

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2119

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WALKER

[Introduced February 10, 2021; Referred to the
Committee on Political Subdivisions then the
Judiciary]

1 A BILL to amend and reenact §3-3-2a of the Code of West Virginia, 1931, as amended, relating
2 to electioneering, or distributing literature at early voting locations.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. VOTING BY ABSENTEES.

§3-3-2a. Early voting areas; prohibition against display of campaign material.

1 (a) The county commission shall designate the courthouse or annex to the courthouse as
2 the primary location for early in-person voting and, in addition, the commission may designate
3 other locations as provided in subsection (b) of this section.

4 (b) The county commission may, with the approval of the county clerk or other official
5 charged with the administration of elections, designate community voting locations for early in-
6 person voting, other than the county courthouse or courthouse annex, by a majority of the
7 members of the county commission voting to adopt the same at a public meeting called for that
8 purpose.

9 (1) The county commission shall publish a notice of its intent to designate a community
10 voting location at least 30 days prior to the designation. Notice shall be by publication as a Class
11 II-0 legal advertisement in compliance with provisions of §59-3-1 *et seq.* of this code. The
12 publication area is the county in which the community voting location or locations are designated;

13 (2) Community voting locations shall comply with requirements of this article for early in-
14 person voting, criteria prescribed by the Secretary of State, and the following criteria:

15 (A) The location can be scheduled for use during the early voting period;

16 (B) The location has the physical facilities necessary to accommodate early voting
17 requirements;

18 (C) The location has adequate space for voting equipment, poll workers, and voters; and

19 (D) The location has adequate security, public accessibility, and parking.

20 (3) The county executive committees of the two major political parties may nominate sites
21 to be used as community voting locations during the early voting period;

22 (4) Upon the designation of a community voting location, the county clerk shall, not less
23 than 30 days prior to an election, give notice of the community voting location address and the
24 dates and times when the location will be open for early voting by publication as a Class II-0 legal
25 advertisement in compliance with provisions of §59-3-1 *et seq.* of this code;

26 (5) Voting shall be conducted at each designated community voting location for a period
27 of not less than five consecutive days during the early in-person voting period authorized by §3-
28 3-3 of this code, but need not be conducted at each location for the entire period of early in-person
29 voting;

30 (6) The county commission, with the approval of the county clerk, may authorize
31 community voting locations on a rotating basis, wherein a community voting location may be used
32 for less than the full period of early in-person voting.

33 (7) If more than one community voting location is designated, each location shall be used
34 for an equal number of voting days and permit voting for the same number of hours per day; and

35 (8) Once a community voting location is designated it may continue to be used in
36 subsequent elections without complying with the public notice requirements of subdivision (1) of
37 this subsection if the county commission finds, and the county clerk agrees, at least 50 days, but
38 not more than 80 days prior to the election, that the location continues to qualify under this section.

39 (c) The Secretary of State shall propose legislative and emergency rules in accordance
40 with ~~the provisions of~~ §29A-3-1 *et seq.* of this code as may be necessary to implement the
41 provisions of this section. The rules shall include establishment of criteria to assure neutrality and
42 security in the selection of community voting locations.

43 (d) Throughout the period of early in-person voting, the official designated to supervise
44 and conduct early in-person voting shall make the following provisions for voting:

45 (1) The official shall provide a sufficient number of voting booths or devices appropriate to
46 the voting system at which voters may prepare their ballots. The booths or devices are to be in
47 an area separate from, but within clear view of, the public entrance area of the official's office or

48 other area designated by the county commission for early in-person voting and are to be arranged
49 to ensure the voter complete privacy in casting the ballot.

50 (2) The official shall make the voting area secure from interference with the voter and shall
51 ensure that voted and unvoted ballots are at all times secure from tampering. No person, other
52 than a person lawfully assisting the voter according to ~~the provisions of~~ this chapter, may be
53 permitted to come within five feet of the voting booth while the voter is voting. No person, other
54 than the officials or employees of the official designated to supervise and conduct early in-person
55 voting or members of the board of ballot commissioners assigned to conduct early in-person
56 voting, may enter the area or room set aside for voting.

57 (3) (A) The official designated to supervise and conduct early in-person voting shall
58 request the county commission designate another area within the county courthouse, any annex
59 of the courthouse or any other designated as early in-person community voting locations within
60 the county, as a portion of the official's office, for the purpose of early in-person voting in the
61 following circumstances:

62 (i) If the voting area is not accessible to voters with physical disabilities;

63 (ii) If the voting area is not within clear view of the public entrance of the office of the official
64 designated to supervise and conduct early in-person voting; or

65 (iii) If there is no suitable area for early in-person voting within the office.

66 (B) Any designated area is subject to the same requirements as the primary location for
67 early in-person voting.

68 (4) The official designated to supervise and conduct early in-person voting shall have at
69 least two representatives to assist with early in-person voting: *Provided*, That the two
70 representatives may not be registered with the same political party affiliation or be two persons
71 registered with no political party affiliation. The representatives may be full-time employees,
72 temporary employees hired for the period of early in-person voting in person, or volunteers.

73 ~~(5) No person may do any electioneering nor may any person display or distribute in any~~

74 ~~manner, or authorize the display or distribution of, any literature, posters, or material of any kind~~
75 ~~which tends to influence the voting for or against any candidate or any public question on the~~
76 ~~property of the county courthouse, any annex facilities, or within 100 feet of the outside entrance~~
77 ~~of any other designated early voting locations within the county during the entire period of regular~~
78 ~~early in-person voting. The official designated to supervise and conduct early in-person voting is~~
79 ~~authorized to remove the material and to direct the sheriff of the county to enforce the prohibition~~
80 Electioneering display or distribution of campaign materials during in person absentee voting shall
81 conform to the requirements of §3-9-9 of this code.

NOTE: The purpose of this bill is to provide requirements regarding campaign materials during early in person voting and on Election Day.

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