H. B. 2010

(By Delegates Kessinger, McCuskey, Border, Shott, Rowan, Frich, Westfall, Lane, Anderson, Sobonya and Faircloth)

[Introduced January 14, 2015; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-4A-11a of said code; to amend said code by adding thereto four new sections, designated §3-5-6a, §3-5-6b, §3-5-6c and §3-5-6d; to amend and reenact §3-5-7, §3-5-13 and §3-5-13a of said code; to amend said code by adding thereto a new section, designated §3-6-2a; to amend and reenact §50-1-1 of said code; to amend and reenact §51-2-1 of said code; and to amend and reenact §51-2A-5 of said code, all relating to requiring the elections of justices of the West Virginia Supreme Court of Appeals, circuit court judges, family court judges and magistrates be nonpartisan and by division; providing for the timing and frequency of election; establishing ballot design and printing; requiring separation from partisan ballot; establishing filing announcement of candidacies; permitting the withdrawal of announcement of candidacies; refunding of paid filing fees; and establishing ballot content.

Be it enacted by the Legislature of West Virginia:

That §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as amended, be amended and
reenacted; that §3-4A-11a of said code be amended and reenacted; that said code be amended by
adding thereto four new sections, designated §3-5-6a, §3-5-6b, §3-5-6c and §3-5-6d; that §3-5-7, §3-
5-13 and §3-5-13a of said code be amended and reenacted; that said code be amended by adding
thereto a new section, designated §3-6-2a; that §50-1-1 of said code be amended and reenacted; that
§51-2-1 of said code be amended and reenacted; and that §51-2A-5 of said code be amended and
reenacted, all to read as follows:

CHAPTER 3. ELECTIONS.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-16. Election of state officers.

At the general election to be held in 1968, and in every fourth year thereafter, there shall be
elected a Governor, Secretary of State, Treasurer, Auditor, Attorney General and Commissioner of
Agriculture. At the general election in 1968, and in every second year thereafter, there shall be
elected a member of the state Senate for each senatorial district, and a member or members of the
House of Delegates of the state from each county or each delegate district. At the general election
to be held in the year 1968, and in every twelfth year thereafter, there shall be elected one judge
justice of the Supreme Court of Appeals, and at the general election to be held in 1972, and in every
twelfth year thereafter, two judges justices of the Supreme Court of Appeals and at the general
election to be held in 1976, and in every twelfth year thereafter, two judges justices of the Supreme
Court of Appeals. At the general election to be held in 2016, and every twelfth year thereafter, there
shall be elected one justice of the Supreme Court of Appeals, and at the general election to be held
in 2020, and every twelfth year thereafter, there shall be elected two justices of the Supreme Court
of Appeals, and at the general election to be held in 2024, and every twelfth year thereafter, there
shall be elected two justices of the Supreme Court of Appeals. Effective with the general election held in 2016, the election of justices of the Supreme Court of Appeals shall be on a nonpartisan basis and by division.

§3-1-17. Election of circuit judges; county and district officers; magistrates.

There shall be elected, at the general election to be held in 1992, and in every eighth year thereafter, one judge of the circuit court of every judicial circuit entitled to but one judge, and one judge for each numbered division of the judicial circuit in those judicial circuits entitled to two or more circuit judges; and at the general election to be held in 1992, and in every fourth year thereafter, a sheriff, prosecuting attorney, surveyor of lands, and the number of assessors prescribed by law for the county, and the number of magistrates prescribed by law for the county; and at the general election to be held in 1990, and in every second year thereafter, a commissioner of the county commission for each county; and at the general election to be held in 1992, and in every sixth year thereafter, a clerk of the county commission and a clerk of the circuit court for each county.

Effective with the general election of 2016, all elections for circuit court judges in the respective circuits will be elected on a nonpartisan basis and by division.

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

§3-4A-11a. Ballots tabulated electronically; arrangement, quantity to be printed, ballot stub numbers.

