

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

Introduced

### Senate Bill 494

FISCAL NOTE
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BY SENATOR CARMICHAEL (MR. PRESIDENT)

[Introduced March 1, 2017; Referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as  
 2 amended; to amend and reenact §3-4A-11a of said code; to amend and reenact §3-5-6a,  
 3 §3-5-6b, §3-5-6c, §3-5-6d, §3-5-13 and §3-5-13a of said code; to amend and reenact §3-  
 4 6-2 of said code; to amend said code by adding thereto a new section, designated §3-6-  
 5 13; and to amend and reenact §51-2A-5 of said code, all relating to providing for runoff  
 6 elections for judicial offices if no candidate receives a majority of the votes; identifying the  
 7 specific offices affected as justice of the Supreme Court of Appeals, circuit court judge,  
 8 family law judge and magistrate; setting forth the form and contents of ballots; establishing  
 9 a procedure for the runoff elections; establishing who is to identify the candidates for a  
 10 runoff election; providing for the certification of the candidates; prohibiting write-in  
 11 candidates; and providing for the certification of the election results.

*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  
 2 and reenacted; that §3-4A-11a of said code be amended and reenacted; that §3-5-6a, §3-5-6b,  
 3 §3-5-6c, §3-5-6d, §3-5-13 and §3-5-13a of said code be amended and reenacted; that §3-6-2 of  
 4 said code be amended and reenacted; that said code be amended by adding thereto a new  
 5 section, designated §3-6-13; and that §51-2A-5 of said code be amended and reenacted, all to  
 6 read as follows:

## **CHAPTER 3. ELECTIONS.**

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

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

1 (a) At the general election to be held in 1968, and every fourth year thereafter, there shall  
 2 be elected a Governor, Secretary of State, Treasurer, Auditor, Attorney General and  
 3 Commissioner of Agriculture. At the general election in 1968, and every second year thereafter,  
 4 there shall be elected a member of the State Senate for each senatorial district, and a member

5 or members of the House of Delegates of the state from each county or each delegate district.

6 (b) At the time of the primary election to be held in the year 2016, and every twelfth year  
7 thereafter, there shall be elected one justice of the Supreme Court of Appeals, and at the time of  
8 the primary election to be held in 2020, and every twelfth year thereafter, two justices of the  
9 Supreme Court of Appeals and at the time of the primary election to be held in 2024, and every  
10 twelfth year thereafter, two justices of the Supreme Court of Appeals: Provided, That if at the time  
11 of the primary election no candidate receives a majority of the votes in a specific division a judicial  
12 runoff shall be held pursuant to the procedure set forth in section thirteen, article six of this  
13 chapter. Effective with the primary election held in the year 2016, the election of Justices of the  
14 Supreme Court of Appeals shall be on a nonpartisan basis and by division as set forth more fully  
15 in article five of this chapter.

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

1 (a) There shall be elected, at the time of the primary election to be held in 2016, and every  
2 eighth year thereafter, one judge of the circuit court of every judicial circuit entitled to one judge,  
3 and one judge for each numbered division of the judicial circuit in those judicial circuits entitled to  
4 two or more circuit judges; and at the time of the primary election to be held in 2016, and in every  
5 fourth year thereafter, the number of magistrates prescribed by law for the county: Provided, That  
6 if at the time of the primary election no candidate receives a majority of the votes in a specific  
7 division a judicial runoff shall be held pursuant to the procedure set forth in section thirteen, article  
8 six of this chapter. Beginning with the election held in the year 2016, an election for the purpose  
9 of electing judges of the circuit court, or an election for the purpose of electing magistrates, shall  
10 be upon a nonpartisan ballot printed for the purpose.

11 (b) There shall be elected, at the general election to be held in 1992, and every fourth year  
12 thereafter, a sheriff, prosecuting attorney, surveyor of lands, and the number of assessors  
13 prescribed by law for the county; and at the general election to be held in 1990, and every second  
14 year thereafter, a commissioner of the county commission for each county; and at the general

15 election to be held in 1992, and every sixth year thereafter, a clerk of the county commission and  
16 a clerk of the circuit court for each county.

