

SB 59 -- Redline

Committee Substitute to sb59 hjud am. _1 3-9 adopted.htm -- Relating to voter eligibility and residency requirements

Deletions ~~struck~~ · Insertions underlined

~~WESTSB59 VIRGINIAHJUD LEGISLATUREAM. REGULAR SESSION Enrolled Committee Substitute for Senate Bill 59 BYSENATORSRUCKER, OSE,ANDTHORNE [Passed March 13, 2026;~~

~~to#1 take3-9Casto effect3264The JanuaryCommittee 1, on 2027]the EnrJudiciary CSmoved for SB 59 AN ACT to amend andthe reenactbill Sec.3-1-3by andstriking Sec.3-2-2out ofeverything after the Codeenacting ofclause Westand Virginia,inserting 1931,in aslieu amended;thereof the following:~~
~~andCHAPTER to3 amendARTICLE the1. code by adding a new section, designated Sec.3-2-2a, relating to voter eligibility and residency requirements;~~

~~requiring that a person be a legal resident of the state, county, or municipality in which he or she offers to vote;~~

~~defining terms;~~

~~providing factors for consideration when determining if a person is a legal resident;~~

~~setting forth rules and principles for the determination of the residence of a person;~~

~~providing for challenging the residency of a person;~~

~~and providing effective dates.~~

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

~~ARTICLE 1.~~

(a) Citizens of the state may vote at all elections held within the precincts of the counties and municipalities in which they respectively reside, but a person may not vote in a federal, state, county, municipal, or special election unless the ~~person:~~person:(1) Is registered to vote as required by law;(2) Is 18 years of age, except that a person may vote in a primary election if he or she will reach the age of 18 years on or before the date of the next general election held after the primary election;(3) Has not been determined by a final judgment of a circuit court exercising jurisdiction pursuant to Sec.44A-1-2(c) of this code to be totally mentally incompetent;(4) Has not been convicted of treason, a felony, or bribery in an election or, if convicted, has:(A) Had his or her sentence fully discharged, including any term of incarceration, parole, supervision, or period of probation ordered by any court;

~~(1)or(B) IsBeen registeredpardoned or otherwise formally released from the resulting disability to votevote;(5) asIs requireda byUnited law;States citizen;~~

~~(2)and(6) Is 18a yearsbona offide age,legal exceptresident thatof a the personstate, maycounty, voteor municipality in awhich primary election if he or she willoffers reachto thevote.(b) ageFor purposes of 18Sec.3-1-3(a)(3), yearsa onperson oris beforequalified to vote upon certification in writing by the dateclerk of the nextcircuit generalcourt electionof heldan afterorder or other official determination filed with his or her office that the primaryperson election;is no longer totally mentally incompetent:~~

~~(3)Provided, HasThat a copy of the order or other official determination shall not beenbe determinedprovided without further order by a finalcourt judgmentof competent jurisdiction or written permission signed by the person to whom the order or official determination pertains.(c) For purposes of Sec.3-1-3(a)(4):(1) A person convicted of a circuitdisqualifying courtcrime exercisingmay jurisdictionnot pursuantvote tofrom Sec.44A-1-2(c)the date of thisadjudication codeof tothat becrime, totallynotwithstanding mentallyany incompetent;pending sentencing order, post-trial motions, direct appeals, or other post-conviction requests for relief;~~

~~(4)and(2) HasA person is not considered to have been convicted of treason,a disqualifying crime where the criminal proceedings are deferred and there is no adjudication of guilt as to the disqualifying crime.(d) For purposes of Sec.3-1-3(a)(6):(1) "Legal resident" means a felony,person who is domiciled in the state, county, or bribery municipality in which he or she offers to vote and includes both physical presence within the state, county, or municipality and an electionintent or,to ifremain convicted,in has:the state, county, or municipality indefinitely.~~

~~(A)(2) HadFactors hisfor orconsideration herin sentencedetermining fullywhether discharged,a includingperson anyis term of"legal incarceration,resident" parole,include, supervision,but orare periodnot oflimited probationto, orderedthe byfollowing:(A) anyThe court;physical character of the person's residence;~~

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

~~(5) Is a United States citizen;~~

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

~~Enr CS for SB 59 (b) For purposes of Sec.3-1-3(a)(3), a person is requalified to vote upon certification in writing by the clerk of the circuit court of an order or other official determination filed with his or her office that the person is no longer totally mentally incompetent:~~

~~Provided, That a copy of the order or other official determination shall not be provided without further~~

