

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4962

**FISCAL
NOTE**

By Delegates Rohrbach, Criss, Heckert, Lucas,
Chiarelli, Hornby, McCormick, Shamblin, and Amos

[Introduced January 29, 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 article,
2 designated §55-22-1, §55-22-2, §55-22-3, §55-22-4, §55-22-5, §55-22-6, §55-22-7, §55-
3 22-8, §55-22-9, §55-22-10, §55-22-11, §55-22-12, §55-22-13, §55-22-14, §55-22-15, and
4 §55-22-16, relating to drug-related nuisances; providing legislative findings; providing
5 definitions; clarifying the procedures in filing and dismissing a complaint; clarifying the
6 court's jurisdiction and power; and creating civil and criminal penalties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22. DRUG-RELATED NUISANCES.

§55-22-1. Legislative findings.

1 The Legislature finds and declares the following:
2 (1) There is a drug crisis in the State of West Virginia which is plaguing our neighborhoods
3 and our housing and rental accommodations.
4 (2) Drugs have caused an increase in crime and violence and a deterioration in the
5 habitability of housing and rental accommodations, as well as diminished property values.
6 (3) Currently there are inadequate incentives for property owners to take a more active role
7 in preventing the use of their property for the manufacture, use, sale, storage, or distribution of
8 drugs.

§55-22-2. Definitions.

1 The following words and phrases when used in this Article shall have the meanings given
2 to them in this section unless the context clearly indicates otherwise:
3 "Community-based organization" means any group, whether incorporated or
4 unincorporated, affiliated with or organized for the benefit of one or more communities or
5 neighborhoods containing an alleged drug-related nuisance, or any group organized to improve
6 the quality of life in a residential area containing the alleged drug-related nuisance.
7 "Controlled substance act" means the West Virginia Uniform Controlled Substances Act,
8 §60A-1-101 et seq. of this code.

9 "Drug-related nuisance" means:

10 (1) Any property, in whole or in part, used or intended to be used to facilitate any violation of
11 the controlled substance act or any similar ordinance of any municipality in this state or a similar
12 act of the United States or any other state or the use, sale, distribution, possession, storage,
13 transportation, or manufacture of any controlled substances in violation of the controlled
14 substance act, or similar act of the United States or any other state.

15 (2) Drug-related nuisance includes, but is not limited to, conduct unlawful in itself or
16 unreasonable under the circumstances, knowingly or recklessly creating or maintaining a
17 condition which endangers the safety or health of persons not occupying the property alleged to be
18 a drug-related nuisance, and knowingly or recklessly conducting or maintaining any premises or
19 place where persons gather for purposes of engaging in drug-related activities. For purposes of
20 this definition, "knowingly" means either actual awareness or should have reasonably known.

21 "Manufacturing" means the production, preparation, propagation, compounding,
22 conversion, or processing of a controlled substance, either directly or indirectly, by extraction from
23 substances of natural origin or independent means of chemical synthesis, including any
24 packaging or repackaging of the drug or labeling or relabeling of its container.

25 "Owner" means an individual, corporation, partnership, trust association, joint venture, or
26 any other business entity, and the respective agents of the individuals or entities, in whom is
27 vested all or any part of the title to the property alleged to be a drug-related nuisance.

28 "Property" means tangible real property, or an interest in real property, including an interest
29 in any leasehold, license, or real estate, including any house, apartment building, condominium,
30 cooperative, office building, store, restaurant, tavern, nightclub, or warehouse, and the land
31 extending to the boundaries of the lot upon which the structure is situated, and anything growing
32 on, affixed to, or found on the land.

33 "Prosecuting attorney" means the Attorney General, prosecuting attorney, or county,
34 municipal, or private attorney bringing a drug-related nuisance action.

35 "Tenant" means a person who resides in or occupies property belonging to another person
36 pursuant to a lease agreement, or pursuant to a tenancy under the common law.

§55-22-3. Who may file action to abate, enjoin, and prevent drug-related nuisance; commencement of action.

1 Wherever there is reason to believe that a drug-related nuisance exists, the prosecuting
2 attorney or a person residing in the county in which the property is located, including a tenant of the
3 property or any community-based organization, may file an action in the circuit courts of this state
4 to abate, enjoin, and prevent the drug-related nuisance. The actions shall be commenced by the
5 filing of a complaint in circuit court of the county in which the nuisance is situated alleging the facts
6 constituting the drug-related nuisance.

§55-22-4. Contents of complaint; supporting affidavits.