17 (c) Effective with the primary election of 2016, all elections for judge of the circuit courts in  
18 the respective circuits and magistrates in each county will be elected on a nonpartisan basis and  
19 by division as set forth more fully in article five of this chapter.

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

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

1 (a) The board of ballot commissioners in counties using ballots upon which votes may be  
2 recorded by means of marking with electronically sensible ink or pencil and which marks are  
3 tabulated electronically shall cause the ballots to be printed or displayed upon the screens of the  
4 electronic voting system for use in elections.

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

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

13 (3) Effective with the primary election held in 2016 and thereafter, the following  
14 nonpartisan elections are to be separated from the partisan ballot and separately headed in  
15 display type with a title clearly identifying the purpose of the election and constituting a separate  
16 ballot wherever a separate ballot is required under this chapter:

17 (A) Nonpartisan elections for judicial offices, by division or, in the event no candidate  
18 receives a majority of the votes the procedure for a judicial runoff set forth in section thirteen,

19 article six of this chapter shall be followed, of:

20 (i) Justice of the Supreme Court of Appeals;

21 (ii) Judge of the circuit court;

22 (iii) Family court judge; and

23 (iv) Magistrate;

24 (B) Nonpartisan elections for board of education; and

25 (C) Any question to be voted upon.

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

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

38 (c) Except for electronic voting systems that utilize screens upon which votes may be  
39 recorded by means of a stylus or by means of touch, the primary election ballots are to be printed  
40 in the color of ink specified by the Secretary of State for the various political parties, and the  
41 general election ballot is to be printed in black ink. For electronic voting systems that utilize  
42 screens upon which votes may be recorded by means of a stylus or by means of touch, the  
43 primary ballots and the general election ballot are to be printed in black ink. All ballots are to be

44 printed, where applicable, on white paper suitable for automatic tabulation and are to contain a  
45 perforated stub at the top or bottom of the ballot, which is to be numbered sequentially in the  
46 same manner as provided in section thirteen, article five of this chapter, or are to be displayed on  
47 the screens of the electronic voting system upon which votes are recorded by means of a stylus  
48 or touch. The number of ballots printed and the packaging of ballots for the precincts are to  
49 conform to the requirements for paper ballots provided in this chapter.

50 (d) In addition to the official ballots, the ballot commissioners shall provide all other  
51 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.**

1 (a) An election for the purpose of electing a justice or justices of the Supreme Court of  
2 Appeals shall be held on the same date as the primary election, as provided by law, upon a  
3 nonpartisan ballot by division printed for this purpose. For election purposes, in each election at  
4 which shall be elected more than one justice of the Supreme Court of Appeals, the election shall  
5 be by numbered division corresponding to the number of justices being elected. Each justice shall  
6 be elected at large from the entire state.

7 (b) In each nonpartisan election by division for a justice of the Supreme Court of Appeals,  
8 the candidates for election in each numbered division shall be tallied separately, and the board of  
9 canvassers shall declare and certify the election of the eligible candidate receiving the highest  
10 numbers of votes cast within a numbered division 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 vote.

13 (d) If no candidate for election to become a justice of the Supreme Court of Appeals  
14 receives a majority of all the votes cast in the division in which he or she was a candidate a runoff

15 election shall be held at the time of the general election pursuant to the procedure set forth in  
16 section thirteen, article six of this chapter.

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

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

4 (b) In each nonpartisan election by division for a circuit court judge, the candidates for  
5 election in each numbered division shall be tallied separately, and the board of canvassers shall  
6 declare and certify the election of the eligible candidate receiving the highest numbers of votes  
7 cast within a numbered 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 vote.

10 (d) If no candidate for circuit judge receives a majority of all the votes cast in the division  
11 in which he or she was a candidate a runoff election shall be held at the time of the general  
12 election pursuant to the procedure set forth in section thirteen, article six of this chapter.