~~order by a court of competent jurisdiction or written permission signed by the person to whom the order or official determination pertains.~~

~~(c) For purposes of Sec.3-1-3(a)(4):~~

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

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

~~(d) For purposes of Sec.3-1-3(a)(6):~~

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

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

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

~~(C) The person's place of employment;~~employment;~~(D) The state issuing the person's most recent driver's license or identification card;~~

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

~~(G) (G) The address listed on a person's government-issued documents;~~documents;~~(H) The person's tax filings;~~

~~(H) and (I) The other person's evidence tending to demonstrate or disprove that a person seeks to remain at his or her residence indefinitely.~~

~~and Enr CS for SB 59 (I) Other evidence tending to demonstrate or disprove that a person seeks to remain at his or her residence indefinitely.~~

To be qualified, a person must shall be a citizen of the United States and a legal resident of the State of West Virginia and of the county where he or she is applying to register, shall be at least 18 years of age, except that a person who is at least 17 years of age and who will be 18 years of age by the time of the next ensuing general election may also be permitted to register, and shall not be otherwise legally disqualified:

Provided, That a registered voter who has not reached 18 years of age may vote both partisan and nonpartisan ballots in a federal, state, county, municipal, or special primary election if he or she will be 18 years of age by the time of the corresponding general ~~election.~~election.~~(b) Any person who has been convicted of a felony, treason, or bribery in an election, under either state or federal law, is disqualified and is not eligible to may not register or to continue to be registered to vote while serving his or her sentence, including any period of incarceration, probation or parole related thereto to the conviction.~~

~~(b) Any person who has been convicted declared of mentally incompetent felony, by treason, a or court bribery of incompetent jurisdiction election, is under disqualified either and states shall or not federal be law, eligible is to disqualified and may not register or to continue to be registered to vote while for serving as his long or as her that sentence, disability including continues.~~~~(c) any For period purposes of incarceration, this probation section, "legal resident" means a person who is domiciled in the state, county, or parole municipality related in which he or she offers to vote and includes both physical presence within the conviction state, county, or municipality and an intent to remain in the state, county, or municipality indefinitely.~~

~~Any (d) person Factors who for has consideration been in declared determining mentally whether incompetent by a court person of is competent a jurisdiction "legal is resident" disqualified include, and but may are not register limited or to, continue the to following: (1) be The registered physical to character vote of for the as person's long residence; as that disability continues.~~

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

~~Enr CS for SB 59 (d) Factors for consideration in determining whether a person is a "legal resident" include, but are not limited to, the following:~~

~~(1) The physical character of the person's residence;~~

~~(3) The person's place of employment;~~employment;~~(4) The state issuing the person's most recent driver's license or identification card;~~

~~(4) The state issuing the person's most recent driver's license or identification card;~~

~~(7) (7) The address listed on a person's government-issued documents;~~documents;~~(8) The person's tax filings;~~

~~(8) and (9) The other person's evidence tending to demonstrate or disprove that a person seeks to remain at his or her residence indefinitely.~~

~~and (9) Other evidence tending to demonstrate or disprove that a person seeks to remain at his or her residence indefinitely.~~

The person challenging the validity of residency shall be governed by the following rules, so far as they may ~~apply~~:apply:(1) That place shall be considered the residence of a person in which that person's habitation is fixed, and to which, whenever that person is absent, that person has the intention of returning.

~~(1) In That place shall be considered the residence~~case of a person challenge:(A) in In which the event that a person's usual habitation is fixed, divided and by to a which, State, whenever county, municipal, precinct, ward, or other election district, then the location of the bedroom or usual sleeping area for that person is with absent, respect to the location of the boundary line at issue shall be controlling as the residency of that person.(B) The person ~~has~~challenging the ~~intention~~residency must complete a form ~~prescribed by the Secretary of returning.~~State stating, at a minimum, the name and address of the person offering to register to vote and the reason for the proffered challenge.

~~In the case of a challenge:~~

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

~~Enr CS for SB 59 (B) The person challenging the residency must complete a form prescribed by the Secretary of State stating, at a minimum, the name and address of the person offering to register to vote and the reason for the proffered challenge.~~

Returned mail shall constitute prima facie evidence of the registrant's ~~ineligibility.~~ineligibility.(iii) If the person offering to register does appear in a timely manner, and, present evidence of his or her residency, then the clerk shall determine the person's eligibility to be registered as a voter as in any other case.

