

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 108

BY SENATORS PLYMALE, WOELFEL, BALDWIN, AND

CLEMENTS

[Introduced January 9, 2019; 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 §3-5-6a, §3-5-6b, §3-5-6c, §3-5-6d, and §3-5-7 of said
 3 code; to amend and reenact §3-10-3 of said code; to amend and reenact §50-1-1 of said
 4 code; to amend and reenact §51-1-1 of said code; to amend and reenact §51-2-1 of said
 5 code; and to amend and reenact §51-2A-5 of said code, all relating to changing the
 6 nonpartisan election of judicial offices to require a person elected during the primary
 7 election to receive a majority of votes cast for that office; providing that if no candidate
 8 receives a majority of votes cast then the two candidates receiving the highest number of
 9 votes are placed on the general election ballot where a winner is determined; applying
 10 these changes to the elections of Supreme Court Justices, Circuit Court Judges, Family
 11 Court Judges, and Magistrates; clarifying that the primary elections of these officials are
 12 not partisan; and adjusting the filling of vacancies in judicial office to ensure a full primary
 13 and general election cycle is available for election to an unexpired term so as to eliminate
 14 the need for any special election if a candidate does not receive a majority of votes.

Be it enacted by the Legislature of West Virginia:

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. However, if no candidate
11 receives a majority of votes cast for that office, then the two candidates receiving the highest
12 numbers of votes shall be placed on the ballot in the general election that year and the candidate
13 with the highest number of votes at the general election shall be declared the winner. Effective
14 with the primary election held in the year 2016, the election of justices of the Supreme Court of
15 Appeals shall be on a nonpartisan basis and by division as set forth more fully in §3-5-1 *et seq.*
16 of this code.

§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. However, if no
6 candidate receives a majority of votes cast for that office, then the two candidates receiving the
7 highest numbers of votes shall be placed on the ballot in the general election that year and the
8 candidate with the highest number of votes at the general election shall be declared the winner.
9 Beginning with the election held in the year 2016, an election for the purpose of electing judges
10 of the circuit court, or an election for the purpose of electing magistrates, shall be upon a
11 nonpartisan ballot printed for the purpose.

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

17 a clerk of the circuit court for each county.

18 (c) Effective with the ~~primary~~ election of 2016, all elections for judge of the circuit courts in
 19 the respective circuits and magistrates in each county will be elected on a nonpartisan basis and
 20 by division as set forth more fully in §3-5-1 *et seq.* of this code.

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~~ a majority of votes cast within a numbered division to fill any full terms. However, if no
 11 candidate receives a majority of votes cast for that office, then the two candidates receiving the
 12 highest numbers of votes shall be placed on the ballot in the general election that year and the
 13 candidate with the highest number of votes at the general election shall be declared the winner.

14 (c) In case of a tie vote under this section, §3-6-12 of this code controls in breaking the tie
 15 vote.

§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~~ a majority
7 of votes cast within a numbered division to fill any full terms. However, if no candidate receives a
8 majority of votes cast for that office, then the two candidates receiving the highest numbers of
9 votes shall be placed on the ballot in the general election that year and the candidate with the
10 highest number of votes at the general election shall be declared the winner.

11 (c) In case of a tie vote under this section, §3-6-12 of this code controls in breaking the tie
12 vote.

§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~~ a majority
7 of votes cast within a numbered division to fill any full terms. However, if no candidate receives a
8 majority of votes cast for that office, then the two candidates receiving the highest numbers of
9 votes shall be placed on the ballot in the general election that year and the candidate with the
10 highest number of votes at the general election shall be declared the winner.

11 (c) In case of a tie vote under this section, §3-6-12 of this code controls in breaking the tie
12 vote.

§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~~ a majority of votes cast
7 within a numbered division to fill any full terms. However, if no candidate receives a majority of
8 votes cast for that office, then the two candidates receiving the highest numbers of votes shall be
9 placed on the ballot in the general election that year and the candidate with the highest number
10 of votes at the general election shall be declared the winner.

11 (c) In case of a tie vote under this section, §3-6-12 of this code controls in breaking the tie
12 vote.

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

1 (a) Any person who is eligible and seeks to hold an office or political party position to be
2 filled by election in any primary or general election held under the provisions of this chapter shall
3 file a certificate of announcement declaring his or her candidacy for the nomination or election to
4 the office.