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

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

4 (b) In each nonpartisan election by division for a family court judge, the candidates for  
5 election in each numbered division shall be tallied separately, and the board of canvassers shall  
6 declare and certify the election of the eligible candidate receiving the highest numbers of votes  
7 cast within a numbered 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 vote.

10 (d) If no candidate for family court judge receives a majority of all the votes cast in the  
11 division in which he or she was a candidate a runoff election shall be held at the time of the  
12 general election pursuant to the procedure set forth in section thirteen, article six of this chapter.

**§3-5-6d. Election of magistrates.**

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

4 (b) In each nonpartisan election by division for a magistrate, the candidates for election in  
5 each numbered division shall be tallied separately, and the board of canvassers shall declare and  
6 certify the election of the eligible candidate receiving the highest numbers of votes cast within a  
7 numbered 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 vote.

10 (d) If no candidate for magistrate receives a majority of all the votes cast in the division in  
11 which he or she was a candidate a runoff election shall be held at the time of the general election  
12 pursuant to the procedure set forth in section thirteen, article six of this chapter.

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

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

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

4 (2) The heading of every ballot is to be printed in display type. The heading is to contain  
5 a ballot title, the name of the county, the state, the words "Primary Election" and the month, day  
6 and year of the election. The ballot title of the political party ballots is to contain the words "Official  
7 Ballot of the (Name) Party" and the official symbol of the political party may be included in the  
8 heading.



9 (A) The ballot title of any separate paper ballot or portion of any electronic or voting  
10 machine ballot for all judicial officer shall commence with the words "Nonpartisan Ballot of Election  
11 of Judicial Officers" and each such office shall be listed in the following order:

12 (i) The ballot title of any separate paper ballot or portion of any electronic or voting machine  
13 ballot for all justices of the Supreme Court of Appeals shall contain the words "Nonpartisan Ballot  
14 of Election of Justice(s) of the Supreme Court of Appeals of West Virginia". The names of the  
15 candidates for the Supreme Court of Appeals shall be printed by division without references to  
16 political party affiliation or registration.

17 (ii) The ballot title of any separate paper ballot or portion of any electronic or voting  
18 machine ballot for all circuit court judges in the respective circuits shall contain the words  
19 "Nonpartisan Ballot of Election of Circuit Court Judge(s)". The names of the candidates for the  
20 respective circuit court judge office shall be printed by division without references to political party  
21 affiliation or registration.

22 (iii) The ballot title of any separate paper ballot or portion of any electronic or voting  
23 machine ballot for all family court judges in the respective circuits shall contain the words  
24 "Nonpartisan Ballot of Election of Family Court Judge(s)". The names of the candidates for the  
25 respective family court judge office shall be printed by division without references to political party  
26 affiliation or registration.

27 (iv) The ballot title of any separate paper ballot or portion of any electronic or voting  
28 machine ballot for all magistrates in the respective circuits shall contain the words "Nonpartisan  
29 Ballot of Election of Magistrate(s)". The names of the candidates for the respective magistrate  
30 office shall be printed by division without references to political party affiliation or registration.

31 (B) The ballot title of any separate paper ballot or portion of any electronic or voting  
32 machine ballot for the board of education is to contain the words "Nonpartisan Ballot of Election  
33 of Members of the \_\_\_\_\_ County board of education". The districts for which less than

34 two candidates may be elected and the number of available seats are to be specified and the  
35 names of the candidates are to be printed without reference to political party affiliation and without  
36 designation as to a particular term of office.

37 (C) Any other ballot or portion of a ballot on a question is to have a heading which clearly  
38 states the purpose of the election according to the statutory requirements for that question.

39 (3) If a judicial runoff is required the procedure set forth in section thirteen, article six of  
40 this chapter shall be followed and the race, or races, shall be listed on the general election ballot  
41 in the same order as is set forth in paragraph (A), subdivision (2) of this section.