(a) The board of ballot commissioners in counties using ballots upon which votes may be recorded by means of marking with electronically sensible ink or pencil and which marks are tabulated electronically shall cause the ballots to be printed or displayed upon the screens of the electronic voting system for use in elections.
(b) (1) For the primary election, the heading of the ballot, the type faces, the names and arrangement of offices and the printing of names and arrangement of candidates within each office are to conform as nearly as possible to the provisions of sections thirteen and thirteen-a, article five of this chapter.

(2) For the general election, the heading of the ballot, the straight ticket positions, the instructions to straight ticket voters, the type faces, the names and arrangement of offices and the printing of names and the arrangement of candidates within each office are to conform as nearly as possible to the provisions of section two, article six of this chapter, except as otherwise provided in this article.

(3) Nonpartisan elections for Board of Education and effective with the general election held in 2016 and thereafter, for the nonpartisan offices by division of: (A) Justice of the Supreme Court of Appeals; (B) circuit court judge; (C) family court judge; and (D) magistrate, and any question to be voted upon are to be separated from the partisan ballot and separately headed in display type with a title clearly identifying the purpose of the election and constituting a separate ballot wherever a separate ballot is required under the provisions of this chapter.

(4) Both the face and the reverse side of the ballot may contain the names of candidates only if means to ensure the secrecy of the ballot are provided and lines for the signatures of the poll clerks on the ballot are printed on a portion of the ballot which is deposited in the ballot box and upon which marks do not interfere with the proper tabulation of the votes.

(5) The arrangement of candidates within each office is to be determined in the same manner as for other electronic voting systems, as prescribed in this chapter. On the general election ballot for all offices, and on the primary election ballot only for those offices to be filled by election, except
delegate to national convention, lines for entering write-in votes are to be provided below the names of candidates for each office, and the number of lines provided for any office shall equal the number of persons to be elected, or three, whichever is fewer. The words "WRITE-IN, IF ANY" are to be printed, where applicable, directly under each line for write-ins. The lines are to be opposite a position to mark the vote.

(c) Except for electronic voting systems that utilize screens upon which votes may be recorded by means of a stylus or by means of touch, the primary election ballots are to be printed in the color of ink specified by the Secretary of State for the various political parties, and the general election ballot is to be printed in black ink. For electronic voting systems that utilize screens upon which votes may be recorded by means of a stylus or by means of touch, the primary ballots and the general election ballot are to be printed in black ink. All ballots are to be printed, where applicable, on white paper suitable for automatic tabulation and are to contain a perforated stub at the top or bottom of the ballot, which is to be numbered sequentially in the same manner as provided in section thirteen, article five of this chapter, or are to be displayed on the screens of the electronic voting system upon which votes are recorded by means of a stylus or touch. The number of ballots printed and the packaging of ballots for the precincts are to conform to the requirements for paper ballots provided in this chapter.

(d) In addition to the official ballots, the ballot commissioners shall provide all other materials and equipment necessary to the proper conduct of the election.

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-6a. Election of justices of the Supreme Court of Appeals.

(a) An election for the purpose of electing a justice or justices of the Supreme Court of
Appeals shall be held on the same date as the general election, as provided by law, upon a nonpartisan ballot by division printed for this purpose.

(b) In each nonpartisan election by division for a justice of the Supreme Court of Appeals, the board of canvassers shall declare and certify the election of the eligible candidate receiving the highest numbers of votes to fill any full terms.

(c) In case of a tie vote under this section, section twelve, article six of this chapter controls in breaking the tie.

§3-5-6b. Election of circuit judges.

(a) An election for the purpose of electing a circuit court judge or judges shall be held on the same date as the general election in their respective circuits, as provided by law, upon a nonpartisan ballot by division printed for this purpose.

(b) In each nonpartisan election by division for a circuit court judge, the board of canvassers shall declare and certify the election of the eligible candidate receiving the highest numbers of votes to fill any full terms.