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

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

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

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

15 (c) The certificate of announcement shall be filed with the proper officer not earlier than
16 the second Monday in January before the primary election day and not later than the last Saturday

17 in January before the primary election day and must be received before midnight, eastern
18 standard time, of that day or, if mailed, shall be postmarked by the United States Postal Service
19 before that hour. This includes the offices of justice of the Supreme Court of Appeals, circuit court
20 judge, family court judge and magistrate, which are to be filled on a nonpartisan and division
21 basis: ~~at the primary election~~ *Provided*, That on the final day of a political filing period, the office
22 of the Secretary of State shall be open from 9:00 a.m. until 11:59 p.m. The offices of the County
23 Clerk in all counties of the state shall be open on that final day of a political filing period from 9:00
24 a.m. until 12:00 p.m.

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

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

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

30 (3) The legal name of the candidate and the exact name the candidate desires to appear
31 on the ballot, subject to limitations prescribed in §3-5-13 of this code;

32 (4) The county of residence and a statement that the candidate is a legally qualified voter
33 of that county; and the magisterial district of residence for candidates elected from magisterial
34 districts or under magisterial district limitations;

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

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

43 (7) For candidates for delegate to national convention, the name of the presidential
44 candidate to be listed on the ballot as the preference of the candidate on the first convention
45 ballot; or a statement that the candidate prefers to remain “uncommitted”;

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

48 (9) The words “subscribed and sworn to before me this _____ day of _____,
49 20____” and a space for the signature of the officer giving the oath.

50 (e) The Secretary of State or the board of ballot commissioners, as the case may be, may
51 refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a
52 certified copy of the voter’s registration record of the candidate showing that the candidate was
53 registered as a voter in a party other than the one named in the certificate of announcement during
54 the sixty days immediately preceding the filing of the certificate: *Provided*, That unless a signed
55 formal complaint of violation of this section and the certified copy of the voter’s registration record
56 of the candidate are filed with the officer receiving that candidate’s certificate of announcement
57 no later than ten days following the close of the filing period, the candidate may not be refused
58 certification for this reason.

59 (f) The certificate of announcement shall be subscribed and sworn to by the candidate
60 before some officer qualified to administer oaths, who shall certify the same. Any person who
61 knowingly provides false information on the certificate is guilty of false swearing and shall be
62 punished in accordance with §3-9-3 of this code.

63 (g) Any candidate for delegate to a national convention may change his or her statement
64 of presidential preference by notifying the Secretary of State by letter received by the Secretary
65 of State no later than the third Tuesday following the close of candidate filing. When the rules of
66 the political party allow each presidential candidate to approve or reject candidates for delegate
67 to convention who may appear on the ballot as committed to that presidential candidate, the
68 presidential candidate or the candidate’s committee on his or her behalf may file a list of approved

69 or rejected candidates for delegate and the Secretary of State shall list as “uncommitted” any
70 candidate for delegate who is disapproved by the presidential candidate.

71 (h) A person may not be a candidate for more than one office or office division at any
72 election: *Provided*, That a candidate for an office may also be a candidate for President of the
73 United States, for membership on political party executive committees or for delegate to a political
74 party national convention: *Provided*, however, That an unsuccessful candidate for a nonpartisan
75 office in an election held concurrently with the primary election may be appointed under the
76 provisions of §3-5-19 of this code to fill a vacancy on the general ballot.

77 (i) A candidate who files a certificate of announcement for more than one office or division
78 and does not withdraw, as provided by §3-5-11 of this code, from all but one office prior to the
79 close of the filing period may not be certified by the Secretary of State or placed on the ballot for
80 any office by the board of ballot commissioners.

ARTICLE 10. FILLING VACANCIES.

§3-10-3. Vacancies in offices of state officials, justices, judges, and magistrates.

1 (a) Any vacancy occurring in the offices of Secretary of State, Auditor, Treasurer, Attorney
2 General, Commissioner of Agriculture, or in any office created or made elective to be filled by the
3 voters of the entire state, is filled by the Governor of the state by appointment and subsequent
4 election to fill the remainder of the term, if required by §3-10-1 of this code. The Governor shall
5 make the appointment from a list of three legally qualified persons submitted by the party
6 executive committee of the same political party with which the person holding the office
7 immediately preceding the vacancy was affiliated at the time the vacancy occurred. The list of
8 qualified persons to fill the vacancy shall be submitted to the Governor within 15 days after the
9 vacancy occurs, and the Governor shall duly make his or her appointment to fill the vacancy from
10 the list of legally qualified persons within five days after the list is received. If the list is not
11 submitted to the Governor within the 15-day period, the Governor shall appoint, within five days
12 thereafter, a legally qualified person of the same political party with which the person holding the

13 office immediately preceding the vacancy was affiliated at the time the vacancy occurred:
14 *Provided*, That the provisions of this subsection do not apply to §3-10-3(b), §3-10-3(c), §3-10-
15 3(d), and §3-10-3(e) of this code.