42 ~~(3)~~ (4) (A) For paper ballots, the heading of the ballot is to be separated from the rest of  
43 the ballot by heavy lines and the offices shall be arranged in columns with the following headings,  
44 from left to right across the ballot: "National Ticket", "State Ticket", "County Ticket" and, in a  
45 presidential election year, "National Convention" or, in a nonpresidential election year, "District  
46 Ticket". The columns are to be separated by heavy lines. Within the columns, the offices are to  
47 be arranged in the order prescribed in section thirteen-a of this article.

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

53 (C) The title of each office is to be separated from preceding offices or candidates by a  
54 line and is to be printed in bold type no smaller than eight point. Below the office is to be printed  
55 the number of the district, if any, the number of the division, if any, and the words "Vote for  
56 \_\_\_\_\_" with the number to be nominated or elected or "Vote For Not More Than \_\_\_\_\_"  
57 in multicandidate elections. For offices in which there are limitations relating to the number of  
58 candidates which may be nominated, elected or appointed to or hold office at one time from a

59 political subdivision within the district or county in which they are elected, there is to be a clear  
60 explanation of the limitation, as prescribed by the Secretary of State, printed in bold type  
61 immediately preceding the names of the candidates for those offices on the ballot in every voting  
62 system. For counties in which the number of county commissioners exceeds three and the total  
63 number of members of the county commission is equal to the number of magisterial districts within  
64 the county, the office of county commission is to be listed separately for each district to be filled  
65 with the name of the magisterial district and the words "Vote for One" printed below the name of  
66 the office: *Provided*, That the office title and applicable instructions may span the width of the  
67 ballot so as it is centered among the respective columns.

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

72 ~~(4)~~ (5) (A) The name of every candidate certified by the Secretary of State or the board of  
73 ballot commissioners is to be printed in capital letters in no smaller than eight point type on the  
74 ballot for the appropriate precincts. Subject to the rules promulgated by the Secretary of State,  
75 the name of each candidate is to appear in the form set out by the candidate on the certificate of  
76 announcement, but in no case may the name misrepresent the identity of the candidate nor may  
77 the name include any title, position, rank, degree or nickname implying or inferring any status as  
78 a member of a class or group or affiliation with any system of belief.

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

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

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

91 ~~(5)~~ (6) When an insufficient number of candidates has filed for a party to make the number  
92 of nominations allowed for the office or for the voters to elect sufficient members to the board of  
93 education or to executive committees, the vacant positions on the ballot shall be filled with the  
94 words "No Candidate Filed": *Provided*, That in paper ballot systems which allow for write-ins to  
95 be made directly on the ballot, a blank line shall be placed in any vacant position in the office of  
96 board of education or for election to any party executive committee. A line shall separate each  
97 candidate from every other candidate for the same office. Notwithstanding any other provision of  
98 this code, if there are multiple vacant positions on a ballot for one office, the multiple vacant  
99 positions which would otherwise be filled with the words "No Candidate Filed" may be replaced  
100 with a brief detailed description, approved by the Secretary of State, indicating that there are no  
101 candidates listed for the vacant positions.

102 ~~(6)~~ (7) In presidential election years, the words "For election in accordance with the plan  
103 adopted by the party and filed with the Secretary of State" is to be printed following the names of  
104 all candidates for delegate to national convention.

105 ~~(7)~~ (8) All paper ballots are to be printed in black ink on paper sufficiently thick so that the  
106 printing or marking cannot be discernible from the back: *Provided*, That no paper ballot voted  
107 pursuant to the provisions of 42 U. S. C. §1973, *et seq.*, the Uniformed and Overseas Citizens  
108 Absentee Voting Act of 1986, or federal write-in absentee ballot may be rejected due to paper

109 type, envelope type, or notarization requirement. Ballot cards and paper for printing ballots using  
 110 electronically sensible ink are to meet minimum requirements of the tabulating systems and are  
 111 to conform in size and weight to ensure ease in tabulation.

