

**Senate Bill No. 10**

(By Senators Trump, Boley, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Mullins, Nohe,  
Sypolt, Blair and Cole (Mr. President))

\_\_\_\_\_  
[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-1 1a 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 election 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:*

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

### 8 **CHAPTER 3. ELECTIONS.**

#### 9 **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

##### 10 **§3-1-16. Election of state officers.**

11 At the general election to be held in 1968, and ~~in~~ every fourth year thereafter, there shall be  
 12 elected a Governor, Secretary of State, Treasurer, Auditor, Attorney General and Commissioner of  
 13 Agriculture. At the general election in 1968, and ~~in~~ every second year thereafter, there shall be  
 14 elected a member of the State Senate for each senatorial district, and a member or members of the  
 15 House of Delegates of the state from each county or each delegate district. At the general election  
 16 to be held in the year 1968, and ~~in~~ every twelfth year thereafter, there shall be elected one ~~judge~~  
 17 justice of the Supreme Court of Appeals, and at the general election to be held in 1972, and ~~in~~ every  
 18 twelfth year thereafter, two ~~judges~~ justices of the Supreme Court of Appeals and at the general  
 19 election to be held in 1976, and ~~in~~ every twelfth year thereafter, two ~~judges~~ justices of the Supreme  
 20 Court of Appeals. At the general election to be held in 2016, and every twelfth year thereafter, there  
 21 shall be elected one justice of the Supreme Court of Appeals, and at the general election to be held

1 in 2020, and every twelfth year thereafter, there shall be elected two justices of the Supreme Court  
 2 of Appeals, and at the general election to be held in 2024, and every twelfth year thereafter, there  
 3 shall be elected two justices of the Supreme Court of Appeals. Effective with the general election  
 4 held in 2016, the election of justices of the Supreme Court of Appeals shall be on a nonpartisan basis  
 5 and by division.

6 **§3-1-17. Election of circuit judges; county and district officers; magistrates.**

7       There shall be elected, at the general election to be held in 1992, and ~~in~~ every eighth year  
 8 thereafter, one judge of the circuit court of every judicial circuit entitled to ~~but~~ one judge, and one  
 9 judge for each numbered division of the judicial circuit in those judicial circuits entitled to two or  
 10 more circuit judges; and at the general election to be held in 1992, and ~~in~~ every fourth year thereafter,  
 11 a sheriff, prosecuting attorney, surveyor of lands, and the number of assessors prescribed by law for  
 12 the county, and the number of magistrates prescribed by law for the county; and at the general  
 13 election to be held in 1990, and ~~in~~ every second year thereafter, a commissioner of the county  
 14 commission for each county; and at the general election to be held in 1992, and ~~in~~ every sixth year  
 15 thereafter, a clerk of the county commission and a clerk of the circuit court for each county.  
 16 Effective with the general election of 2016, all elections for circuit court judges in the respective  
 17 circuits will be elected on a nonpartisan basis and by division.

18 **ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.**

19 **§3-4A-11a. Ballots tabulated electronically; arrangement, quantity to be printed, ballot stub**  
 20 **numbers.**

21       (a) The board of ballot commissioners in counties using ballots upon which votes may be

1 recorded by means of marking with electronically sensible ink or pencil and which marks are  
2 tabulated electronically shall cause the ballots to be printed or displayed upon the screens of the  
3 electronic voting system for use in elections.

4 (b) (1) For the primary election, the heading of the ballot, the type faces, the names and  
5 arrangement of offices and the printing of names and arrangement of candidates within each office  
6 are to conform as nearly as possible to ~~the provisions of~~ sections thirteen and thirteen-a, article five  
7 of this chapter.

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

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

19 (4) Both the face and the reverse side of the ballot may contain the names of candidates only  
20 if means to ensure the secrecy of the ballot are provided and lines for the signatures of the poll clerks  
21 on the ballot are printed on a portion of the ballot which is deposited in the ballot box and upon

1 which marks do not interfere with the proper tabulation of the votes.

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

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

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

3 **ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.**

4 **§3-5-6a. Election of justices of the Supreme Court of Appeals.**

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

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

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

13 **§3-5-6b. Election of circuit judges.**

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

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

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

1 **§3-5-6c. Election of family court judges.**

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

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

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

10 **§3-5-6d. Election of magistrates.**

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

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

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

19 **§3-5-7. Filing announcements of candidacies; requirements; withdrawal of candidates when**  
20 **section applicable.**

21 (a) Any person who is eligible and seeks to hold an office or political party position to be

1 filled by election in any primary or general election held under the provisions of this chapter shall  
2 file a certificate of announcement declaring his or her candidacy for the nomination or election to  
3 the office.

