

**H. B. 4314**

(By Delegates Caputo, Longstreth, Manchin, Fragale,  
Barill, Marcum, Ellem, Boggs, Miley, Storch and Hunt)

[Introduced January 26, 2012; referred to the  
Committee on the Judiciary.]

A BILL to amend and reenact §50-1-6 of the Code of West Virginia, 1931, as amended, relating to the appointment of magistrates; requiring that when a vacancy occurs in the office of magistrate a person of the same political party as the former officeholder shall be appointed.

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

That §50-1-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 1. COURTS AND OFFICERS.**

**§50-1-6. Vacancy in office of magistrate.**

Subject to the provisions of section one, article ten, chapter three of this code, when a vacancy occurs in the office of magistrate, the judge of the circuit court, or the chief judge thereof if there is more than one judge of the circuit court, shall fill the same by appointment of a person of the same political party as the officeholder vacating the office.

1       At a general election in which a magistrate is elected for an  
2 unexpired term, the circuit judge, or the chief judge thereof if  
3 there is more than one judge of the circuit court, shall cause a  
4 notice of such election to be published prior to such election as  
5 a Class II-0 legal advertisement in compliance with the provisions  
6 of article three, chapter fifty-nine of this code, and the  
7 publication area for such publication shall be the county involved.  
8 If the vacancy occurs before the primary election held to nominate  
9 candidates to be voted for at the general election, at which any  
10 such vacancy is to be filled, candidates to fill such vacancy shall  
11 be nominated at such primary election in accordance with the time  
12 requirements and the provisions and procedures prescribed in  
13 article five, chapter three of this code. Otherwise, they shall be  
14 nominated by the county executive committee in the manner provided  
15 in section nineteen, article five, chapter three of this code, as  
16 in the case of filling vacancies in nominations, and the names of  
17 the persons so nominated and certified to the clerk of the circuit  
18 court of such county shall be placed upon the ballot to be voted at  
19 such next general election.

NOTE: The purpose of this bill is to require that when a vacancy occurs in the office of magistrate a person of the same political party as the former officeholder shall be appointed.

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

be added.