112 ~~(8)~~ (9) Ballots are to contain perforated tabs at the top of the ballots and are to be printed  
 113 with unique sequential numbers from one to the highest number representing the total number of  
 114 ballots printed. On paper ballots, the ballot is to be bordered by a solid line at least one sixteenth  
 115 of an inch wide and the ballot is to be trimmed to within one-half inch of that border.

116 ~~(9)~~ (10) On the back of every official ballot or ballot card the words "Official Ballot" with the  
 117 name of the county and the date of the election are to be printed. Beneath the date of the election  
 118 there are to be two blank lines followed by the words "Poll Clerks".

119 ~~(40)~~ (11) The face of sample paper ballots and sample ballot labels are to be like other  
 120 official ballots or ballot labels except that the word "sample" is to be prominently printed across  
 121 the front of the ballot in a manner that ensures the names of candidates are not obscured and the  
 122 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.**

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

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

7 STATE TICKET: Governor, Secretary of State, Auditor, Treasurer, Commissioner of  
 8 Agriculture, Attorney General, State Senator, member of the House of Delegates, any other  
 9 multicounty office, state executive committee.

10 COUNTY TICKET: Clerk of the circuit court, county commissioner, clerk of the county

11 commission, prosecuting attorney, sheriff, assessor, surveyor, congressional district executive  
12 committee, senatorial district executive committee in multicounty districts, delegate district  
13 executive committee in multicounty districts.

14 JUDICIAL RUNOFF: Justice of the Supreme Court of Appeals of West Virginia, circuit  
15 court judge, family court judge, magistrate.

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

18 DISTRICT TICKET: County executive committee.

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

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

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

32 (3) Candidates for delegate to national convention who have filed a commitment to a  
33 candidate for president shall be listed alphabetically within the group of candidates committed to  
34 the same candidate for president and uncommitted candidates shall be listed alphabetically in an  
35 uncommitted category. The position of each group of committed candidates and uncommitted

36 candidates shall be determined by lot by drawing the names of the presidential candidates and  
37 for an uncommitted category.

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

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

**§3-6-2. Preparation and form of general election ballots.**

1 (a) All ballots prepared under the provisions of this section are to contain:

2 (1) The name and ticket of each party which is a political party under the provisions of  
3 section eight, article one of this chapter;

4 (2) The name chosen as the party name by each group of citizens which has secured  
5 nomination for two or more candidates by petition under the provisions of section twenty-three,  
6 article five of this chapter; and

7 (3) The names of every candidate for any office to be voted for at the election whose  
8 nomination in the primary election, nomination by petition or nomination by appointment to fill a  
9 vacancy on the ballot has been certified and filed according to law and no others.

10 (b) The provisions of paragraphs (C) and (D), subdivision (2), section thirteen, article five  
11 of this chapter; subdivision (3) of said section; paragraphs (A) and (B), subdivision (4) of said  
12 section; and subdivisions (6), (7), (8) and (9) of said section pertaining to the preparation and form  
13 of primary election ballots shall likewise apply to general election ballots.

14 (c) (1) For all ballot systems, the ballot heading is to be in display type and contain the  
15 words "Official Ballot, General Election" and the name of the county and the month, day and year  
16 of the election.

17 (2) After the heading, each ballot is to contain, laid out in parallel columns, rows or pages  
18 as required by the particular voting system, the party emblem and the name of each party as  
19 prescribed in subsection (a) of this section.

20 (3) The party whose candidate for president received the highest number of votes at the  
21 last preceding presidential election is to be placed in the left, or first column, row or page, as is  
22 appropriate to the voting system. The party which received the second highest vote is to be next  
23 and so on. Any groups or third parties which did not have a candidate for president on the ballot  
24 in the previous presidential election are to be placed in the sequence in which the final certificates  
25 of nomination by petition were filed.

26 (4) For all ballots, any columns, rows or sections in which the ticket of one party appears  
27 are to be clearly separated from the other columns, rows or sections by a heavy line or other clear  
28 division. For each party, the offices are to be arranged in the order prescribed in section thirteen-  
29 a, article five of this chapter under the appropriate tickets, which are to be headed "National  
30 Ticket", "State Ticket" and "County Ticket". The number of pages, columns or rows, where  
31 applicable, may be modified to meet the limitations of ballot size and composition requirements,  
32 subject to approval by the Secretary of State.

