

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5298

By Delegates Espinosa, W. Clark and Young

[Introduced January 29, 2024; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §3-5-4 of the Code of West Virginia, 1931, as amended, relating to
2 prohibiting a candidate who failed to secure the nomination of a political party in a primary
3 election from seeking the same elected office as an affiliate with a different political party in
4 the subsequent general election.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-4. Nomination of candidates in primary elections.

1 (a) At each primary election, the candidate or candidates of each political party for all
2 offices to be filled at the ensuing general election by the voters of the entire state, of each
3 congressional district, of each state senatorial district, of each delegate district, and of each county
4 in the state shall be nominated by the voters of the different political parties, except that no
5 presidential elector shall be nominated at a primary election.

6 (b) In primary elections a plurality of the votes cast shall be sufficient for the nomination of
7 candidates for office. Where only one candidate of a political party for any office in a political
8 division, including party committeemen and delegates to national conventions, is to be chosen the
9 candidate receiving the highest number of votes therefor in the primary election shall be declared
10 the party nominee for such office. Where two or more such candidates are to be chosen in the
11 primary election, the candidates constituting the proper number to be so chosen who shall receive
12 the highest number of votes cast in the political division in which they are candidates shall be
13 declared the party nominees and choices for such offices, except that:

14 (1) Candidates for the office of commissioner of the county commission shall be nominated
15 and elected in accordance with the provisions of section ten, article nine of the Constitution of the
16 State of West Virginia and the requirements of §7-1-1b of this code;

17 (2) Members of county boards of education shall be elected at primary elections in
18 accordance with ~~the provisions of~~ §3-5-5 and §3-5-6 of this code;

19 (3) Candidates for the House of Delegates shall be nominated and elected in accordance
20 with the residence restrictions provided in §1-2-2 of this code.

21 (c) In case of tie votes between candidates for party nominations or elections in primary
22 elections, the choice of the political party shall be determined by the executive committee of the
23 party for the political division in which such persons are candidates.

24 (d) No person who was a candidate for nomination by a recognized political party as
25 defined in §3-1-8 of this code may, after failing to win the nomination of a political party, become a
26 candidate for the same political office in the next succeeding election as an affiliate of any other
27 political party by virtue of a political party's convention process.

NOTE: The purpose of this bill is to prohibit unsuccessful candidates in a primary election from being nominated by a different political party for placement on the subsequent general election ballot.

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