

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 902

By Senator Garcia

[Introduced February 10, 2026; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §3-1-34 and §3-3-10 of the Code of West Virginia, 1931, as
2 amended, relating to the removal of barriers to voting for disabled voters.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-34. Voting procedures generally; identification; assistance to voters; voting records; penalties.

1 (a) A person desiring to vote in an election shall, upon entering the election room, clearly
2 state his or her name and residence to one of the poll clerks who shall thereupon announce the
3 person's name and residence in a clear and distinct tone of voice. The person desiring to vote shall
4 present to one of the poll clerks a valid identifying document meeting the requirements of §3-1-
5 34(a)(1) or §3-1-34(a)(2) of this code, and the poll clerk shall inspect and confirm that the name on
6 the valid identifying document conforms to the name in the individual's voter registration record
7 and that, if the valid identifying document contains a photograph, the image displayed is truly an
8 image of the person presenting the document. If that person is found to be duly registered as a
9 voter at that precinct, he or she shall sign his or her name in the designated location provided at
10 the precinct. If that person is physically or otherwise unable to sign his or her name, his or her mark
11 shall be affixed by one of the poll clerks in the presence of the other and the name of the poll clerk
12 affixing the voter's mark shall be indicated immediately under the affixation. A ballot may not be
13 given to the person until he or she signs his or her name on the designated location or his or her
14 signature is affixed thereon.

15 (1) A document is a valid identifying document if it:

16 (A) Has been issued either by the State of West Virginia, one of its political subdivisions or
17 instrumentalities, or by the United States Government;

18 (B) Contains the name of the person desiring to vote; and

19 (C) Contains a photograph of the person desiring to vote: *Provided*, That a driver's license
20 or identification card issued in accordance with §17B-2-1(f)(4) of this code that does not contain a

21 photograph of the person desiring to vote is a valid identifying document.

22 (2) Notwithstanding the provisions of §3-1-34(a)(1) of this code, if
23 they contain the voter's name, shall be considered valid identifying documents, and a person
24 desiring to vote may produce any of the following:

25 (A) A valid West Virginia driver's license or valid West Virginia identification card issued by
26 the West Virginia Division of Motor Vehicles, including a driver's license or identification card
27 issued in accordance with §17B-2-1(f)(4) of this code.

28 (B) A valid driver's license issued by a state other than the State of West Virginia;

29 (C) A valid United States passport or passport card;

30 (D) A valid employee identification card with a photograph of the eligible voter issued by
31 any branch, department, agency, or entity of the United States Government or of the State of West
32 Virginia, or by any county, municipality, board, authority, or other political subdivision of West
33 Virginia;

34 (E) A valid student identification card with a photograph of the eligible voter issued by an
35 institution of higher education in West Virginia, or a valid high school identification card issued by a
36 West Virginia high school;

37 (F) A valid military identification card issued by the United States with a photograph of the
38 person desiring to vote; or

39 (G) A valid voter registration card that includes the voter's photograph issued by a county
40 clerk in the State of West Virginia or the Secretary of State. The county clerk or the Secretary of
41 State may not charge or collect a fee for the application or issuance of a voter registration card that
42 includes the voter's photograph.

43 (3) Any expired document identified in §3-1-34(a)(2) of this code is a valid identifying
44 document if presented by a registered voter 65 years of age or older: *Provided*, That the identifying
45 document was not expired on the registered voter's 65th birthday.

46 (4) In lieu of providing a valid identifying document, as required by this section, a registered

47 voter may be accompanied at the polling place by an adult known to the registered voter for at
 48 least six months. That adult may sign an affidavit on a form provided to clerks and poll workers by
 49 the Secretary of State, which states under oath or affirmation that the adult has known the
 50 registered voter for at least six months, and that in fact the registered voter is the same person who
 51 is present for the purpose of voting. For the affidavit to be considered valid, the adult shall present
 52 a valid identifying document with his or her name, address, and photograph.

53 (5) A poll worker may allow a voter, whom the poll worker has known for at least six
 54 months, to vote without presenting a valid identifying document.

55 (6) If the person desiring to vote is unable to furnish a valid identifying document, or if the
 56 poll clerk determines that the proof of identification presented by the voter does not qualify as a
 57 valid identifying document, the person desiring to vote shall be permitted to cast a provisional
 58 ballot after executing an affidavit affirming his or her identity pursuant to §3-1-34(a)(6)(B) of this
 59 code.

60 (A) The provisional ballot may be counted once the election authority verifies the identity of
 61 the individual by comparing that individual's signature to the current signature on file with the
 62 election authority and determines that the individual was otherwise eligible to cast a ballot at the
 63 polling place where the ballot was cast.

64 (B) The affidavit to be used for voting shall be substantially in the following form:

65 "State of West Virginia
 66 County of.....