(c) In case of a tie vote under this section, section twelve, article six of this chapter controls in breaking the tie.

§3-5-6c. Election of family court judges.

(a) An election for the purpose of electing a family court judge or judges shall be held on the same date as the general election in their respective circuits, as provided by law, upon a nonpartisan ballot by division printed for this purpose.

(b) In each nonpartisan election by division for a family court judge, the board of canvassers shall declare and certify the election of the eligible candidate receiving the highest numbers of votes to fill any full terms.

(c) In case of a tie vote under this section, section twelve, article six of this chapter controls in breaking the tie.
§3-5-6d. Election of magistrates.

(a) An election for the purpose of electing a magistrate or magistrates by division shall be held on the same date as the general election in their respective circuits, as provided by law, upon a nonpartisan ballot by division printed for this purpose.

(b) In each nonpartisan election by division for a magistrate, the board of canvassers shall declare and certify the election of the eligible candidate receiving the highest numbers of votes in a division to fill any full terms.

(c) In case of a tie vote under this section, section twelve, article six of this chapter controls in breaking the tie.

§3-5-7. Filing announcements of candidacies; requirements; withdrawal of candidates when section applicable.

(a) Any person who is eligible and seeks to hold an office or political party position to be filled by election in any primary or general election held under the provisions of this chapter shall file a certificate of announcement declaring his or her candidacy for the nomination or election to the office.

(b) The certificate of announcement shall be filed as follows:

(1) Candidates for the House of Delegates or the state Senate and any other office or political position to be filled by the voters of more than one county shall file a certificate of announcement with the Secretary of State.
(2) Candidates for an office or political position to be filled by the voters of a single county or a subdivision of a county, except for candidates for the House of Delegates or State Senate, shall file a certificate of announcement with the clerk of the county commission.

(3) Candidates for an office to be filled by the voters of a municipality shall file a certificate of announcement with the recorder or city clerk.

(c) Except for the offices of justice of the Supreme Court of Appeals, circuit court judge, family court judge and magistrate which are to be filled on a nonpartisan, division basis beginning at the general election held in 2016, the certificate of announcement shall be filed with the proper officer not earlier than the second Monday in January next preceding before the primary election day and not later than the last Saturday in January next preceding before the primary election day and must be received before midnight, eastern standard time, of that day or, if mailed, shall be postmarked by the United States Postal Service before that hour. The offices of justice of the Supreme Court of Appeals, circuit court judge, family court judge and magistrate beginning in 2016, shall be filled on a nonpartisan and division basis at the general election. The certificate of announcement shall be filed with the authorized election official not later than the second Tuesday in May and must be received before midnight, eastern standard time, of that day or, if mailed, be postmarked by the United States Postal Service before midnight, eastern standard time, of that day. All certificates of announcement for the offices of justice of the Supreme Court of Appeals, circuit court judge, family court judge and magistrate which are filed not earlier than the second Monday in January before the primary election day, and not later than the last Saturday in January before the primary election day, and are received before midnight, eastern standard time, of that day or, if mailed, were postmarked by the United States Postal Service before that hour, may be withdrawn
on or before midnight, eastern standard time, of the second Tuesday in May, in accordance with article five, section eleven of this chapter, with a full refund of any filing fees paid or, if not withdrawn, are effective for purposes of the nonpartisan election by division for the offices to be held on general election day.