16 (b) Any vacancy occurring in the offices of Justice of the Supreme Court of Appeals, judge
17 of a circuit court, or judge of a family court is filled by the Governor of the state by appointment
18 and, if the unexpired term be for a period of more than two years, by a subsequent election to fill
19 the remainder of the term, as required by §3-10-3(d) of this code. If an election is required under
20 §3-10-3(d) of this code, the Governor, circuit court, or the chief judge thereof in vacation, is
21 responsible for the proper proclamation by order and notice required by §3-10-1 of this code.

22 (c) Any vacancy in the office of magistrate is appointed according to the provisions of §50-
23 1-6 of this code, and, if the unexpired term be for a period of more than two years, by a subsequent
24 election to fill the remainder of the term, as required by §3-10-3(d) of this code.

25 (d) (1) When the vacancy in the office of Justice of the Supreme Court of Appeals, judge
26 of the circuit court, judge of a family court, or magistrate occurs after the 84th day before a ~~general~~
27 primary election, and the affected term of office ends on December 31 following the succeeding
28 general election two years later, the person appointed to fill the vacancy shall continue in office
29 until the completion of the term.

30 (2) When the vacancy occurs before the close of the candidate filing period for the primary
31 election, and if the unexpired term be for a period of greater than two years, the vacancy shall be
32 filled by election in the nonpartisan judicial election held concurrently with the primary election
33 and the appointment shall continue until a successor is elected and certified. However, if no
34 candidate receives a majority of votes cast for that office in the primary election, then the two
35 candidates receiving the highest numbers of votes shall be placed on the ballot in the general
36 election that year and the candidate with the highest number of votes at the general election shall
37 be declared the winner.

38 (3) When the vacancy occurs after the close of candidate filing for the primary election
 39 and not later than 84 days before the ~~general~~ primary election, and if the unexpired term be for a
 40 period of greater than two years, the vacancy shall be filled by election in a nonpartisan judicial
 41 election held concurrently with the ~~general~~ primary election, and the appointment shall continue
 42 until a successor is elected and certified. However, if no candidate receives a majority of votes
 43 cast for that office, then the two candidates receiving the highest numbers of votes shall be placed
 44 on the ballot in the general election that year and the candidate with the highest number of votes
 45 at the general election shall be declared the winner.

46 (e) When an election to fill a vacancy is required to be held at the ~~general~~ primary election,
 47 according to the provisions of §3-10-3(d) of this code, a special candidate filing period shall be
 48 established. Candidates seeking election to any unexpired term for Justice of the Supreme Court
 49 of Appeals, judge of a circuit court, judge of the family court, or magistrate shall file a certificate
 50 of announcement and pay the filing fee ~~no earlier than the first Monday in August and no later~~
 51 ~~than 77 days before the~~ ~~general~~ primary election.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 1. COURTS AND OFFICERS.

§50-1-1. Magistrate court created.

1 There is hereby created in each county of this state a magistrate court with such numbers
 2 of magistrates for each court as are hereafter provided. There shall be elected by the voters of
 3 each county, at the general election to be held in 1976, and in every fourth year thereafter, such
 4 number of magistrates as is provided in §50-1-2 of this code. The filing fee for the office of
 5 magistrate shall be one percent of the annual salary. The term of magistrates shall be for four
 6 years and shall begin on January 1, of the year following the year of election.

7 Effective with the primary election of 2016, all elections for magistrates will be on a
 8 nonpartisan basis by division. Beginning in 2016, there will no longer be partisan primary elections

9 held for magistrates and all elections for magistrates are to be held in the nonpartisan judicial
 10 election as set forth in §3-5-1 *et seq.* of this code. All indications of party identification on election
 11 ballots for magistrate shall be omitted.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 1. SUPREME COURT OF APPEALS.

§51-1-1. Justices.

1 The Supreme Court of Appeals shall consist of five justices, elected and qualified
 2 according to the Constitution and the laws of this state, any three of whom shall constitute a
 3 quorum. Effective with the primary election of 2016, all elections for justices will be on a
 4 nonpartisan basis by division. Beginning in 2016, there will no longer be partisan primary elections
 5 held for the office of justice and all elections for justice are to be held in the nonpartisan judicial
 6 election as set forth in §3-5-1 *et seq.* of this code. All indications of party identification on election
 7 ballots for that office shall be omitted.

ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES.