67 I do solemnly swear (or affirm) that my name is; that I
 68 reside at.....; and that I am the person listed in the precinct register under this name
 69 and at this address.

70 I understand that knowingly providing false information is a violation of law and subjects
 71 me to possible criminal prosecution.

72

73 Signature of voter

74 Subscribed and affirmed before me this..... day of, 20....

75

76 Name of Election Official

77

78 Signature of Election Official".

79 (7) A voter who votes in person at a precinct polling place that is located in a building which
80 is part of a state licensed care facility where the voter is a resident is not required to provide proof
81 of identification as a condition before voting in an election.

82 (8) The person entering voter information into the centralized voter registration database
83 shall cause the records to indicate when a voter has not presented a valid identifying document
84 and has executed a voter identity affidavit.

85 (9) If a voter participating in the Address Confidentiality Program established by §48-28A-
86 103 of this code, executes a voter identity affidavit, the program participant's residential or mailing
87 address is subject to the confidentiality provisions of §48-28A-108 of this code and shall be used
88 only for those statutory and administrative purposes authorized by this section.

89 (10) The Secretary of State shall educate voters about the requirement to present a valid
90 identifying document and develop a program to help ensure that all eligible voters are able to
91 obtain a valid identifying document.

92 (b) The clerk of the county commission may, upon verification that the precinct at which a
93 handicapped person is registered to vote is not handicap accessible, transfer that person's
94 registration to the nearest polling place in the county which is handicap accessible. A request by a
95 handicapped person for a transfer of registration must be received by the county clerk no later than
96 30 days prior to the date of the election. A handicapped person who has not made a request for a
97 transfer of registration at least 30 days prior to the date of the election may vote a provisional ballot
98 at a handicap accessible polling place in the county of his or her registration. If during the canvass

99 the county commission determines that the person had been registered in a precinct that is not
100 handicap accessible, the voted ballot, if otherwise valid, shall be counted. The handicapped
101 person may vote in the precinct to which the registration was transferred only as long as the
102 disability exists or the precinct from which the handicapped person was transferred remains
103 inaccessible to the handicapped. To ensure confidentiality of the transferred ballot, the county
104 clerk processing the ballot shall provide the voter with an unmarked envelope and an outer
105 envelope designated "provisional ballot/handicapped voter". After validation of the ballot at the
106 canvass, the outer envelope shall be destroyed and the handicapped voter's ballot shall be placed
107 with other approved provisional ballots prior to removal of the ballot from the unmarked envelope.

108 (c) When the voter's signature is properly marked and the voter has presented a valid
109 identifying document, the two poll clerks shall sign their names in the places indicated on the back
110 of the official ballot and deliver the ballot to the voter to be voted by him or her without leaving the
111 election room. If he or she returns the ballot spoiled to the clerks, they shall immediately mark the
112 ballot "spoiled" and it shall be preserved and placed in a spoiled ballot envelope together with
113 other spoiled ballots to be delivered to the board of canvassers and deliver to the voter another
114 official ballot, signed by the clerks on the reverse side. The voter shall then retire alone to the booth
115 or compartment prepared within the election room for voting purposes and there prepare his or her
116 ballot. In voting for candidates in general and special elections, the voter shall comply with the
117 rules and procedures prescribed in §3-6-5 of this code.

118 (d) A poll clerk shall, in the presence of the other poll clerk, indicate by a check mark, or by
119 other means, inserted in the appropriate place on the registration record of each voter the fact that
120 the voter voted in the election. In primary elections the clerk shall also insert on the registration
121 record of each voter a distinguishing initial or initials of the political party for whose candidates the
122 voter voted. If a person is challenged at the polls, the challenge shall be indicated by the poll clerks
123 on the registration record, together with the name of the challenger. The subsequent removal of
124 the challenge shall be recorded on the registration record by the clerk of the county commission.

125 (e) (1) A voter may not receive any assistance in voting unless, by reason of blindness,
126 disability, advanced age, or inability to read and write, that voter is unable to vote without
127 assistance. Any voter qualified to receive assistance in voting may:

128 (A) Declare his or her choice of candidates to an Election Commissioner of each political
129 party who, in the presence of the voter and in the presence of each other, shall prepare the ballot
130 for voting in the manner provided in this section and, on request, shall read to the voter the names
131 of the candidates selected on the ballot;

132 (B) Require the Election Commissioners to indicate to him or her the relative position of the
133 names of the candidates on the ballot. The voter shall then retire to one of the booths or
134 compartments to prepare his or her ballot in the manner provided in this section;

135 (C) Be assisted by any person of the voter's choice, other than the voter's present or former
136 employer or agent of that employer, the officer or agent of a labor union of which the voter is a past
137 or present member or a candidate on the ballot or an official write-in candidate; or

138 (D) If he or she is handicapped, vote from an automobile outside the polling place or
139 precinct by the absentee balloting method provided in §3-3-5(e) of this code in the presence of an
140 Election Commissioner of each political party if all of the following conditions are met:

141 (i) The polling place is not handicap accessible; and

142 (ii) Voters are not voting or waiting to vote inside the polling place.