33 (d) The arrangement of names within each office for all ballot systems is to be as follows:

34 (1) In elections for presidential electors, the names of the candidates for president and  
35 vice president of each party are to be placed beside a brace with a single voting position, so that  
36 a vote for any presidential candidate is a vote for the electors of the party for which the candidates  
37 were named.

38 (2) The order of names of candidates for any office or division for which more than one is  
39 to be elected is determined as prescribed in section thirteen-a, article five of this chapter:  
40 *Provided*, That the drawing by lot is to be conducted on the seventieth day next preceding the  
41 date of the general election, beginning at 9:00 a.m.

42 (3) In any office where more than one person is to be elected, the names of the candidates  
43 for the office are to be staggered so that no two candidates for that office appear directly opposite



44 any other candidate, as shown in the example below: *Provided*, That if the voting system cannot  
 45 accurately tabulate any ballot due to this requirement, the ballot may be adjusted so that it is  
 46 accurately tabulated. However, each candidate shall be separated by a thin line to distinguish  
 47 between each candidate.

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48		
49	For House of Delegates	For House of Delegates
50	First Delegate District	First Delegate District
51	(Vote For Not More Than Two)	(Vote For Not More Than Two)
52	SUSAN B. ANTHONY	
53	City (County)	
54		JOHN ADAMS
55		City (County)
56	ABRAHAM LINCOLN	
57	City (County)	
58		
59	JAMES MONROE	
60	City (County)	
61		

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62

63 (4) Each voting system is to provide a means for voters to vote for any person whose  
 64 name does not appear on the ticket by writing it with pen or pencil or by using stamps, stickers,  
 65 tapes, labels or other means of writing in the name of a candidate which does not interfere with  
 66 the tabulation of the ballot.

67 (A) In paper ballot systems which allow for write-ins to be made directly on the ballot, a

68 blank square and a blank line equal to the space which would be occupied by the name of the  
69 candidate is to be placed under the proper office for each vacancy in nomination and for an office  
70 for which more than one is to be elected, any vacancy is to appear after any other candidates for  
71 the office. If no write-in lines are included on the ballot, specific instructions are to be added to  
72 the top of the ballot notifying the voter that a write-in vote may be cast by writing the name and  
73 office on any location on the front of the ballot.

74 (B) In machine and electronically tabulated ballot systems in which write-in votes must be  
75 made in a place other than on the ballot, if there is a vacancy in nomination leaving fewer  
76 candidates in any party than can be elected to that office, the words "No Candidate Nominated"  
77 are to be printed in the space that would be occupied by the name of the candidate and for an  
78 office for which more than one is to be elected, any vacancy is to appear after any other  
79 candidates for the office. Notwithstanding any other provision of this code, if there are multiple  
80 vacant positions on a ballot for one office, the multiple vacant positions which would otherwise be  
81 filled with the words "No Candidate Filed" may be replaced with a brief detailed description,  
82 approved by the Secretary of State, indicating that there are no candidates listed for the vacant  
83 positions.

84 (5) In a general election in any county in which a judicial runoff is required to be held  
85 pursuant to section thirteen or this article, a separate section or page of the ballot is to be set off  
86 by means clearly separating the nonpartisan ballot from the ballot for the political party candidates  
87 and is to be headed "Judicial Runoff".

88 ~~(5)~~ (6) In a general election in any county in which unexpired terms of the board of  
89 education are to be filled by election, a separate section or page of the ballot is to be set off by  
90 means clearly separating the nonpartisan ballot from the ballot for the political party candidates  
91 and is to be headed "Nonpartisan Board of Education".

92 (e) Any constitutional amendment is to be placed following all offices, followed by any

93 other issue upon which the voters are to cast a vote. The heading for each amendment or issue  
94 is to be printed in large, bold type according to the requirements of the resolution authorizing the  
95 election.