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

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

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

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

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

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

11 (5) The counties of Calhoun, Jackson, Mason, and Roane shall constitute the fifth circuit
12 and shall have two judges: *Provided*, That effective January 1, 2017, said circuit court shall have
13 three judges; said additional circuit judge to be elected at the regularly scheduled election(s) to
14 be held in the year 2016 and every eighth year thereafter;

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

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

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

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

19 (10) The county of Raleigh shall constitute the tenth circuit and shall have three judges:
20 *Provided*, That effective January 1, 2017, said circuit court shall have four judges; said additional
21 circuit judge to be elected at the regularly scheduled election(s) to be held in the year 2016 and
22 every eighth year thereafter;

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

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

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

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

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

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

32 (17) The county of Monongalia shall constitute the seventeenth circuit and shall have three
33 judges;

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

35 (19) The counties of Barbour and Taylor shall constitute the nineteenth circuit and shall
36 have one judge: *Provided*, That effective January 1, 2019, said circuit court shall have two judges;
37 said additional circuit judge to be appointed by the Governor and subsequently elected at the next
38 scheduled ~~primary~~ election(s) to be held in 2020 for the unexpired term pursuant to §3-10-3 of
39 this code: *Provided*, however, That said additional circuit judge shall thereafter be elected at the
40 regularly scheduled election(s) to be held in the year 2024 and every eighth year thereafter;

41 (20) The county of Randolph shall constitute the twentieth circuit and shall have one judge;

42 (21) The counties of Grant, Mineral, and Tucker shall constitute the twenty-first circuit and
43 shall have two judges;

44 (22) The counties of Hampshire, Hardy, and Pendleton shall constitute the twenty-second
45 circuit and shall have two judges;

46 (23) The counties of Berkeley, Jefferson, and Morgan shall constitute the twenty-third
47 circuit and shall have five judges: *Provided*, That effective January 1, 2017, said circuit court shall
48 have six judges; said additional circuit judge to be elected at the regularly scheduled election(s)
49 to be held in the year 2016 and every eighth year thereafter;

50 (24) The county of Wayne shall constitute the twenty-fourth circuit and shall have two
51 judges;

52 (25) The counties of Lincoln and Boone shall constitute the twenty-fifth circuit and shall
53 have two judges;

54 (26) The counties of Lewis and Upshur shall constitute the twenty-sixth circuit and shall
55 have one judge: *Provided*, That effective January 1, 2017, said circuit court shall have two judges;
56 said additional circuit judge to be elected at the regularly scheduled election(s) to be held in the
57 year 2016 and every eighth year thereafter;

58 (27) The county of Wyoming shall constitute the twenty-seventh circuit and shall have one
59 judge;

60 (28) The county of Nicholas shall constitute the twenty-eighth circuit and shall have one
61 judge;

62 (29) The county of Putnam shall constitute the twenty-ninth circuit and shall have two
63 judges;

64 (30) The county of Mingo shall constitute the thirtieth circuit and shall have one judge; and

65 (31) The counties of Monroe and Summers shall constitute the thirty-first circuit and shall
66 have one judge.

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

70 (c) Any judge in office on the effective date of the reenactment of this section shall continue
71 as a judge of the circuit as constituted under prior enactments of this section, unless sooner
72 removed or retired as provided by law, until December 31, 2016.

73 (d) The term of office of all circuit court judges shall be for eight years. The term of office
74 for all circuit court judges elected during an election conducted in the year 2016 shall commence
75 on January 1, 2017, and end on December 31, 2024.

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

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

85 (g) The Supreme Court of Appeals shall, by rule, establish the terms of court of circuit
86 judges.

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 on a nonpartisan basis. In family court circuits having two or more family court judges
3 there shall be, for election purposes, numbered divisions corresponding to the number of family
4 court judges in each area. Each family court judge shall be elected at large by the entire family
5 court circuit. In each numbered division of a family court circuit, the candidates for nomination or
6 election shall be voted upon and the votes cast for the candidates in each division shall be tallied
7 separately from the votes cast for candidates in other numbered divisions within the family court
8 circuit. ~~The candidate or candidates receiving the highest number of the votes cast within a~~
9 ~~numbered division shall be nominated or elected, as the case may be. Effective with the primary~~
10 ~~election of 2016, all elections for family court judges in the respective circuits will be on a~~
11 ~~nonpartisan basis by division.~~ Beginning in 2016, there will no longer be partisan primary elections
12 held for family court judges and all elections for family court judges are to be held in the
13 nonpartisan judicial election as set forth in §3-5-1 *et seq.* of this code. All indications of party
14 identification on election ballots for family court judge shall be omitted.

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

NOTE: The purpose of this bill is to ensure that a candidate elected to a judicial office receives a majority of the votes cast for that office during the nonpartisan primary or the top two vote getters move on to a nonpartisan general election.

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