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

5 (1) Candidates for the House of Delegates or the State Senate and any other office or political  
6 position to be filled by the voters of more than one county shall file a certificate of announcement  
7 with the Secretary of State.

8 (2) Candidates for an office or political position to be filled by the voters of a single county  
9 or a subdivision of a county, except for candidates for the House of Delegates or State Senate, shall  
10 file a certificate of announcement with the clerk of the county commission.

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

13 (c) Except for the offices of justice of the Supreme Court of Appeals, circuit court judge,  
14 family court judge and magistrate which are to be filled on a nonpartisan, division basis beginning  
15 at the general election held in 2016, the certificate of announcement shall be filed with the proper  
16 officer not earlier than the second Monday in January ~~next preceding~~ before the primary election day  
17 and not later than the last Saturday in January ~~next preceding~~ before the primary election day and  
18 must be received before midnight, eastern standard time, of that day or, if mailed, ~~shall~~ be  
19 postmarked by the United States Postal Service before that hour. The offices of justice of the  
20 Supreme Court of Appeals, circuit court judge, family court judge and magistrate beginning in 2016,  
21 shall be filled on a nonpartisan and division basis at the general election. The certificate of



1 announcement shall be filed with the authorized election official not later than the second Tuesday  
2 in May and must be received before midnight, eastern standard time, of that day or, if mailed, be  
3 postmarked by the United States Postal Service before midnight, eastern standard time, of that day.  
4 All certificates of announcement for the offices of justice of the Supreme Court of Appeals, circuit  
5 court judge, family court judge and magistrate which are filed not earlier than the second Monday  
6 in January before the primary election day, and not later than the last Saturday in January before the  
7 primary election day, and are received before midnight, eastern standard time, of that day or, if  
8 mailed, were postmarked by the United States Postal Service before that hour, may be withdrawn  
9 on or before midnight, eastern standard time, of the second Tuesday in May, in accordance with  
10 article five, section eleven of this chapter, with a full refund of any filing fees paid or, if not  
11 withdrawn, are effective for purposes of the nonpartisan election by division for the offices to be  
12 held on general election day.

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

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

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

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

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

1 or under magisterial district limitations;

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

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

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

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

14 (9) The words "subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
15 20\_\_\_\_" and a space for the signature of the officer giving the oath.

16 (e) The Secretary of State or the board of ballot commissioners, as the case may be, may  
17 refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a  
18 certified copy of the voter's registration record of the candidate showing that the candidate was  
19 registered as a voter in a party other than the one named in the certificate of announcement during  
20 the sixty days immediately preceding the filing of the certificate: *Provided*, That unless a signed  
21 formal complaint of violation of this section and the certified copy of the voter's registration record

1 of the candidate are filed with the officer receiving that candidate's certificate of announcement no  
2 later than ten days following the close of the filing period, the candidate may not be refused  
3 certification for this reason.

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

8 (g) Any candidate for delegate to a national convention may change his or her statement of  
9 presidential preference by notifying the Secretary of State by letter received by the Secretary of State  
10 no later than the third Tuesday following the close of candidate filing. When the rules of the  
11 political party allow each presidential candidate to approve or reject candidates for delegate to  
12 convention who may appear on the ballot as committed to that presidential candidate, the presidential  
13 candidate or the candidate's committee on his or her behalf may file a list of approved or rejected  
14 candidates for delegate and the Secretary of State shall list as "uncommitted" any candidate for  
15 delegate who is disapproved by the presidential candidate.

16 (h) A person may not be a candidate for more than one office or office division at any  
17 election. ~~Provided, That~~ However, a candidate for an office may also be a candidate for President  
18 of the United States, for membership on political party executive committees or for delegate to a  
19 political party national convention.

20 (i) A candidate who files a certificate of announcement for more than one office or division  
21 and does not withdraw, as provided by section eleven, article five of this chapter, from all but one

1 office prior to the close of the filing period may not be certified by the Secretary of State or placed  
2 on the ballot for any office by the board of ballot commissioners.

3 (j) The provisions of this section enacted during the regular session of the Legislature in the  
4 year 1991 ~~shall apply~~ applies to the primary election held in the year 1992 and every primary election  
5 held thereafter. The provisions of this section enacted during the regular session of the Legislature  
6 in the year 2009 ~~shall apply~~ applies to the primary election held in the year 2010 and every primary  
7 election held thereafter.