1 (a) The complaint or an affidavit attached thereto shall describe the adverse impact
2 associated with the drug-related nuisance upon the surrounding neighborhood. Adverse impact
3 includes, without limitation, the presence of any one or more of the following conditions:
4 (1) Diminished property value;
5 (2) Increased fear of residents to walk through or in public areas, including sidewalks,
6 streets, alleys, and parks;
7 (3) Increased volume of vehicular and pedestrian traffic to and from the property;
8 (4) An increase in the number of ambulance or police calls to the property which are related
9 to the use of drugs, or to violence stemming from drug-related activity;
10 (5) Bothersome solicitors or approaches by strangers wishing to sell drugs, or the
11 aggressive solicitation of alms, on or near the property;
12 (6) The display of dangerous weapons on or near the property;
13 (7) Investigative purchases of drugs by law enforcement officers on or near the property;
14 (8) Arrests of persons on or near the property;
15 (9) Housing code violations relating to the property;

16 (10) Health code violations relating to the property;
17 (11) Accumulation of trash and refuse in common areas on or adjacent to the property;
18 (12) Unsecured entryways on the property;
19 (13) Unreasonable noise;
20 (14) Search warrants served or executed at the property;
21 (15) The number of complaints made to law enforcement and other government officials
22 about the alleged illegal activity associated with the property;
23 (16) The discharge of a firearm at the property; or
24 (17) Violations of zoning laws or regulations at the property.

25 (b) The complaint shall contain a description of attempts made by the plaintiff, or any other
26 person or entity, to notify the owner of the property on which the drug-related nuisance is situated
27 and the resulting adverse impact thereof. No complaint shall be filed unless there has been at least
28 one notice to the owner of the alleged drug-related nuisance 21 days prior to the filing of the
29 complaint. Notice shall be served on the owner in accordance with the West Virginia Rules of Civil
30 Procedure. If personal service cannot be made, service may be made by posting the papers at the
31 property.

32 (c) When an action is brought under this Article by a private individual, the complaint shall
33 be supported by at least five residents residing or owning real property within 1,000 feet of the
34 premises alleged to be a drug-related nuisance. The support shall be in the form of an affidavit
35 attesting to the fact that the residence of the affiant is within 1,000 feet of the alleged drug-related
36 nuisance, and that the affiants have witnessed the alleged drug-related nuisance and are aware of
37 an adverse impact of the alleged drug-related nuisance.

§55-22-5. Service of summons and complaint.

1 A copy of the summons and complaint shall be served upon the defendant at least 14
2 business days prior to the first hearing in the action. Service shall be made in accordance with the
3 West Virginia Rules of Civil Procedure. If personal service cannot be made, service may be made

4 by posting the papers at the property. If service is made by posting papers to the property, a copy
5 of the summons and complaint shall be mailed to the last known mailing address, if any, of the
6 defendant.

§55-22-6. Motion for preliminary injunction; consolidation of trial with hearing on motion; other equitable relief.

1 (a) Upon a filing of a motion for a preliminary injunction to abate the drug-related nuisance,
2 the plaintiff shall be entitled to a hearing on the motion within 20 business days of the filing. If it
3 appears by affidavit or otherwise, that there is a substantial likelihood that the plaintiff will be able
4 to prove a drug-related nuisance by a preponderance of evidence, the circuit court may issue a
5 preliminary injunction and grant other relief as the court may deem to be appropriate, including
6 those remedies provided by §55-22-14 of this code.

7 (b) When appropriate, the court shall order the trial of the action on the merits to be
8 advanced and consolidated with the hearing on the motion for a preliminary injunction.

9 (c) This section shall not be construed to prohibit the application for or the granting of a
10 temporary restraining order or other equitable relief provided by law.

§55-22-7. Issuance of ex parte restraining order; service; inventory of property relating to nuisance; violation of order; contempt of court.

1 (a) The court, upon the application of the plaintiff, may issue an ex parte restraining order,
2 restraining the defendant and all other persons from removing, or in any manner interfering with,
3 the personal property and contents of the place where the drug-related nuisance is alleged to
4 exist, until a decision of the court granting or refusing to grant a temporary injunction, or until
5 further order of the court.

6 (b) The restraining order may be served by handing it to and leaving a copy of the order
7 with any person appearing to reside therein, or by posting a copy thereof in a conspicuous place at
8 or upon one or more of the principal doors or entrances to the place, or by both delivery and
9 posting.

