

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5030

By Delegates Ridenour, Foster, C. Pritt, Ward, Kirby,
Steele, Hillenbrand, Barnhart, Householder, Mallow,
and Martin

[Introduced January 23, 2024; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §3-9-24 of the Code of West Virginia, 1931, as amended; and to
 2 amend said code by adding thereto a new section, designated §3-9-25, all relating to
 3 modifying the penalties for election interference.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. OFFENSES AND PENALTIES.
§3-9-24. Limitations on prosecutions.

1 No person shall be prosecuted for any crime or offense under any provision of this chapter,
 2 unless upon an indictment found and presentment made within five 20 years after the date of the
 3 commission of the crime or offense.

§3-9-25. Election interference; legislative findings.

1 (a) The Legislature of the State of West Virginia finds:

2 (1) That interference to affect the conduct or outcome of an election using illicit, illegal or
 3 un-Constitutional means is a direct and lethal threat to republican government, and to the United
 4 States and to the State of West Virginia;

5 (2) That elections for federal offices have direct and long-lasting effects on the State of
 6 West Virginia; and

7 (3) That interference in an election for the office of President, Vice President, Presidential
 8 elector, Members of the Senate, or Members of the House of Representatives is election
 9 interference in West Virginia.

10 (b) For purposes of this section, "election interference" means deliberate actions or
 11 activities by government personnel or entities, including arrests or prosecutions for apparent
 12 political motives, or other forms of persecution using legal or official processes, to negatively affect
 13 an electoral process, or a political entity participating in an electoral process, using
 14 unconstitutional, extraconstitutional, illegal, or otherwise illegitimate means, including those under
 15 the color of law or office.

16 (c) Any person who knowingly and willfully uses unconstitutional, extraconstitutional,

17 illegal, or otherwise illegitimate means under the color of law or authority for the purpose of
18 interfering with, or negatively affecting, the nomination or election of any candidate for the office of
19 President, Vice President, Presidential elector, Member of the Senate, Member of the House of
20 Representatives, or state, county, city or municipal office in the state of West Virginia, is guilty of
21 the felony of election interference and, upon conviction thereof, shall be fined not less than
22 \$100,000 nor more than \$2,500,000 and be confined in a state correctional facility for not less than
23 one year nor more than 10 years for each instance.

24 (d) Any person who knowingly and willfully engages in election interference or conspires to
25 conduct election interference, or provides material support to election interference is guilty of the
26 felony of election interference and, upon conviction thereof, shall be fined not less than \$100,000
27 nor more than \$2,500,000 and be confined in a state correctional facility for not less than one year
28 nor more than 10 years for each instance.

29 (e) Any person who knowingly and willfully intimidates, threatens, or coerce, or attempts to
30 intimidate, threaten, or coerce any candidate for the office of President, Vice President,
31 Presidential elector, Member of the Senate, Member of the House of Representatives, or state,
32 county, city or municipal office in the state of West Virginia, using legal or prosecutorial processes
33 under the color of law or office is guilty of the felony of election interference and, upon conviction
34 thereof, shall be fined not less than \$100,000 nor more than \$2,500,000 and be confined in a state
35 correctional facility for not less than one year nor more than 10 years for each instance.

36 (f) Any person who, under color of any law, statute, ordinance, regulation, or custom,
37 willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the
38 deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws
39 of the United States, or to different punishments, pains, or penalties, on account of such person
40 being a candidate for the office of President, Vice President, Presidential elector, Member of the
41 Senate, Member of the House of Representatives, or state, county, city or municipal office in the
42 state of West Virginia, using legal or prosecutorial processes under the color of law or office is

43 guilty of the felony of election interference and, upon conviction thereof, shall be fined not less than
44 \$100,000 nor more than \$2,500,000 and be confined in a state correctional facility for not less than
45 one year nor more than 10 years for each instance.