8 **§3-5-13. Form and contents of ballots.**

9 The following provisions apply to the form and contents of election ballots:

10 (1) The face of every primary election ballot shall conform as nearly as practicable to that  
11 used at the general election.

12 (†)(2) The heading of every ballot is to be printed in display type. The heading is to contain  
13 a ballot title, the name of the county, the state, the words "Primary Election" and the month, day and  
14 year of the election. The ballot title of the political party ballots is to contain the words "Official  
15 Ballot of the (Name) Party" and the official symbol of the political party may be included in the  
16 heading. The ballot title of any separate paper ballot or portion of any electronic or voting machine  
17 ballot for the Board of Education is to contain the words "Nonpartisan Ballot of Election of Members  
18 of the \_\_\_\_\_ County Board of Education". The districts for which less than two  
19 candidates may be elected and the number of available seats are to be specified and the names of the  
20 candidates are to be printed without reference to political party affiliation and without designation  
21 as to a particular term of office. The ballot title of any separate paper ballot or portion of any

1 electronic or voting machine ballot for the Supreme Court of Appeals shall contain the words  
2 “Nonpartisan Ballot of Election of Justice(s) of the Supreme Court of Appeals of West Virginia.”  
3 The names of the candidates for the Supreme Court of Appeals shall be printed by division without  
4 references to political party affiliation or registration. The ballot title of any separate paper ballot or  
5 portion of any electronic or voting machine ballot for all circuit court judges in the respective circuits  
6 shall contain the words “Nonpartisan Ballot of Election of Circuit Court Judge(s)”. The names of  
7 the candidates for the respective circuit court judge office shall be printed by division without  
8 references to political party affiliation or registration. The ballot title of any separate paper ballot or  
9 portion of any electronic or voting machine ballot for all family court judges in the respective circuits  
10 shall contain the words “Nonpartisan Ballot of Election of Family Court Judge(s)”. The names of  
11 the candidates for the respective family court judge office shall be printed by division without  
12 references to political party affiliation or registration. The ballot title of any separate paper ballot or  
13 portion of any electronic or voting machine ballot for all magistrates in the respective circuits shall  
14 contain the words “Nonpartisan Ballot of Election of Magistrate(s)”. The names of the candidates  
15 for the respective magistrate office shall be printed by division without references to political party  
16 affiliation or registration. Any other ballot or portion of a ballot on a question is to have a heading  
17 which clearly states the purpose of the election according to the statutory requirements for that  
18 question.

19       ~~(2)~~ (3)(A) For paper ballots, the heading of the ballot is to be separated from the rest of the  
20 ballot by heavy lines and the offices shall be arranged in columns with the following headings, from  
21 left to right across the ballot: "National Ticket", "State Ticket", "County Ticket" and, in a

1 presidential election year, "National Convention" or, in a nonpresidential election year, "District  
2 Ticket". The columns are to be separated by heavy lines. Within the columns, the offices are to be  
3 arranged in the order prescribed in section thirteen-a of this article.

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

9 (C) The title of each office is to be separated from preceding offices or candidates by a line  
10 and is to be printed in bold type no smaller than eight point. Below the office is to be printed the  
11 number of the district, if any, the number of the division, if any, and the words "Vote for \_\_\_\_\_"  
12 with the number to be nominated or elected or "Vote For Not More Than \_\_\_\_\_" in  
13 multicandidate elections. For offices in which there are limitations relating to the number of  
14 candidates which may be nominated, elected or appointed to or hold office at one time from a  
15 political subdivision within the district or county in which they are elected, there is to be a clear  
16 explanation of the limitation, as prescribed by the Secretary of State, printed in bold type  
17 immediately preceding the names of the candidates for those offices on the ballot in every voting  
18 system. For counties in which the number of county commissioners exceeds three and the total  
19 number of members of the county commission is equal to the number of magisterial districts within  
20 the county, the office of county commission is to be listed separately for each district to be filled with  
21 the name of the magisterial district and the words "Vote for One" printed below the name of the

1 office: *Provided*, That the office title and applicable instructions may span the width of the ballot  
2 so as it is centered among the respective columns.

