

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2945

BY DELEGATE HIGGINBOTHAM

[Introduced March 05, 2021; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §3-5-7 of the Code of West Virginia, 1931, as amended, relating to
2 providing a requirement that any candidate be registered for six months with a political
3 party before announcing a candidacy.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§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 basis
21 at the primary election: *Provided*, That on the final day of a political filing period, the office of the
22 Secretary of State shall be open from 9:00 a.m. until 11:59 p.m. The offices of the county clerk in
23 all counties of the state shall be open on that final day of a political filing period from 9:00 a.m.
24 until 12:00 ~~p.m.~~ noon.

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~~ six months before the
42 date of filing the announcement: *Provided*, That if it is the first time a candidate has registered
43 with any party, the candidate need only be registered as a voter affiliated with the political party
44 for a period of 60 days before the date of filing the announcement;

45 (7) For candidates for delegate to national convention, the name of the presidential

46 candidate to be listed on the ballot as the preference of the candidate on the first convention
47 ballot; or a statement that the candidate prefers to remain “uncommitted”;

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

50 (9) The words “subscribed and sworn to before me this _____ day of _____,
51 20____” and a space for the signature of the officer giving the oath.

52 (e) The Secretary of State or the board of ballot commissioners, as the case may be, may
53 refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a
54 certified copy of the voter’s registration record of the candidate showing that the candidate was
55 registered as a voter in a party other than the one named in the certificate of announcement during
56 the 60 days immediately preceding the filing of the certificate: *Provided*, That unless a signed
57 formal complaint of violation of this section and the certified copy of the voter’s registration record
58 of the candidate are filed with the officer receiving that candidate’s certificate of announcement
59 no later than 10 days following the close of the filing period, the candidate may not be refused
60 certification for this reason.

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

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

72 candidate for delegate who is disapproved by the presidential candidate.

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

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

NOTE: The purpose of this bill is to require that a candidate must be registered to his/her political party for six months before the date of filing an announcement of candidacy except in instances where the candidate is a first-time registrant with any party.

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