143 (2) The voted ballot shall then be returned to the precinct officials and secured in a sealed
144 envelope to be returned to the clerk of the county commission with all other election materials. The
145 ballot shall then be tabulated using the appropriate method provided in §3-1-8 of this code as it
146 relates to the specific voting system in use.

147 ~~(3) A voter who requests assistance in voting but who is believed not to be qualified for~~
148 ~~assistance under the provisions of this section shall be permitted to vote a provisional ballot with~~
149 ~~the assistance of any person authorized in this section to render assistance.~~

150 (4) One or more of the Election Commissioners or poll clerks in the precinct may challenge

151 ~~the ballot on the ground that the voter received assistance in voting if when in his, her or their~~
152 ~~opinion the person who received assistance in voting is not so illiterate, blind, disabled or of such~~
153 ~~advanced age as to have been unable to vote without assistance. The Election Commissioner or~~
154 ~~poll clerk or commissioners or poll clerks making the challenge shall enter the challenge and the~~
155 ~~reason for such challenge on the form and in the manner prescribed or authorized by §3-3-1 et~~
156 ~~seq. of this code.~~

157 ~~(5)~~ (3) An Election Commissioner or other person who assists a voter in voting:

158 (A) May not in any manner request or seek to persuade or induce the voter to vote a
159 particular ticket or for a particular candidate or for or against any public question and shall not keep
160 or make any memorandum or entry of anything occurring within the voting booth or compartment
161 and shall not, directly or indirectly, reveal to any person the name of a candidate voted for by the
162 voter, which ticket he or she had voted, how he or she had voted on any public question, or
163 anything occurring within the voting booth, compartment, or voting machine booth except when
164 required by law to give testimony as to the matter in a judicial proceeding; and

165 (B) Shall sign a written oath or affirmation before assisting the voter on a form prescribed
166 by the Secretary of State stating that he or she will not override the actual preference of the voter
167 being assisted, attempt to influence the voter's choice, or mislead the voter into voting for
168 someone other than the candidate of voter's choice. The person assisting the voter shall also
169 swear or affirm that he or she believes that the voter is voting free of intimidation or manipulation.

170 There is no requirement that a person providing assistance to a voter is required to sign an oath or
171 affirmation where the reason for requesting assistance is the voter's inability to vote without
172 assistance because of blindness as defined in §5-15-3 of this code and the inability to vote without
173 assistance because of blindness is certified in writing by a physician of the voter's choice and is on
174 file in the office of the clerk of the county commission.

175 ~~(6)~~ (4) In accordance with instructions issued by the Secretary of State, the clerk of the
176 county commission shall provide a form entitled "list of assisted voters", on a form as prescribed by

177 the Secretary of State. The commissioners shall enter the name of each voter receiving assistance
178 in voting the ballot, together with the poll slip number of that voter and the signature of the person
179 or the commissioner from each party who assisted the voter. If no voter has been assisted in
180 voting, the commissioners shall make and subscribe to an oath of that fact on the list.

181 (f) After preparing the ballot, the voter shall fold the ballot so that the face is not exposed
182 and the names of the poll clerks on it are seen. The voter shall announce his or her name and
183 present his or her ballot to one of the commissioners who shall hand the ballot to another
184 commissioner, of a different political party, who shall deposit it in the ballot box if the ballot is the
185 official one and properly signed. The Commissioner of Election may inspect every ballot before it is
186 deposited in the ballot box to ascertain whether it is single, but without unfolding or unrolling it so
187 as to disclose its content. When the voter has voted, he or she shall retire immediately from the
188 election room and beyond the 60-foot limit and not return except by permission of the
189 commissioners.

190 (g) Following the election, the oaths or affirmations required by this section from those
191 assisting voters, together with the "list of assisted voters", shall be returned by the Election
192 Commissioners to the clerk of the county commission along with the election supplies, records,
193 and returns. The clerk of the county commission shall make the oaths, affirmations, and list
194 available for public inspection and preserve them for a period of 22 months or until disposition is
195 authorized or directed by the Secretary of State or court of record. The clerk may use these
196 records to update the voter registration records in accordance with §3-2-18(d) of this code.

197 (h) Any person making an oath or affirmation required under the provisions of this section
198 who knowingly swears falsely or any person who counsels, advises, aids, or abets another in the
199 commission of false swearing under this section, is guilty of a misdemeanor and, upon conviction
200 thereof, shall be fined not more than \$1,000 or confined in jail for a period of not more than one
201 year, or both fined and confined.