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

7 ~~(3)~~ (4) (A) The name of every candidate certified by the Secretary of State or the board of  
8 ballot commissioners is to be printed in capital letters in no smaller than eight point type on the  
9 ballot for the appropriate precincts. Subject to the rules promulgated by the Secretary of State, the  
10 name of each candidate is to appear in the form set out by the candidate on the certificate of  
11 announcement, but in no case may the name misrepresent the identity of the candidate nor may the  
12 name include any title, position, rank, degree or nickname implying or inferring any status as a  
13 member of a class or group or affiliation with any system of belief.

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

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

21 (D) If the number of candidates for an office exceeds the space available on a column or

1 ballot page and requires that candidates for a single office be separated, to the extent possible, the  
2 number of candidates for the office on separate columns or pages are to be nearly equal and clear  
3 instructions given the voter that the candidates for the office are continued on the following column  
4 or page.

5       ~~(4)~~ (5) When an insufficient number of candidates has filed for a party to make the number  
6 of nominations allowed for the office or for the voters to elect sufficient members to the Board of  
7 Education or to executive committees, the vacant positions on the ballot shall be filled with the  
8 words "No Candidate Filed". ~~Provided, That~~ In paper ballot systems which allow for write-ins to be  
9 made directly on the ballot, a blank line shall be placed in any vacant position in the office of Board  
10 of Education or for election to any party executive committee. A line shall separate each candidate  
11 from every other candidate for the same office. Notwithstanding any other provision of this code,  
12 if there are multiple vacant positions on a ballot for one office, the multiple vacant positions which  
13 would otherwise be filled with the words "No Candidate Filed" may be replaced with a brief detailed  
14 description, approved by the Secretary of State, indicating that there are no candidates listed for the  
15 vacant positions.

16       ~~(5)~~ (6) In presidential election years, the words "For election in accordance with the plan  
17 adopted by the party and filed with the Secretary of State" is to be printed following the names of  
18 all candidates for delegate to national convention.

19       ~~(6)~~ (7) All paper ballots are to be printed in black ink on paper sufficiently thick so that the  
20 printing or marking cannot be discernible from the back. ~~Provided, That~~ No paper ballot voted  
21 pursuant to the provisions of 42 U.S.C. §1973, *et seq.*, the Uniformed and Overseas Citizens



1 Absentee Voting Act of 1986, or federal write-in absentee ballot may be rejected due to paper type,  
2 envelope type, or notarization requirement. Ballot cards and paper for printing ballots using  
3 electronically sensible ink are to meet minimum requirements of the tabulating systems and are to  
4 conform in size and weight to ensure ease in tabulation.

5 ~~(7)~~ (8) Ballots are to contain perforated tabs at the top of the ballots and are to be printed with  
6 unique sequential numbers from one to the highest number representing the total number of ballots  
7 printed. On paper ballots, the ballot is to be bordered by a solid line at least one sixteenth of an inch  
8 wide and the ballot is to be trimmed to within one-half inch of that border.

9 ~~(8)~~ (9) On the back of every official ballot or ballot card the words "Official Ballot" with the  
10 name of the county and the date of the election are to be printed. Beneath the date of the election  
11 there are to be two blank lines followed by the words "Poll Clerks".

12 ~~(9)~~ (10) The face of sample paper ballots and sample ballot labels are to be like other official  
13 ballots or ballot labels except that the word "sample" is to be prominently printed across the front  
14 of the ballot in a manner that ensures the names of candidates are not obscured and the word  
15 "sample" may be printed in red ink. No printing may be placed on the back of the sample.

16 **§3-5-13a. Order of offices and candidates on the ballot; uniform drawing date.**

17 (a) The order of offices for state and county elections on all ballots within the state ~~shall be~~  
18 are as prescribed herein. When the office does not appear on the ballot in an election, then it shall  
19 be omitted from the sequence. When an unexpired term for an office appears on the ballot along  
20 with a full term, the unexpired term shall appear immediately below the full term.

21 NATIONAL TICKET: President (and Vice President in the general election), United States

1 Senator, member of the United States House of Representatives

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

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

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

13 DISTRICT TICKET: County executive committee.

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

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

1 of State.

