

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Introduced**

## **Senate Bill 244**

BY SENATORS TRUMP AND WOELFEL

[Introduced January 12, 2022; referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §51-11-6 of the Code of West Virginia, 1931, as amended, relating  
2 to the intermediate court of appeals, correcting a typographical error regarding the process  
3 for appointing the initial Judges of the Intermediate Court of Appeals; and making this  
4 change retrospective to December 27, 2021.

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

**ARTICLE 11. THE WEST VIRGINIA APPELLATE REORGANIZATION ACT.**

**§51-11-6. Election of judges; initial appointment and election; vacancies; length and conditions of judicial terms.**

1 (a) The three Judges of the Intermediate Court of Appeals shall be elected on a  
2 nonpartisan basis to serve 10-year terms, subject to the exceptions for initial appointments and  
3 elections contained in subsection (b) and subsection (c) of this section.

4 (b) *Nomination and election to fill initial vacancies.* — The judges shall be nominated and  
5 appointed according to the following procedure:

6 (1) (A) On or before January 1, 2022, the Judicial Vacancy Advisory Commission,  
7 established pursuant to §3-10-3a of this code, shall publish notice of the judicial vacancies for the  
8 Intermediate Court of Appeals and begin accepting applications from qualified individuals for the  
9 position of Judge of the Intermediate Court of Appeals. The commission is responsible for  
10 reviewing and evaluating candidates for possible appointment to the Intermediate Court of  
11 Appeals by the Governor. In reviewing candidates, the commission may accept applications from  
12 any attorney who believes he or she to be qualified for the judgeships. The commission may  
13 accept comments from and request information from any person or source.

14 (B) The commission shall recommend three qualified nominees for each position for  
15 Intermediate Court of Appeals Judge: *Provided*, That each person on the list must meet the  
16 requirements of §51-11-3(d) of this code at the time such person will begin his or her term on the  
17 court.

18 (2) The Governor shall review the list certified by the Judicial Vacancy Advisory

19 Commission and nominate three qualified candidates to serve as judge. The Governor shall make  
20 his or her nominations without regard to political partisanship or affiliation. If the Governor does  
21 not select a nominee for the position of judge from the names provided by the commission, he or  
22 she shall notify the committee of that circumstance and the commission shall provide additional  
23 names for consideration by the Governor.

24 (3) The initial appointment term for each of the judges, at the discretion of the Governor,  
25 shall be as follows: one judge shall be selected to serve a two and one-half year term set to expire  
26 on December 31, 2024, one judge shall be selected to serve a four and one-half year term set to  
27 expire on December 31, 2026, and one judge shall be ~~elected~~ selected to serve a six and one-  
28 half year term set to expire on December 31, 2028.

29 (4) Upon confirmation by the West Virginia Senate, an individual appointed to serve as a  
30 Judge of the Intermediate Court of Appeals pursuant to this subsection shall take an oath of office  
31 and commence his or her duties on July 1, 2022.

32 (c) After the initial appointment, the Judges of the Intermediate Court of Appeals shall be  
33 elected on a nonpartisan basis by division during the primary election in every year during which  
34 a sitting judge's term will expire for a 10-year term of office, and the judge's term shall commence  
35 on January 1 of the year following, as set forth in §3-5-1 *et seq.* of this code.

36 (d) If a vacancy occurs in the office of Intermediate Court Judge, the Governor shall fill the  
37 vacancy by appointment as provided in §3-10-3 and §3-10-3a of this code.

38 (e) No person sitting as a judge of the Intermediate Court of Appeals may retain his or her  
39 position as judge upon becoming a candidate for any elected public office, judicial or nonjudicial.

40 (f) The Legislature recognizes that the Chief Justice of the West Virginia Supreme Court  
41 of Appeals has authority to temporarily assign judges to the Intermediate Court of Appeals  
42 pursuant to section eight, article VIII of the Constitution of West Virginia, in the event that a judge  
43 is temporarily unable to serve on the court.

44 (g) The amendments to §51-11-6(b)(3) of this code enacted by the regular session of the

45 Legislature, 2022, shall be applied retrospectively to December 27, 2021.