

# H. B. 4314

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(BY DELEGATES CAPUTO, LONGSTRETH, MANCHIN, FRAGALE,  
BARILL, MARCUM, ELLEM, BOGGS, MILEY, STORCH AND HUNT)

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[Introduced January 26, 2012; referred to the  
Committee on the Judiciary.]

A BILL to amend and reenact §50-1-6 of the Code of West Virginia, 1931, as amended, relating to the appointment of magistrates; requiring that when a vacancy occurs in the office of magistrate a person of the same political party as the former officeholder shall be appointed.

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

That §50-1-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

## **ARTICLE 1. COURTS AND OFFICERS.**

### **§50-1-6. Vacancy in office of magistrate.**

1       Subject to the provisions of section one, article ten,  
2       chapter three of this code, when a vacancy occurs in the

3 office of magistrate, the judge of the circuit court, or the  
4 chief judge thereof if there is more than one judge of the  
5 circuit court, shall fill the same by appointment of a person  
6 of the same political party as the officeholder vacating the  
7 office.

8 At a general election in which a magistrate is elected for  
9 an unexpired term, the circuit judge, or the chief judge  
10 thereof if there is more than one judge of the circuit court,  
11 shall cause a notice of such election to be published prior to  
12 such election as a Class II-0 legal advertisement in  
13 compliance with the provisions of article three, chapter fifty-  
14 nine of this code, and the publication area for such  
15 publication shall be the county involved. If the vacancy  
16 occurs before the primary election held to nominate  
17 candidates to be voted for at the general election, at which  
18 any such vacancy is to be filled, candidates to fill such  
19 vacancy shall be nominated at such primary election in  
20 accordance with the time requirements and the provisions  
21 and procedures prescribed in article five, chapter three of this

22 code. Otherwise, they shall be nominated by the county  
23 executive committee in the manner provided in section  
24 nineteen, article five, chapter three of this code, as in the case  
25 of filling vacancies in nominations, and the names of the  
26 persons so nominated and certified to the clerk of the circuit  
27 court of such county shall be placed upon the ballot to be  
28 voted at such next general election.

NOTE: The purpose of this bill is to require that when a vacancy occurs in the office of magistrate a person of the same political party as the former officeholder shall be appointed.

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