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

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

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

### 13 **ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.**

#### 14 **§3-6-2a. General election ballots for elections of justices of the Supreme Court of Appeals,** 15 **circuit court judges; family court judges; magistrates; by division.**

16 The general election ballot shall contain separate sections, one listing the names of  
 17 candidates for justice of the Supreme Court by division, one listing names of candidates for circuit  
 18 court judge or circuit court judges in the respective circuits by division, one listing names of  
 19 candidates for family court judges in the respective circuits by division and one listing names of  
 20 candidates for magistrates by division, clearly separate and apart from the listing of the names on the  
 21 ballot for political party candidates for partisan offices. These ballots shall include a heading of

1 "Nonpartisan Ballot of Election of Justice(s) of the Supreme Court of Appeals of West Virginia by  
2 Division," and another heading of "Nonpartisan Ballot of Election of Circuit Court Judge by  
3 Division," another heading of "Nonpartisan Ballot of Election of Family Court Judge by Division,"  
4 and another heading of "Nonpartisan Ballot of Election of Magistrate by Division," with the proper  
5 circuit of the respective circuit court election listed on the ballot, with the names of all candidates  
6 for the nonpartisan elections listed thereunder with no other offices listed in that section or that ballot  
7 as appropriate.

8 **CHAPTER 50. MAGISTRATE COURTS.**

9 **ARTICLE 1. COURTS AND OFFICERS.**

10 **§50-1-1. Magistrate court created.**

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

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

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

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

## 8 **CHAPTER 51. COURTS AND THEIR OFFICERS.**

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

#### 10 **§51-2-1. Judicial circuits; terms of office; legislative findings and declarations; elections;** 11 **terms of court.**

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

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

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

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

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

1 (5) The counties of Calhoun, Jackson, Mason and Roane shall constitute the fifth circuit and  
2 shall have two judges;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1           (20) The county of Randolph shall constitute the twentieth circuit and shall have one judge;
- 2           (21) The counties of Grant, Mineral and Tucker shall constitute the twenty-first circuit and  
3 shall have two judges;
- 4           (22) The counties of Hampshire, Hardy and Pendleton shall constitute the twenty-second  
5 circuit and shall have two judges;
- 6           (23) The counties of Berkeley, Jefferson and Morgan shall constitute the twenty-third circuit  
7 and shall have five judges;
- 8           (24) The county of Wayne shall constitute the twenty-fourth circuit and shall have two  
9 judges;
- 10          (25) The counties of Lincoln and Boone shall constitute the twenty-fifth circuit and shall have  
11 two judges;
- 12          (26) The counties of Lewis and Upshur shall constitute the twenty-sixth circuit and shall have  
13 one judge;
- 14          (27) The county of Wyoming shall constitute the twenty-seventh circuit and shall have one  
15 judge;
- 16          (28) The county of Nicholas shall constitute the twenty-eighth circuit and shall have one  
17 judge;
- 18          (29) The county of Putnam shall constitute the twenty-ninth circuit and shall have two judges;
- 19          (30) The county of Mingo shall constitute the thirtieth circuit and shall have one judge; and
- 20          (31) The counties of Monroe and Summers shall constitute the thirty-first circuit and shall  
21 have one judge.

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

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

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

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

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

19 (g) Beginning in 2016, all elections for circuit court judge shall be nonpartisan by division,  
20 and all elections for circuit court judge are to be held in the general election as set forth in chapter  
21 three of this code. Beginning in 2016, there will no longer be primary elections held for circuit court



1 judges. All indications of party identification on election ballots for circuit court judge shall be  
2 omitted.

3 ~~(g)~~ (h) The Supreme Court of Appeals shall, by rule, establish the terms of court of circuit  
4 judges.

## 5 **ARTICLE 2A. FAMILY COURTS.**

### 6 **§51-2A-5. Term of office of family court judge; initial appointment; elections.**

7 (a) Beginning with the primary and general elections to be conducted in the year 2002, family  
8 court judges shall be elected. In family court circuits having two or more family court judges there  
9 shall be, for election purposes, numbered divisions corresponding to the number of family court  
10 judges in each area. Each family court judge shall be elected at large by the entire family court  
11 circuit. In each numbered division of a family court circuit, the candidates for nomination or election  
12 shall be voted upon and the votes cast for the candidates in each division shall be tallied separately  
13 from the votes cast for candidates in other numbered divisions within the family court circuit. The  
14 candidate or candidates receiving the highest number of the votes cast within a numbered division  
15 shall be nominated or elected, as the case may be. Effective with the general election of 2016, all  
16 elections for family court judges in the respective circuits will be on a nonpartisan basis by division.  
17 Beginning in 2016, there will no longer be primary elections held for family court judges. All  
18 indications of party identification on election ballots for family court judge shall be omitted.

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

1           (c) The primary and general elections conducted in the year2008 shall be conducted to fill  
2 the family court judge positions in the reconfigured districts set forth by subsection (c), section three  
3 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, strike-throughs and underscoring have been omitted.