(d) The certificate of announcement shall be on a form prescribed by the Secretary of State on which the candidate shall make a sworn statement before a notary public or other officer authorized to administer oaths, containing the following information:

(1) The date of the election in which the candidate seeks to appear on the ballot;

(2) The name of the office sought; the district, if any, and the division, if any;

(3) The legal name of the candidate and the exact name the candidate desires to appear on the ballot, subject to limitations prescribed in section thirteen, article five of this chapter;

(4) The county of residence and a statement that the candidate is a legally qualified voter of that county; and the magisterial district of residence for candidates elected from magisterial districts or under magisterial district limitations;

(5) The specific address designating the location at which the candidate resides at the time of filing, including number and street or rural route and box number and city, state and zip code;

(6) For partisan elections, the name of the candidate's political party and a statement that the candidate: (A) Is a member of and affiliated with that political party as evidenced by the candidate's current registration as a voter affiliated with that party; and (B) has not been registered as a voter affiliated with any other political party for a period of sixty days before the date of filing the announcement;

(7) For candidates for delegate to national convention, the name of the presidential candidate
to be listed on the ballot as the preference of the candidate on the first convention ballot; or a
statement that the candidate prefers to remain "uncommitted";

(8) A statement that the person filing the certificate of announcement is a candidate for the
office in good faith;

(9) The words "subscribed and sworn to before me this _____ day of _____________,
20____" and a space for the signature of the officer giving the oath.

(e) The Secretary of State or the board of ballot commissioners, as the case may be, may
refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a
certified copy of the voter's registration record of the candidate showing that the candidate was
registered as a voter in a party other than the one named in the certificate of announcement during
the sixty days immediately preceding the filing of the certificate: Provided, That unless a signed
formal complaint of violation of this section and the certified copy of the voter's registration record
of the candidate are filed with the officer receiving that candidate's certificate of announcement no
later than ten days following the close of the filing period, the candidate may not be refused
certification for this reason.

(f) The certificate of announcement shall be subscribed and sworn to by the candidate before
some officer qualified to administer oaths, who shall certify the same. Any person who knowingly
provides false information on the certificate is guilty of false swearing and shall be punished in
accordance with section three, article nine of this chapter.

(g) Any candidate for delegate to a national convention may change his or her statement of
presidential preference by notifying the Secretary of State by letter received by the Secretary of State
no later than the third Tuesday following the close of candidate filing. When the rules of the
1 political party allow each presidential candidate to approve or reject candidates for delegate to
2 convention who may appear on the ballot as committed to that presidential candidate, the presidential
3 candidate or the candidate's committee on his or her behalf may file a list of approved or rejected
4 candidates for delegate and the Secretary of State shall list as "uncommitted" any candidate for
5 delegate who is disapproved by the presidential candidate.
6
7 (h) A person may not be a candidate for more than one office or office division at any
8 election. Provided, however, a candidate for an office may also be a candidate for President
9 of the United States, for membership on political party executive committees or for delegate to a
10 political party national convention.
11
12 (i) A candidate who files a certificate of announcement for more than one office or division
13 and does not withdraw, as provided by section eleven, article five of this chapter, from all but one
14 office prior to the close of the filing period may not be certified by the Secretary of State or placed
15 on the ballot for any office by the board of ballot commissioners.
16
17 (j) The provisions of this section enacted during the regular session of the Legislature in the
18 year 1991 shall apply to the primary election held in the year 1992 and every primary election
19 held thereafter. The provisions of this section enacted during the regular session of the Legislature
20 in the year 2009 shall apply to the primary election held in the year 2010 and every primary
21 election held thereafter.
22
23 §3-5-13. Form and contents of ballots.
24
25 The following provisions apply to the form and contents of election ballots:
26
27 (1) The face of every primary election ballot shall conform as nearly as practicable to that
The heading of every ballot is to be printed in display type. The heading is to contain a ballot title, the name of the county, the state, the words "Primary Election" and the month, day and year of the election. The ballot title of the political party ballots is to contain the words "Official Ballot of the (Name) Party" and the official symbol of the political party may be included in the heading. The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for the board of Education is to contain the words "Nonpartisan Ballot of Election of Members of the _____________ County Board of Education". The districts for which less than two candidates may be elected and the number of available seats are to be specified and the names of the candidates are to be printed without reference to political party affiliation and without designation as to a particular term of office. The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for the Supreme Court of Appeals shall contain the words "Nonpartisan Ballot of Election of Justice(s) of the Supreme Court of Appeals of West Virginia." The names of the candidates for the Supreme Court of Appeals shall be printed by division without references to political party affiliation or registration. The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all circuit court judges in the respective circuits shall contain the words “Nonpartisan Ballot of Election of Circuit Court Judge(s)”. The names of the candidates for the respective circuit court judge office shall be printed by division without references to political party affiliation or registration. The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all family court judges in the respective circuits shall contain the words "Nonpartisan Ballot of Election of Family Court Judge(s)". The names of the candidates for the respective family court judge office shall be printed by division without references to political party affiliation or registration. The ballot title of any separate paper ballot or portion of any
any electronic or voting machine ballot for all magistrates in the respective circuits shall contain the
words "Nonpartisan Ballot of Election of Magistrate(s)". The names of the candidates for the
respective magistrate office shall be printed by division without references to political party
affiliation or registration. Any other ballot or portion of a ballot on a question is to have a heading
which clearly states the purpose of the election according to the statutory requirements for that
question.

