

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4593

BY DELEGATES KIMBLE, G. WARD, MAZZOCCHI, PRITT,
CONLEY, PHILLIPS, MCGEEHAN , PINSON, BURKHAMMER,
SYPOLT, AND FAST

[Introduced February 09, 2022; Referred to the
Committee on Political Subdivisions then Government
Organization then the Judiciary]

1 A BILL to amend and reenact §3-1A-6 of the Code of West Virginia, 1931, as amended, relating
2 to requiring the Secretary of State to refer potential election fraud to the Attorney General
3 for prosecution instead of a county prosecuting attorney.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1A. STATE ELECTION COMMISSION AND SECRETARY OF STATE.

§3-1A-6. Powers and duties of Secretary of State; exercise of powers by appointees.

1 (a) The Secretary of State shall be the chief election official of the state. Except for those
2 rules required by the provisions of §3-1A-5 of this code to be promulgated by the commission, the
3 Secretary of State ~~shall have the authority~~ may, after consultation with the state Election
4 Commission, of which he or she is a member, ~~to~~ make, amend and rescind such orders and to
5 promulgate legislative rules, in accordance with ~~the provisions of~~ Chapter 29A of this code, as
6 may be necessary to standardize and make effective the provisions of this chapter. All election
7 officials, county commissions, clerks of county commissions, clerks of circuit courts, boards of
8 ballot commissioners, election commissioners and poll clerks shall abide by any orders that may
9 be issued and any legislative rules that may be promulgated by the Secretary of State and the
10 commission.

11 (b) The Secretary of State also ~~shall have authority to~~ may require collection and report of
12 statistical information and to require other reports by county commissions, clerks of county
13 commissions and clerks of circuit courts.

14 (c) The Secretary of State shall also advise with election officials; furnish to the election
15 officials a sufficient number of indexed copies of the current election laws of West Virginia and
16 the administrative orders and rules issued or promulgated thereunder; investigate the
17 administration of election laws, frauds and irregularities in any registration or election; report
18 violations of election laws to the appropriate prosecuting officials; and prepare an annual report.

19 (d) The Secretary of State ~~shall also have the power to~~ may administer oaths and
20 affirmations, issue subpoenas for the attendance of witnesses, issue subpoena duces tecum to

21 compel the production of books, papers, records, registration records and other evidence and fix
22 the time and place for hearing any matters relating to the administration and enforcement of this
23 chapter, or the rules promulgated by the state Election Commission or by the Secretary of State
24 as the chief election official of the state. In case of disobedience to a subpoena or subpoena
25 duces tecum, he or she may invoke the aid of any circuit court in requiring the attendance,
26 evidence and testimony of witnesses and the production of papers, books, records, registration
27 records and other evidence. In addition, in instances of potential election fraud, the Secretary of
28 State may, if the county prosecuting attorney has declined to prosecute after a period of review
29 of 60 days, refer prosecutions to the Attorney General instead of the county prosecuting attorney.

30 (e) (1) The Secretary of State ~~shall also have the power~~ may, after consultation with the
31 Secretary of the Department of Military Affairs and Public Safety, ~~to~~ implement emergency
32 procedures and rules to ensure that all eligible voters have the opportunity to cast a valid ballot
33 and to uphold the integrity of an election in the event of natural disaster as declared by the
34 Governor of this state, terrorist attack, war or general emergency, if any of which occur during or
35 immediately preceding an election.

36 (2) For purposes of this subsection, a “general emergency” means circumstances
37 preventing the casting of ballots in one or more voting precincts. The chief judge of the circuit
38 court of the county where the casting of ballots is being prevented must declare by order that a
39 general emergency exists.

40 (f) All powers and duties vested in the Secretary of State pursuant to this article may be
41 exercised by appointees of the Secretary of State at his or her discretion, but the Secretary of
42 State ~~shall be~~ is responsible for their acts.

NOTE: The purpose of this bill is to require the Secretary of State to refer potential election fraud to the Attorney General for prosecution instead of a county prosecuting attorney.

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