

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 456

By Senator Tarr

[Introduced January 16, 2024; referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §61-6-18a, relating to prohibiting public camping; defining terms; prohibiting
 3 camping in public places; providing that person’s intent established through specified
 4 actions; providing that violation of article constitutes a misdemeanor; providing for fine;
 5 requiring bus ticket to be offered; providing for community service; addressing preemption;
 6 and requiring officer to provide information prior to issuance of citation unless there is an
 7 imminent threat to public health or safety.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. CRIMES AGAINST THE PEACE.

§61-6-18A. Prohibited camping.

1 (a) In this section:

2 "Camp" means to reside temporarily in a place, with shelter.

3 "Shelter" means any place maintained for the purpose of a temporary, semipermanent, or
 4 permanent place to live, designed to protect a person from weather conditions. Whether or not
 5 such place incorporates the use of any tent, lean-to, shack, or any other structure.

6 (b) A person commits an offense if the person intentionally camps in a public place,
 7 including but not limited to a sidewalk, street, alley, lane, public right-of-way, park, bench, or any
 8 other publicly owned property, or under any bridge or viaduct, all without the effective consent of
 9 the officer or agency having the legal duty or authority to manage the public place.

10 (c) The person’s intent or knowledge may be established through evidence of activities
 11 associated with sustaining a shelter that are conducted in a public place, including but not limited
 12 to:

13 (1) Cooking;

14 (2) Making a fire;

15 (3) Storing personal belongings for an extended period;

16 (4) Digging; or

17 (5) Sleeping.

18 (d) Consent by an officer or agency of a political subdivision is not effective for purposes of
19 subsection (b), unless given to authorize the person to camp for:

20 (1) Recreational purposes; or

21 (2) Purposes related to providing emergency shelter during a disaster.

22 (e) An offense is considered a misdemeanor, punishable by a fine of not less than \$100 nor
23 more than \$1,000, and community service work of not more than 40 hours in any two-week period:

24 Provided, That a person who violates this section shall:

25 (1) Receive a warning citation for a first offense and shall be offered a one way bus ticket,
26 at no cost, to the following city or district of their choice: Atlanta, Denver, Detroit, Chicago, New
27 York, or the District of Columbia, or

28 (2) In lieu of a fine and community service, the court may require a person convicted under
29 this section to remove litter from the state or local highway system, public park, or other
30 appropriate public location for not more than 40 hours in any two-week period.

31 (f) This section does not preempt an ordinance, order, rule or other regulation adopted by a
32 state agency or political subdivision relating to prohibiting camping in a public place or affect the
33 authority of a state agency or political subdivision to adopt or enforce an ordinance, order, rule, or
34 other regulation relating to prohibiting camping in a public place if the ordinance, order, rule, or
35 other regulation:

36 (1) Is compatible with and equal to or more stringent than the offense prescribed by this
37 section, or

38 (2) Relates to an issue not specifically addressed by this section.

39 (g) Except as provided by subsection (h), before or at the time an officer issues a citation to
40 a person for an offense under this section, the officer shall make a reasonable effort to:

41 (1) Advise the person of an alternative place at which the person may lawfully camp;

42 (2) Contact, if reasonable and appropriate, an appropriate official of the political

43 subdivision in which the public place is located, or an appropriate non-profit organization operating
44 within the that political subdivision, and request the official or organization to provide the person
45 with:
46 (A) Information regarding the prevention of human trafficking; or
47 (B) Any other services that would reduce the likelihood of the person suspected of
48 committing the offense continuing to camp in the public place.
49 (h) Subsection (g) does not apply if the officer determines there is an imminent threat to the
50 health or safety of any person to the extent that compliance with that subsection is impracticable.

NOTE: The purpose of this bill is to address define public camping in public spaces, create a penalty, and address existing ordinances.

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