(2) (3)(A) For paper ballots, the heading of the ballot is to be separated from the rest of the
ballot by heavy lines and the offices shall be arranged in columns with the following headings, from
left to right across the ballot: "National Ticket", "State Ticket", "County Ticket" and, in a
presidential election year, "National Convention" or, in a nonpresidential election year, "District
Ticket". The columns are to be separated by heavy lines. Within the columns, the offices are to be
arranged in the order prescribed in section thirteen-a of this article.

(B) For voting machines, electronic voting devices and any ballot tabulated by electronic
means, the offices are to appear in the same sequence as prescribed in section thirteen-a of this article
and under the same headings as prescribed in subsection (a) of this section. The number of pages,
columns or rows, where applicable, may be modified to meet the limitations of ballot size and
composition requirements subject to approval by the Secretary of State.

(C) The title of each office is to be separated from preceding offices or candidates by a line
and is to be printed in bold type no smaller than eight point. Below the office is to be printed the
number of the district, if any, the number of the division, if any, and the words "Vote for ________"
with the number to be nominated or elected or "Vote For Not More Than ________" in
multicandidate elections. For offices in which there are limitations relating to the number of
candidates which may be nominated, elected or appointed to or hold office at one time from a political subdivision within the district or county in which they are elected, there is to be a clear explanation of the limitation, as prescribed by the Secretary of State, printed in bold type immediately preceding the names of the candidates for those offices on the ballot in every voting system. For counties in which the number of county commissioners exceeds three and the total number of members of the county commission is equal to the number of magisterial districts within the county, the office of county commission is to be listed separately for each district to be filled with the name of the magisterial district and the words "Vote for One" printed below the name of the office: Provided, That the office title and applicable instructions may span the width of the ballot so as it is centered among the respective columns.

(D) The location for indicating the voter's choices on the ballot is to be clearly shown. For paper ballots, other than those tabulated electronically, the official primary ballot is to contain a square formed in dark lines at the left of each name on the ballot, arranged in a perpendicular column of squares before each column of names.

(3) (4) (A) The name of every candidate certified by the Secretary of State or the board of ballot commissioners is to be printed in capital letters in no smaller than eight point type on the ballot for the appropriate precincts. Subject to the rules promulgated by the Secretary of State, the name of each candidate is to appear in the form set out by the candidate on the certificate of announcement, but in no case may the name misrepresent the identity of the candidate nor may the name include any title, position, rank, degree or nickname implying or inferring any status as a member of a class or group or affiliation with any system of belief.

(B) The city of residence of every candidate, the state of residence of every candidate residing
outside the state, the county of residence of every candidate for an office on the ballot in more than
one county and the magisterial district of residence of every candidate for an office subject to
magisterial district limitations are to be printed in lower case letters beneath the names of the
candidates.

