

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**ENGROSSED**

**Committee Substitute**

**for**

**House Bill 3332**

By Delegates Hanshaw (Mr. Speaker), C. Pritt and

Vance

(By Request)

[Originating in the Committee on the Judiciary;

Reported February 23, 2023]



1 A BILL to amend and reenact §51-2-1 of the Code of West Virginia, 1931, as amended, relating to  
2 creating judicial circuits and assigning the number of circuit judges in each circuit to be  
3 elected in the 2024 election; and establishing geographic divisions in some circuits.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES**

**§51-2-1. Judicial circuits; terms of office; legislative findings and declarations; elections;  
terms of court.**

1 (a) The state shall be divided into the following judicial circuits with the following number of  
2 judges:

3 (1) The counties of Brooke, Hancock, and Ohio shall constitute the first circuit and shall  
4 have four judges;

5 (2) The counties of Marshall, Tyler, and Wetzel shall constitute the second circuit and shall  
6 have two judges;

7 (3) The counties of Doddridge, Pleasants, and Ritchie shall constitute the third circuit and  
8 shall have one judge;

9 (4) The counties of Wood and Wirt shall constitute the fourth circuit and shall have three  
10 judges;

11 (5) The counties of Calhoun, Jackson, Mason, and Roane shall constitute the fifth circuit  
12 and shall have two judges: *Provided*, That effective January 1, 2017, said circuit court shall have  
13 three judges; said additional circuit judge to be elected at the regularly scheduled election(s) to be  
14 held in the year 2016 and every eighth year thereafter;

15 (6) The county of Cabell shall constitute the sixth circuit and shall have four judges;

16 (7) The county of Logan shall constitute the seventh circuit and shall have two judges;

17 (8) The county of McDowell shall constitute the eighth circuit and shall have two judges;

18 (9) The county of Mercer shall constitute the ninth circuit and shall have three judges;

19           (10) The county of Raleigh shall constitute the 10th circuit and shall have three judges:  
20   *Provided*, That effective January 1, 2017, said circuit court shall have four judges; said additional  
21 circuit judge to be elected at the regularly scheduled election(s) to be held in the year 2016 and  
22 every eighth year thereafter;

23           (11) The counties of Greenbrier and Pocahontas shall constitute the 11th circuit and shall  
24 have two judges;

25           (12) The county of Fayette shall constitute the 12th circuit and shall have two judges;

26           (13) The county of Kanawha shall constitute the 13th circuit and shall have seven judges;

27           (14) The counties of Braxton, Clay, Gilmer, and Webster shall constitute the 14th circuit  
28 and shall have two judges;

29           (15) The county of Harrison shall constitute the 15th circuit and shall have three judges;

30           (16) The county of Marion shall constitute the 16th circuit and shall have two judges;

31           (17) The county of Monongalia shall constitute the 17th circuit and shall have three judges;

32           (18) The county of Preston shall constitute the 18th circuit and shall have one judge;

33           (19) The counties of Barbour and Taylor shall constitute the 19th circuit and shall have one  
34 judge: *Provided*, That effective January 1, 2019, said circuit court shall have two judges; said  
35 additional circuit judge to be appointed by the Governor and subsequently elected at the next  
36 scheduled primary election to be held in 2020 for the unexpired term pursuant to §3-10-3 of this  
37 code: *Provided, however*, That said additional circuit judge shall thereafter be elected at the  
38 regularly scheduled election(s) to be held in the year 2024 and every eighth year thereafter;

39           (20) The county of Randolph shall constitute the 20th circuit and shall have one judge;

40           (21) The counties of Grant, Mineral, and Tucker shall constitute the 21st circuit and shall  
41 have two judges;

42           (22) The counties of Hampshire, Hardy, and Pendleton shall constitute the 22nd circuit and  
43 shall have two judges;

44 (23) The counties of Berkeley, Jefferson, and Morgan shall constitute the 23rd circuit and  
45 shall have five judges: *Provided*, That effective January 1, 2017, said circuit court shall have six  
46 judges; said additional circuit judge to be elected at the regularly scheduled election(s) to be held  
47 in the year 2016 and every eighth year thereafter;