10 (c) The officer serving a restraining order shall forthwith attempt to make and return to the
11 court an inventory of the personal property and contents situated in, and apparently used in,
12 conducting or maintaining the drug-related nuisance. Any violation of the restraining order shall be
13 a contempt of court, and where the order is posted, if it is removed or mutilated while it remains in
14 force, is a contempt of court, provided that the posted order contains a notice to that effect.

§55-22-8. Civil penalty.

1 In any action brought under this article, the complainants may request, and the court at its
2 discretion may order a civil penalty of up to \$1,000 for each day the nuisance exists, with the
3 penalty payable one-half to the state and one-half to the general fund of the municipality in which
4 the nuisance was located, or one-half to the state and one-half to the general fund of the county if
5 situated outside the boundaries of a municipality.

§55-22-9. Protection of witnesses.

1 If proof of the existence of the drug-related nuisance depends, in whole or in part, upon the
2 affidavits of witnesses who are not law enforcement officers, upon a showing of prior threats of
3 violence or acts of violence by any defendant or other person using the property alleged to be a
4 drug-related nuisance, the court may issue orders to protect those witnesses, including, but not
5 limited to, nondisclosure of the name, address, or any other identifying information.

§55-22-10. Previous conviction not required.

1 A previous conviction of the defendant, or anyone, shall not be required to demonstrate a
2 drug-related nuisance.

§55-22-11. Security bond.

1 No security bond shall be required to issue a preliminary injunction or temporary
2 restraining order sought by the prosecuting attorney. Otherwise, at the discretion of the court, a
3 security bond may be required to issue a preliminary injunction or temporary restraining order.
4 Where relief is issued after an evidentiary hearing at which witnesses are subject to cross
5 examination, the court shall not require a security bond in excess of \$1,000.

§55-22-12. Evidence of general reputation of property.

1 In an action brought under this article, evidence of the general reputation of the property of
2 the defendant shall be admissible for the purpose of proving a drug-related nuisance, and for the
3 purpose of proving the knowledge of the defendant of the drug-related nuisance.

§55-22-13. Dismissal of complaint filed by private citizen; prosecution by prosecuting
attorney; substitution of complainant.

1 (a) If a complaint is filed by a private citizen, it may not be dismissed except upon a sworn
2 statement by the complainant and his or her attorney, setting forth the reason why the action
3 should be dismissed. A copy of the sworn statement shall be sent to the Attorney General and the
4 county prosecuting attorney at least seven days prior to its presentment to the court.

5 (b) If the court is of the opinion that the action should not be dismissed, it may direct the
6 prosecuting attorney to prosecute the action to judgment.

7 (c) Any citizen of the county in which the alleged drug-related nuisance is located, or an
8 interested community-based organization, may be substituted for the complainant and prosecute
9 the action to judgment.

§55-22-14. Standard of proof; damages and other relief; jurisdiction and powers of court;
appointment of receiver; eviction of tenant.

1 (a) The plaintiff is required by a preponderance of the evidence to establish that a drug-
2 related nuisance exists. An owner of the property who is not a resident or in actual possession of
3 the property may be referred to the prosecutor for aiding and abetting in the drug-related nuisance.

4 (b) If the existence of a drug-related nuisance is found, the judgment may include actual
5 damages and an injunction to restrain, abate, and prevent the continuance or recurrence of the
6 drug-related nuisance. The court may grant declaratory relief, mandatory orders, or any other
7 relief deemed necessary to accomplish the purposes of the injunction or order and enforce the
8 judgment or order.

9 (c) The court may retain jurisdiction of the case for the purpose of enforcing its orders.

10 (d) If the existence of a drug-related nuisance is found, the court shall have additional
11 power to fashion any one or more of the following remedies:

12 (1) Assess damages against the defendant in favor of each plaintiff of not less than \$300
13 nor more than \$40,000, or a lien on the property;

14 (2) Assess costs of the action against the defendant;

15 (3) Assess reasonable attorney fees since the filing of the complaint, payable to a private
16 attorney filing the complaint or the municipal, county, or state agency by which the prosecuting
17 attorney is employed;

18 (4) When a government agency is a plaintiff in the action, assess a fine against the
19 defendant of not less than \$500 nor more than \$50,000 payable one-half to the state and one-half
20 to the general fund of the municipality in which the nuisance was located, or one-half to the state
21 and one-half to the general fund of the county if situated outside the boundaries of a municipality,
22 in addition to attorney fees;

23 (5) Order the owner to clean up the property and make repairs upon the property;