(C) The arrangement of names within each office must be determined as prescribed in section
thirteen-a of this article.

(D) If the number of candidates for an office exceeds the space available on a column or
ballot page and requires that candidates for a single office be separated, to the extent possible, the
number of candidates for the office on separate columns or pages are to be nearly equal and clear
instructions given the voter that the candidates for the office are continued on the following column
or page.

(4) (5) When an insufficient number of candidates has filed for a party to make the number
of nominations allowed for the office or for the voters to elect sufficient members to the board of
Education or to executive committees, the vacant positions on the ballot shall be filled with the
words "No Candidate Filed". Provided, That In paper ballot systems which allow for write-ins to be
made directly on the ballot, a blank line shall be placed in any vacant position in the office of Board
of Education or for election to any party executive committee. A line shall separate each candidate
from every other candidate for the same office. Notwithstanding any other provision of this code,
if there are multiple vacant positions on a ballot for one office, the multiple vacant positions which
would otherwise be filled with the words "No Candidate Filed" may be replaced with a brief detailed
description, approved by the Secretary of State, indicating that there are no candidates listed for the
vacant positions.
In presidential election years, the words "For election in accordance with the plan adopted by the party and filed with the Secretary of State" is to be printed following the names of all candidates for delegate to national convention.

All paper ballots are to be printed in black ink on paper sufficiently thick so that the printing or marking cannot be discernible from the back. Provided, That No paper ballot voted pursuant to the provisions of 42 U.S.C. §1973, et seq., the Uniformed and Overseas Citizens Absentee Voting Act of 1986, or federal write-in absentee ballot may be rejected due to paper type, envelope type, or notarization requirement. Ballot cards and paper for printing ballots using electronically sensible ink are to meet minimum requirements of the tabulating systems and are to conform in size and weight to ensure ease in tabulation.

Ballots are to contain perforated tabs at the top of the ballots and are to be printed with unique sequential numbers from one to the highest number representing the total number of ballots printed. On paper ballots, the ballot is to be bordered by a solid line at least one sixteenth of an inch wide and the ballot is to be trimmed to within one-half inch of that border.

On the back of every official ballot or ballot card the words "Official Ballot" with the name of the county and the date of the election are to be printed. Beneath the date of the election there are to be two blank lines followed by the words "Poll Clerks".

The face of sample paper ballots and sample ballot labels are to be like other official ballots or ballot labels except that the word "sample" is to be prominently printed across the front of the ballot in a manner that ensures the names of candidates are not obscured and the word "sample" may be printed in red ink. No printing may be placed on the back of the sample.

§3-5-13a. Order of offices and candidates on the ballot; uniform drawing date.
(a) The order of offices for state and county elections on all ballots within the state shall be as prescribed herein. When the office does not appear on the ballot in an election, then it shall be omitted from the sequence. When an unexpired term for an office appears on the ballot along with a full term, the unexpired term shall appear immediately below the full term.

NATIONAL TICKET: President (and Vice President in the general election), United States Senator, member of the United States House of Representatives

STATE TICKET: Governor, Secretary of State, Auditor, Treasurer, Commissioner of Agriculture, Attorney General, Justice of the Supreme Court of Appeals, State Senator, member of the House of Delegates, circuit judge in multicounty districts, family court judge in multicounty districts, any other multicounty office, state executive committee.

COUNTY TICKET: Circuit judge in single-county districts, Family court judge in single-county districts, Clerk of the circuit court, county commissioner, clerk of the county commission, prosecuting attorney, sheriff, assessor, magistrate, surveyor, congressional district executive committee, senatorial district executive committee in multicounty districts, delegate district executive committee in multicounty districts.

NATIONAL CONVENTION: Delegate to the national convention -- at-large, delegate to the national convention -- congressional district.

DISTRICT TICKET: County executive committee.