48 (24) The county of Wayne shall constitute the 24th circuit and shall have two judges;

49 (25) The counties of Lincoln and Boone shall constitute the 25th circuit and shall have two  
50 judges;

51 (26) The counties of Lewis and Upshur shall constitute the 26th circuit and shall have one  
52 judge: *Provided*, That effective January 1, 2017, said circuit court shall have two judges; said  
53 additional circuit judge to be elected at the regularly scheduled election(s) to be held in the year  
54 2016 and every eighth year thereafter;

55 (27) The county of Wyoming shall constitute the 27th circuit and shall have one judge;

56 (28) The county of Nicholas shall constitute the 28th circuit and shall have one judge;

57 (29) The county of Putnam shall constitute the 29th circuit and shall have two judges;

58 (30) The county of Mingo shall constitute the 30th circuit and shall have one judge; and

59 (31) The counties of Monroe and Summers shall constitute the 31st circuit and shall have  
60 one judge.

61 (b) ~~The Kanawha County circuit court shall be a court of concurrent jurisdiction with each~~  
62 ~~single judge circuit where the sitting judge in the single judge circuit is unavailable by reason of~~  
63 ~~sickness, vacation, or other reason~~ Effective January 1, 2025, the state shall be divided into the  
64 following circuit court judicial circuits with the following number of circuit judges:

65 (1) The counties of Brooke, Hancock, and Ohio shall constitute the first circuit and shall  
66 have four judges;

67 (2) The counties of Marshall, Tyler, and Wetzel shall constitute the second circuit and shall  
68 have two judges: *Provided*, That Tyler and Wetzel shall constitute a division in which the judge and

69 candidates for election shall reside and Marshall shall constitute a division in which the judge and  
70 candidates for election shall reside.

71 (3) The counties of Doddridge, Pleasants, Ritchie, and Wirt shall constitute the third circuit  
72 and shall have two judges with the additional circuit judge to be elected at the regularly scheduled  
73 election held in 2024 and every eighth year thereafter;

74 (4) The county of Wood shall constitute the fourth circuit and shall have three judges;

75 (5) The counties of Calhoun, Jackson, Mason, and Roane shall constitute the fifth circuit  
76 and shall have three judges; *Provided*, if more than two candidates from the same county receive  
77 the highest number of the votes in more than two divisions, the two candidates from the same  
78 county with the highest number of the votes cast within the circuit shall be elected to serve and the  
79 remaining candidates from the same county shall be declared ineligible to serve. *Provided*,  
80 *however*, in the event a candidate is determined to be ineligible to serve as a result of his or her  
81 residency, the candidate residing in a different county within the circuit, receiving the next highest  
82 number of the votes cast in the division, shall be deemed elected.

83 (6) The county of Cabell shall constitute the sixth circuit and shall have four judges;

84 (7) The county of Putnam shall constitute the seventh circuit and shall have two judges;

85 (8) The county of Kanawha shall constitute the eighth circuit and shall have eight judges  
86 with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and  
87 every eighth year thereafter. Until January 1, 2025, the Kanawha County circuit court shall be a  
88 court of concurrent jurisdiction with each single judge circuit where the sitting judge in the single  
89 judge circuit is unavailable by reason of sickness, vacation, or other reason.

90 (9) The counties of Boone and Lincoln shall constitute the ninth circuit and shall have two  
91 judges.

92 (10) The county of Wayne shall constitute the 10th circuit and shall have two judges;

93 (11) The counties of Logan and Mingo shall constitute the 11th circuit and shall have three  
94 judges;

95           (12) The counties of McDowell and Wyoming shall constitute the 12th circuit and shall have  
96 two judges; *Provided*, That McDowell shall constitute a division in which the judge and candidates  
97 for election shall reside and Wyoming shall constitute a division in which the judge and candidates  
98 for election shall reside.

