the boundary line at issue by map or other means available shall constitute prima facie evidence of  
26 the geographic location of the residence of that person.

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

32 (2) A person shall not be considered to have lost that person's residence if that person  
33 leaves home and goes into another state, county, municipality, precinct, ward, or other election  
34 district of this state, for temporary purposes only, with the intention of returning.

35 (3) A person shall not be considered to have gained a residence in any county,  
36 municipality, precinct, ward, or other election district of this state, into which that person comes for  
37 temporary purposes only, without the intention of making that county, municipality, precinct, ward,  
38 or other election district a permanent place of abode.

39 (4) If the person removes to another state or county, municipality, precinct, ward, or other  
40 election district within this state, with the intention of making that state, county, municipality,  
41 precinct, ward, or other election district a permanent residence, that person shall be considered to  
42 have lost residence in the state, county, municipality, precinct, ward, or other election district from  
43 which that person has removed.

44 (5) If a person removes to another state or county, municipality, precinct, ward, or other  
45 election district within this state, with the intention of remaining there an indefinite time and making  
46 that state, county, municipality, precinct, ward or other election district that person's place of

47 residence, that person shall be considered to have lost that person's place of residence in this  
48 state, county, municipality, precinct, ward, or other election district from which that person has  
49 removed, notwithstanding that person may entertain an intention to return at some future time.

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

54 (7) School teachers who remove to a county, municipality, precinct, ward, or other election  
55 district in this state for the purpose of teaching in the schools of that county temporarily and with  
56 the intention or expectation of returning during vacation periods to live where their parents or other  
57 relatives reside in this state and who do not have the intention of becoming residents of the county,  
58 municipality, precinct, ward, or other election district to which they have moved to teach, for  
59 purposes of registration and voting shall be considered residents of the county, municipality,  
60 precinct, ward, or other election district in which their parents or other relatives reside.

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

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

72 (10) The establishment of a secondary residence by an elected official outside the district

73 of the elected official shall not constitute prima facie evidence of a change of residence.

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

75 (12) So long as a student intends to make the student's home in the community where the

76 student is physically present for the purpose of attending school while the student is attending

77 school and has no intent to return to the student's former home after graduation, the student may

78 claim the college community as the student's domicile. The student need not also intend to stay in

79 the college community beyond graduation in order to establish domicile there.

NOTE: The purpose of this bill is to define residence for purposes of registration and voting.

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