WEST virginia legislature

2025 regular session

Introduced

House Bill 2449

By Delegates Anders, White, Ridenour, Kump, Kimble, Dean, and Bridges

[Introduced February 17, 2025; referred to the Committee on the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §62-1A-12, relating to eliminating the open fields doctrine in this state.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1A. SEARCH AND SEIZURE.

§62-1A-12. Open fields.

(a) Notwithstanding any provision of this code to the contrary, the open fields of any person in this state, where indicia would lead a reasonable person to conclude that the area is private or not generally open to the public are protected by the Fourth Amendment to the Constitution of the United States or Article III, Section 6 of the West Virginia Constitution and may not be searched without a valid search warrant or outside the judicial process, subject only to constitutionally established exceptions permitting warrantless searches of private property.

(b) For purposes of this section, "open fields" means the private property of a person beyond the land immediately surrounding and associated with a private dwelling and includes fenced land and wooded areas.

(c) The open fields doctrine, as it is known in the common law, is hereby abolished.

NOTE: The purpose of this bill is to eliminate the open fields doctrine in this state.

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