(b) Except for office divisions in which no more than one person has filed a certificate of announcement, the arrangement of names for all offices shall be determined by lot according to the following provisions:

(1) On the forth Tuesday following the close of the candidate filing, beginning at nine o'clock
a. m., a drawing by lot shall be conducted in the office of the clerk of the county commission in each county. Notice of the drawing shall be given on the form for the certificate of announcement and no further notice shall be required. The clerk of the county commission shall superintend and conduct the drawing and the method of conducting the drawing shall be prescribed by the Secretary of State.

(2) Except as provided herein, the position of each candidate within each office division shall be determined by the position drawn for that candidate individually. Provided, That if fewer candidates file for an office division than the total number to be nominated or elected, the vacant positions shall appear following the names of all candidates for the office.

(3) Candidates for delegate to national convention who have filed a commitment to a candidate for president shall be listed alphabetically within the group of candidates committed to the same candidate for president and uncommitted candidates shall be listed alphabetically in an uncommitted category. The position of each group of committed candidates and uncommitted candidates shall be determined by lot by drawing the names of the presidential candidates and for an uncommitted category.

(4) A candidate or the candidate's representative may attend the drawings.

ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.

§3-6-2a. General election ballots for elections of justices of the Supreme Court of Appeals, circuit court judges; family court judges; magistrates; by division.

The general election ballot shall contain separate sections, one listing the names of candidates for justice of the Supreme Court by division, one listing names of candidates for circuit court judge or circuit court judges in the respective circuits by division, one listing names of
candidates for family court judges in the respective circuits by division and one listing names of
candidates for magistrates by division, clearly separate and apart from the listing of the names on the
ballot for political party candidates for partisan offices. These ballots shall include a heading of
"Nonpartisan Ballot of Election of Justice(s) of the Supreme Court of Appeals of West Virginia by
Division," and another heading of "Nonpartisan Ballot of Election of Circuit Court Judge by
Division," another heading of "Nonpartisan Ballot of Election of Family Court Judge by Division,"
and another heading of "Nonpartisan Ballot of Election of Magistrate by Division," with the proper
circuit of the respective circuit court election listed on the ballot, with the names of all candidates
for the nonpartisan elections listed thereunder with no other offices listed in that section or that ballot
as appropriate.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 1. COURTS AND OFFICERS.

§50-1-1. Magistrate court created.

There is hereby created in each county of this state a magistrate court with such numbers of
magistrates for each court as are hereafter provided. There shall be elected by the voters of each
county, at the general election to be held in the year one thousand nine hundred seventy-six, and in
every fourth year thereafter, such number of magistrates as is provided in section two of this article.
The filing fee for the office of magistrate shall be one percent of the annual salary. The term of
magistrates shall be for four years and shall begin on January 1, of the year following the year of
election.

In counties where voting machines or electronic voting systems are used, the procedures of
section eleven, article four, chapter three and section twelve, article four-a of said chapter three of
this code shall apply respectively to the election of magistrates in the same manner as they apply to
the election of members of the House of Delegates.

Notwithstanding the provisions of section seven, article five, chapter three of this code, for
purposes of the primary election to be held in the year one thousand nine hundred seventy-six, the
last day for filing certificates of candidacy for the office of magistrate shall be extended to the
twenty-seventh day of February of that year.

Effective with the general election of 2016, all elections for magistrates will be on a
nonpartisan basis by division. Beginning in 2016, there will no longer be primary elections held for
magistrates. All indications of party identification on election ballots for magistrate shall be omitted.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES.

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

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

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

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

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

(4) The counties of Wood and Wirt shall constitute the fourth circuit and shall have three
(5) The counties of Calhoun, Jackson, Mason and Roane shall constitute the fifth circuit and shall have two judges;

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

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

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

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

(10) The county of Raleigh shall constitute the tenth circuit and shall have three judges;

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

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

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

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

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

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

(17) The county of Monongalia shall constitute the seventeenth circuit and shall have two judges: Provided, That effective July 1, 2009, said circuit court shall have three judges.