24 (6) Suspend or revoke any business, housing, operational, or liquor license. The
25 suspension of any beer, wine, or liquor license held by or belonging to the defendant for at least 90
26 days is mandatory if the court finds a drug-related nuisance;

27 (7) Order the owner to make additional reasonable expenditures upon the property,
28 including, but not limited to, installing secure locks on doors, hiring private security personnel,
29 increasing lighting in common areas, and using videotaped surveillance of the property and
30 adjacent alleyways, sidewalks, and parking lots;

31 (8) Order all rental income from the property to be placed in an escrow account with the
32 court for up to 90 days or until the drug-related nuisance is abated;

33 (9) Order all rental income for property transferred to a trustee, to be appointed by the
34 court, who shall be empowered to use the rental income to take reasonable expenditures related
35 to the property in order to abate the drug-related nuisance;

36 (10) Order the suspension of any state, city, or local governmental subsidies payable to the
37 owners of the property, including, but not limited to, tenant assistance payments to landlords, until
38 the nuisance is abated; or

39 (11) Allow the plaintiff to secure the property with the cost of sealing payable by the
40 defendant.

41 (e) In making any order under this article, the court shall consider, among others, the
42 following factors:

43 (1) The effect the drug-related nuisance has had on the community;
44 (2) The number of people residing at the property;
45 (3) The proximity of the property to other residential structures;
46 (4) The number of times the property has been cited for housing code or health code
47 violations;

48 (5) The number of times the owner has been notified of drug-related problems at the
49 property;

50 (6) The extent and duration of the drug-related nuisance at the time of the order;
51 (7) Prior efforts or lack of effort by the defendant to abate the drug-related nuisance;
52 (8) The involvement of the owners in the drug-related nuisance;

53 (9) The costs incurred by the jurisdiction, community-based organization, individuals, or
54 their attorneys, investigating, correcting, or attempting to correct the drug-related nuisance;

55 (10) Whether the drug-related nuisance was continuous or recurring;
56 (11) The economic or financial benefit accruing or likely to accrue to the defendant as a
57 result of the conditions constituting the drug-related nuisance; or

58 (12) Any other factors the court deems relevant.
59 (f) In making an order under subsection (d), the court shall not consider the lack of action
60 by other property owners to abate alleged drug-related nuisances.

61 (g) If the building is ordered closed, then the court shall appoint a receiver to sell all of the

62 furnishings and fixtures located in the building which are owned by the building owner and place
63 the funds from the sale in an escrow account to be used to satisfy the judgment. If the proceeds
64 are inadequate to pay the judgment, the court may order public sale of the property with the
65 proceeds to be paid into an escrow account.

66 (h) The owner of the property on which a tenant maintains a drug-related nuisance may in
67 the same proceeding seek the eviction of the tenant.

§55-22-15. Violation of court order; additional orders necessary to abatement; suspension
or cancellation of order.

1 (a) A violation of any court order issued pursuant to this article is punishable as a contempt
2 of court by a fine of not less than \$500 nor more than \$75,000, or by imprisonment for not more
3 than one year, or both. Evidence concerning the duration and repetitive nature of the violations
4 shall be considered by the court in determining the penalty for contempt.

5 (b) Upon finding that a defendant has willfully violated an order issued pursuant to this
6 Article, the court may issue any additional orders necessary to abate the drug-related nuisance or
7 to carry out the punishment for contempt.

8 (c) The court may suspend the effectiveness of an order of abatement for no more than 90
9 days if the owner of the property establishes that he or she had no knowledge of the drug-related
10 nuisance, and could not reasonably be expected to have knowledge, and the owner avers under
11 oath that he or she will immediately undertake specified measures to abate the nuisance for the
12 following two-year period. An abatement order issued pursuant to this subsection may not be
13 issued for the benefit of a defendant who has been found in contempt of court as part of the same
14 action. An order issued pursuant to this subsection is a suspension and is not a withdrawal of the
15 original order.

16 (d) The courts shall cancel the order of abatement if the owner of the property satisfies the
17 court that the drug-related nuisance has been abated for the past 90 days, corrects all housing
18 code and health code violations, and posts a bond in an amount to be determined by the court,

19 which shall be immediately forfeitable if the drug-related nuisance recurs during the following two-
20 year period.

§55-22-16. Frivolous or bad faith action.

1 Upon a finding by the court that a claim brought under this article was brought in bad faith
2 or for the purposes of harassment, the court may award reasonable attorney's fees and expenses
3 to the defendant.

NOTE: The purpose of this bill is to create legal procedures and penalties for drug related nuisances.

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