46 (g) Any person or group of persons who in any election:

47 (1) Knowingly and willfully intimidates, threatens, or coerces, or attempts to intimidate,
48 threaten, or coerce, including using legal or prosecutorial processes under the color of law or
49 office, any person for:

50 (A) Registering to vote, or voting, or attempting to register or vote; or

51 (B) Urging or aiding any person to register to vote, to vote, or to attempt to register or vote;

52 or

53 (C) Registering or attempting to register to be or conducting a campaign as a candidate for
54 the office of President, Vice President, Presidential elector, Member of the Senate, Member of the
55 House of Representatives, or state, county, city or municipal office in the state of West Virginia; or

56 (D) Exercising any right under this chapter; or

57 (2) Knowingly and willfully, including using legal or prosecutorial processes under the color
58 of law or office, deprives, defrauds, or attempts to deprive or defraud the people of the state of
59 West Virginia of a fair and impartially conducted election process;

60 is guilty of the felony of election interference and, upon conviction thereof, shall be fined
61 not less than \$100,000 nor more than \$2,500,000 and be confined in a state correctional facility for
62 not less than one year nor more than 10 years for each instance.

63 (h) If two or more persons, including using legal or prosecutorial processes under the color
64 of law or office, conspire to injure, oppress, threaten, or intimidate any person in any State,
65 Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or
66 privilege secured to him by the Constitution or laws of the United States, or because of his having
67 so exercised the same as a candidate for the office of President, Vice President, Presidential
68 elector, Member of the Senate, Member of the House of Representatives, or state, county, city or

69 municipal office in the state of West Virginia is guilty of the felony of election interference and, upon
70 conviction thereof, shall be fined not less than \$100,000 nor more than \$2,500,000 and be
71 confined in a state correctional facility for not less than one year nor more than 10 years for each
72 instance.

73 (i) The charge of election interference will be in addition to any other charges resulting from
74 the election interference act. Sentences for election interference will not run concurrently with any
75 other state or federal sentence for another charge. Any sentence for election interference will be
76 served after other sentences have been served. A charge will be rendered for each act of election
77 interference. Multiple acts of election interference can be prosecuted for a single incident.

78 (j) Personal jurisdiction and extradition:

79 (1) Any person who violates any provision of this section and, in doing so, impacts the
80 electoral process in this state shall be subject to criminal prosecution and punishment in this state
81 and to the civil jurisdiction of the courts of this state.

82 (2) Any prosecuting attorney in West Virginia, upon becoming personally aware that
83 election interference impacting the state of West Virginia is occurring, including, but not limited to,
84 political prosecution that may impact the electoral process of West Virginia, may immediately
85 initiate criminal proceedings in the appropriate court. Upon a finding of probable cause that an
86 offense has been committed, a prosecuting attorney may initiate arrest warrants and seek
87 extradition of any law enforcement personnel, prosecuting attorneys, corrections personnel who
88 participate in illegal incarceration, and members of the judiciary that fail to properly dismiss cases
89 of political prosecution.

90 (3) Extradition of any person committing a violation of this section, including the offense of
91 a political prosecution that violates the provisions of this section, shall be in accordance with the
92 provisions of §62-14A-1 et seq. of this code.

93 (k) A candidate for the office of President, Vice President, Presidential elector, Member of
94 the Senate, Member of the House of Representatives, or state, county, city or municipal office in

95 the state of West Virginia alleging a violation of §3-9-25 of this code may bring a civil action for
96 injunctive relief in West Virginia against any individuals engaging in or convicted of election
97 interference from continuing such violation regardless of the location of the election interference.

98 (l) Nothing in this article may be construed or applied in a manner that violates or conflicts
99 with superseding federal law.

100 (m) No person shall be prosecuted for any crime or offense under any provision of this
101 chapter, unless upon an indictment found and presentment made within 20 years after the date of
102 the commission of the crime or offense.

NOTE: The purpose of this bill is to modify the penalties for election interference.

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