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

(19) The counties of Barbour and Taylor shall constitute the nineteenth circuit and shall have one judge;
(20) The county of Randolph shall constitute the twentieth circuit and shall have one judge;

(21) The counties of Grant, Mineral and Tucker shall constitute the twenty-first circuit and shall have two judges;

(22) The counties of Hampshire, Hardy and Pendleton shall constitute the twenty-second circuit and shall have two judges;

(23) The counties of Berkeley, Jefferson and Morgan shall constitute the twenty-third circuit and shall have five judges;

(24) The county of Wayne shall constitute the twenty-fourth circuit and shall have two judges;

(25) The counties of Lincoln and Boone shall constitute the twenty-fifth circuit and shall have two judges;

(26) The counties of Lewis and Upshur shall constitute the twenty-sixth circuit and shall have one judge;

(27) The county of Wyoming shall constitute the twenty-seventh circuit and shall have one judge;

(28) The county of Nicholas shall constitute the twenty-eighth circuit and shall have one judge;

(29) The county of Putnam shall constitute the twenty-ninth circuit and shall have two judges;

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

(31) The counties of Monroe and Summers shall constitute the thirty-first circuit and shall have one judge.

(b) The Kanawha County circuit court shall be a court of concurrent jurisdiction with each
single judge circuit where the sitting judge in the single judge circuit is unavailable by reason of
sickness, vacation or other reason.

(c) Any judge in office on the effective date of the reenactment of this section shall continue
as a judge of the circuit as constituted under prior enactments of this section, unless sooner removed
or retired as provided by law, until December 31, 2008.

(d) The term of office of all circuit court judges shall be for eight years. The term of office
for all circuit court judges elected during the general election conducted in the year 2008 shall
commence on January 1, 2009, and end on December 31, 2016.

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

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

(g) Beginning in 2016, all elections for circuit court judge shall be nonpartisan by division,
and all elections for circuit court judge are to be held in the general election as set forth in chapter
three of this code. Beginning in 2016, there will no longer be primary elections held for circuit court
judges. All indications of party identification on election ballots for circuit court judge shall be
omitted.
The Supreme Court of Appeals shall, by rule, establish the terms of court of circuit judges.

ARTICLE 2A. FAMILY COURTS.

§51-2A-5. Term of office of family court judge; initial appointment; elections.

(a) Beginning with the primary and general elections to be conducted in the year 2002, family court judges shall be elected. In family court circuits having two or more family court judges there shall be, for election purposes, numbered divisions corresponding to the number of family court judges in each area. Each family court judge shall be elected at large by the entire family court circuit. In each numbered division of a family court circuit, the candidates for nomination or election shall be voted upon and the votes cast for the candidates in each division shall be tallied separately from the votes cast for candidates in other numbered divisions within the family court circuit. The candidate or candidates receiving the highest number of the votes cast within a numbered division shall be nominated or elected, as the case may be. **Effective with the general election of 2016, all elections for family court judges in the respective circuits will be on a nonpartisan basis by division.**

Beginning in 2016, there will no longer be primary elections held for family court judges. All indications of party identification on election ballots for family court judge shall be omitted.

(b) The term of office for all family court judges elected in 2002 shall be for six years, commencing on January 1, 2003, and ending on December 31, 2008. Subsequent terms of office for family court judges elected thereafter shall be for eight years.

(c) The primary and general elections conducted in the year 2008 shall be conducted to fill the family court judge positions in the reconfigured districts set forth by subsection (c), section three of this article, for terms to commence on January 1, 2009.
NOTE: The purpose of this bill is to elect all justices to the West Virginia Supreme Court of Appeals, all circuit court judges, all family court judges and all magistrates on a nonpartisan basis by division.

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

§3-5-6a, §3-5-6b, §3-5-6c, §3-5-6d, and §3-6-2a are new; therefore, they have been completely underscored.