202 (i) Any Election Commissioner or poll clerk who authorizes or provides unchallenged

203 assistance to a voter when the voter is known to the Election Commissioner or poll clerk not to
204 require assistance in voting, is guilty of a felony and, upon conviction thereof, shall be fined not
205 more than \$5,000 or imprisoned in a state correctional facility for a period of not less than one year
206 nor more than five years, or both fined and imprisoned.

§3-3-10. Challenging of absent voters' ballots.

1 (a) The official designated to supervise and conduct absentee voting may challenge an
2 absent voter's ballot on any of the following grounds:

3 (1) That the application for an absent voter's ballot has not been completed as required by
4 law;

5 (2) That any statement or declaration contained in the application for an absent voter's
6 ballot is not true;

7 (3) That the applicant for an absent voter's ballot is not registered to vote in the precinct of
8 his or her residence as provided by law;

9 (4) That the person voting an absent voter's ballot by personal appearance in his or her
10 office had assistance in voting the ballot when the person was not qualified for voting assistance
11 because: (A) The affidavit of the person who received assistance does not indicate a legally
12 sufficient reason for assistance; or (B) the person who received assistance did not make an
13 affidavit as required by this article. ~~or (C) the person who received assistance is not so illiterate as~~
14 ~~to have been unable to read the names on the ballot or that he or she is not so physically disabled~~
15 ~~as to have been unable to see or mark the absent voter's ballot;~~

16 ~~(5) That the person who voted an absent voter's ballot by mail and received assistance in~~
17 ~~voting the ballot was not qualified under the provisions of this article for assistance; and~~

18 ~~(6)~~ (5) That the person has voted absentee by mail as a result of being out of the county
19 more than four consecutive times: *Provided*, That the determination as to whether the person has
20 voted more than four consecutive times does not apply if the person is a citizen residing out of the
21 United States; or a member, spouse or dependent of a member serving in the uniformed services;

22 or a college student living outside of his or her home county.

23 (b) Any one or more of the election commissioners or poll clerks in a precinct may
24 challenge an absent voter's ballot on any of the following grounds:

25 (1) That the application for an absent voter's ballot was not completed as required by law;

26 (2) That any statement or declaration contained in the application for an absent voter's
27 ballot is not true;

28 (3) That the person voting an absent voter's ballot is not registered to vote in the precinct of
29 his or her residence as provided by law;

30 (4) That the signatures of the person voting an absent voter's ballot as they appear on his
31 or her registration record, his or her application for an absent voter's ballot and the absent voter's
32 ballot envelope are not in the same handwriting;

33 (5) That the person voting an absent voter's ballot by personal appearance had assistance
34 in voting the ballot when the person was not qualified for assistance because: (A) The affidavit of
35 the person who received assistance does not indicate a legally sufficient reason for assistance; or
36 (B) the person who received assistance did not make an affidavit as required by this article; ~~or (C)~~
37 ~~the person who received assistance is not so illiterate as to have been unable to read the names~~
38 ~~on the ballot or that he or she was not so physically disabled as to have been unable to see or mark~~
39 ~~the absent voter's ballot;~~

40 ~~(6) That the person voted an absent voter's ballot by mail and received assistance in voting~~
41 ~~the ballot when not qualified under the provisions of this article for assistance;~~

42 ~~(7)~~ (6) That the person who voted the absent voter's ballot voted in person at the polls on
43 election day;

44 ~~(8)~~ (7) That the person voted an absent voter's ballot under authority of subdivision (3),
45 subsection (b), section one of this article and is or was present in the county in which he or she is
46 registered to vote between the opening and closing of the polls on election day; and

47 ~~(9)~~ (8) On any other ground or for any reason on which or for which the ballot of a voter

48 voting in person at the polls on election day may be challenged.

49 No challenge may be made to any absent voter ballot if the voter was registered and
50 qualified to vote pursuant to the provisions of subsection (a), section one of this article.

51 (c) Forms for, and the manner of, challenging an absent voter's ballot under the provisions
52 of this article are to be prescribed by the Secretary of State.

53 (d) Absent voters' ballots challenged by the official designated to supervise and conduct
54 absentee voting under the provisions of this article are to be transmitted by the official directly to
55 the county commission sitting as a board of canvassers. The absent voters' ballots challenged by
56 the election commissioners and poll clerks under the provisions of this article may not be counted
57 by the election officials but are to be transmitted by them to the county commission sitting as a
58 board of canvassers. Action by the board of canvassers on challenged absent voters' ballots is to
59 be governed by the provisions of section forty-one, article one of this chapter.

NOTE: The purpose of this bill is to remove voting barriers for disabled voters.

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