99           (13) The county of Mercer shall constitute the thirteenth circuit and shall have three judges;

100           (14) The county of Raleigh shall constitute the 14th circuit and shall have four judges;

101           (15) The county of Fayette shall constitute the 15th circuit and shall have two judges;

102           (16) The county of Nicholas shall constitute the 16th circuit and shall have two judges with  
103 the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every  
104 eighth year thereafter;

105           (17) The counties of Braxton, Clay, Gilmer, and Webster shall constitute the 17th circuit  
106 and shall have two judges;

107           (18) The counties of Lewis and Upshur shall constitute the 18th circuit and shall have two  
108 judges; *Provided*, that Lewis shall constitute a division in which the judge and candidates for  
109 election shall reside and Upshur shall constitute a division in which the judge and candidates for  
110 election shall reside.

111           (19) The county of Harrison shall constitute the 19th circuit and shall have three judges;

112           (20) The county of Marion shall constitute the 20th circuit and shall have two judges;

113           (21) The county of Monongalia shall constitute the 21st circuit and shall have three judges;

114           (22) The counties of Preston and Tucker shall constitute the 22nd circuit and shall have two  
115 judges with the additional circuit judge to be elected at the regularly scheduled election held in  
116 2024 and every eighth year thereafter.

117           (23) The counties of Barbour and Taylor shall constitute the 23rd circuit and shall have two  
118 judges.

119           (24) The county of Randolph shall constitute the 24th circuit and shall have two judges with  
120 the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every  
121 eighth year thereafter;

122           (25) The counties of Grant and Mineral shall constitute the 25th circuit and shall have two  
123 judges.

124           (26) The counties of Hampshire, Hardy, and Pendleton shall constitute the 26th circuit and  
125 shall have two judges;

126           (27) The counties of Berkeley, Morgan, Jefferson shall constitute the 27th circuit and shall  
127 have six judges;

128           (28) The counties of Greenbrier, Monroe, Pocahontas and Summers shall constitute the  
129 28th circuit and shall have three judges; *Provided*, if more than two candidates from the same  
130 county receive the highest number of the votes in more than two divisions, the two candidates from  
131 the same county with the highest number of the votes cast within the circuit shall be elected to  
132 serve and the remaining candidates from the same county shall be declared ineligible to serve.  
133 *Provided, however*, in the event a candidate is determined to be ineligible to serve as a result of his  
134 or her residency, the candidate residing in a different county within the circuit, receiving the next  
135 highest number of the votes cast in the division, shall be deemed elected.

136           (c) Any judge in office on the effective date of the reenactment of this section shall continue  
137 as a judge of the circuit as constituted under prior enactments of this section, unless sooner  
138 removed or retired as provided by law, until ~~December 31, 2016~~ December 31, 2024.

139           (d) The term of office of all circuit court judges shall be for eight years. The term of office  
140 for all circuit court judges elected during an election conducted in the year 2016 shall commence  
141 on January 1, 2017, and end on December 31, 2024. The term of office for all circuit judges  
142 elected during an election conducted in 2024 shall commence on January 1, 2025 and shall end  
143 on December 31, 2032.

144 (e) For election purposes, in every judicial circuit having two or more judges there shall be  
145 numbered divisions corresponding to the number of circuit judges in each circuit. Each judge shall  
146 be elected at large from the entire circuit. In each numbered division of a judicial circuit, the  
147 candidates for ~~nominat~~ion or election shall be voted upon, and the votes cast for the candidates in  
148 each division shall be tallied separately from the votes cast for candidates in other numbered  
149 divisions within the circuit. The candidate receiving the highest number of the votes cast within a  
150 numbered division shall be ~~nominated or elected.~~ ~~as the case may be.~~

151 (f) ~~Judges serving a judicial circuit comprised of four or more counties with two or more~~  
152 ~~judges shall not be residents of the same county.~~

153 (g) The Supreme Court of Appeals shall, by rule, establish the terms of court of circuit  
154 judges.

NOTE: The purpose of this bill is to create the judicial circuits and to allocate the number of circuit court judges in each circuit to be elected in the 2024 election.

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