96 (f) The board of ballot commissioners may not place any issue on the ballot for election  
97 which is not specifically authorized under the West Virginia Constitution or statutes or which has  
98 not been properly ordered by the appropriate governmental body charged with calling the election.

99 (g) A ballot may not offer a voter the option of voting a straight party ticket by one mark or  
100 punch.

**§3-6-13. Procedures for judicial runoff.**

1 (a) Identification of candidates for runoff. --

2 (1) Upon receipt of the certificates of election results concerning elections for justice of the  
3 Supreme Court of Appeals, circuit judge, or family court judge, the Governor shall determine  
4 whether, in each race, a candidate received a majority of votes cast. If no candidate received a  
5 majority of votes cast, then the Governor shall identify the candidate receiving the highest number  
6 of votes and the candidate receiving the second-highest number of votes, and transmit those  
7 names to the Secretary of State for certification as candidates for the judicial runoff.

8 (2) Upon receipt of the certificates of election results concerning elections for magistrates,  
9 the clerk of the county commission shall determine whether, in each race, a candidate received  
10 a majority of votes cast. If no candidate received a majority of votes cast, then the clerk of the  
11 county commission shall identify the candidate receiving the highest number of votes and the  
12 candidate receiving the second-highest number of votes, and transmit those names to the  
13 Secretary of State for certification as candidates for the judicial runoff.

14 (3) In case of a tie between two candidates for the second-highest number of votes, the  
15 provisions of section twelve of this article control in breaking the tie vote.

16 (b) Certification of candidates. -- The Secretary of State shall include the names of the

17 candidates for any judicial runoff required under the provisions of subsection (a) of this section in  
 18 the certification prepared for the clerk of the county commission for any county in which a judicial  
 19 runoff will occur.

20 (c) Write-in candidates prohibited. -- For purposes of any judicial runoff held pursuant to  
 21 this section, no person may file to be elected by write-in votes, as provided in section four-a of  
 22 this article.

23 (d) Results of judicial runoff. -- The results of the judicial runoff shall be certified in the  
 24 same manner as the results of other elections held during the general election.

## CHAPTER 51. COURTS AND THEIR OFFICERS.

### ARTICLE 2A. FAMILY COURTS.

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

1 (a) Beginning with the election to be conducted in the year 2016, family court judges shall  
 2 be elected. In family court circuits having two or more family court judges there shall be, for  
 3 election purposes, numbered divisions corresponding to the number of family court judges in each  
 4 area. Each family court judge shall be elected at large by the entire family court circuit. In each  
 5 numbered division of a family court circuit, the candidates for nomination or election shall be voted  
 6 upon and the votes cast for the candidates in each division shall be tallied separately from the  
 7 votes cast for candidates in other numbered divisions within the family court circuit. The candidate  
 8 or candidates receiving the highest number of the votes cast within a numbered division shall be  
 9 ~~nominated or elected: as the case may be~~ Provided, That if no candidate receives a majority of  
 10 votes cast within a numbered division a judicial runoff shall be held pursuant to section thirteen,  
 11 article six, chapter three of this code. Effective with the primary election of 2016, all elections for  
 12 family court judges in the respective circuits will be on a nonpartisan basis by division. Beginning  
 13 in 2016, there will no longer be primary elections held for family court judges and all elections for

14 family court judges are to be held in the nonpartisan judicial election as set forth in article five,  
15 chapter three of this code. All indications of party identification on election ballots for family court  
16 judge shall be omitted.

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

NOTE: The purpose of this bill is to provide for runoff elections for judicial offices if no candidate receives a majority of the votes. The bill identifies the specific offices affected as justice of the Supreme Court of Appeals, circuit court judge, family law judge and magistrate. The bill sets forth the form and contents of ballots. The bill establishes a procedure for the runoff elections. The bill establishes who is to identify the candidates for a runoff election. The bill provides for the certification of the candidates. The bill prohibits write-in candidates. The bill provides for the certification of the election results.

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