~~(iii) If the reason for ineligibility is that the person offering the to register does appear not in reside at timely the manner, address and on present the voter registration application and the person offering to register to vote presents evidence of his or her residency, residence elsewhere in the same county, then the county clerk shall determine allow the person's person eligibility to be complete registered and as file a new voter registration application with the correct residential address.~~(iv) The presentation of a determination of a person's residence and the boundary line at issue by a map, or, by another means available, shall constitute prima facie evidence of the geographic location of the residence of that person.(C) In the event that a person's residence is not a traditional residence associated with real property, then the location of the usual sleeping area for that person shall be the controlling factor as ~~into any the other residency case.~~of that person.

~~If Residence the shall reason be for broadly ineligibility construed into that provide the all person persons offering with the opportunity to register do to not vote, reside including at their the stating a mailing address and different the from voter a registration residence application address.~~(D) A person shall not be considered to have lost his or her residence if that person leaves home and goes into another state, county, municipality, precinct, ward, or other election district of this State, for temporary purposes only, with the intention of returning.(E) A person ~~offerings shall to not register be considered to vote have presents gained evidence a residence in any county, municipality, precinct, ward, or other election district of his this State, into which he or her she residence comes elsewhere for intemporary purposes only, without the same intention of making that county, then municipality, precinct, ward, or other election district a permanent place of abode.~~(4) If the ~~county person clerk removes shall to allow another state or county, municipality, precinct, ward, or other election district within this State, with the intention of making that place a permanent residence, that person shall be considered to complete have and lost file residence in the state, county, municipality, precinct, ward, or other election district from which he or she has removed.~~(5) If a ~~new person voter removes registration to application another state or county, municipality, precinct, ward, or other election district within this State, with the correct intention residential of address.~~remaining there an indefinite period of time and making it the person's place of residence, that person shall be considered to have lost residence in the state, county, municipality, precinct, ward, or other election district from which he or she has removed, notwithstanding that person may possess an intention to return at some future time.

~~(iv) (6) The If presentation a person goes into another state, county, municipality, precinct, ward, or other election district, or into the District of a Columbia, determination and while there exercises the right of a person's citizen by voting in an election, that person shall be considered to have lost residence in the state, county, municipality, precinct, ward, or other election district from which he or she removed.~~(7) School teachers shall not be considered to have lost his or her residence if that person leaves home and temporarily goes into another state, county, municipality, precinct, ward or other election district in this State for the ~~boundary purposes line of at teaching, issue with by the intention of returning.~~(8) If a ~~map, person or, removes by to another the means District available, of Columbia or other federal territory to engage in government service, that person shall constitute not primabe facie considered evidence to have lost residence in this State during the period of such service~~

unless that person votes in the geographic place location to of which the residence person removed, and the place at which that person resided at the time of that person's removal shall be considered and held to be the place of residence.

~~Enr (9) CS If for a SB person 59 removes (C) to In a county, municipality, precinct, ward, or other election district to engage in the event service that of a the person's government residence of is this State, that person shall not be traditional considered to have lost residence associated in with the real county, property, municipality, then precinct, ward, or other election district from which that person removed, unless that person votes in the location place of to which the usual person sleeping removed, area and for the place at which that person resided at the time of that person's removal shall be considered and held to be the controlling place factor of as residence. (10) to The establishment of a secondary residence by an elected official outside the residency district of the elected official shall not constitute prima facie evidence of a change of residence. (11) For the purpose of voting, a spouse shall be eligible to establish a separate domicile. (12) Students who intend to make a home in the community where the student attends school may make that person home his or her residence for voter registration purposes.~~

~~Residence shall be broadly construed to provide all persons with the opportunity to register to vote, including their stating a mailing address different from a residence address.~~

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

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

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

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

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

~~Enr CS for SB 59 (7) School teachers shall not be considered to have lost his or her residence if that person leaves home and temporarily goes into another state, county, municipality, precinct, ward or other election district in this State for the purposes of teaching, with the intention of returning.~~

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

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

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

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

~~(12) Students who intend to make a home in the community where the student attends school may make that home his or her residence for voter registration purposes.~~

~~Enr Adopted Rejected CS for SB 59 The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.~~

~~.....~~
~~Clerk of the Senate~~

~~Clerk of the House of Delegates Originated in the Senate.~~

~~To take effect January 1, 2027.~~
~~.....~~

~~President of the Senate~~

~~Speaker of the House of Delegates~~ ~~The within is~~

~~this the~~

~~Day of~~

~~2026~~

~~Governor~~

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