

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

_____ BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO MAGISTRATE COURTS; MAKING THE MAGISTRATE COURT A COURT OF RECORD; REVISING MAGISTRATE QUALIFICATIONS; EXPANDING MAGISTRATE JURISDICTION TO ENCOMPASS THE JUDICIAL DISTRICT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 35-1-1 NMSA 1978 (being Laws 1968, Chapter 62, Section 3) is amended to read:

"35-1-1. MAGISTRATE COURT--ESTABLISHMENT.--There is established the "magistrate court" as a court of limited original jurisdiction within the judicial department of the state government. Personnel of the magistrate court are subject to all laws and regulations applicable to other state offices and agencies and to other state officers and employees except where otherwise provided by law. The magistrate court is ~~not~~ a court of record."

.223471.1SA

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 SECTION 2. Section 35-2-1 NMSA 1978 (being Laws 1968,
2 Chapter 62, Section 41, as amended) is amended to read:

3 "35-2-1. QUALIFICATION--PERSONAL QUALIFICATIONS.--

4 A. Each magistrate shall be a qualified elector of,
5 and reside in, the magistrate district for which the magistrate
6 is elected or appointed.

7 B. No person is eligible for election or
8 appointment to the office of magistrate unless the person [~~has~~
9 ~~graduated from high school or has attained the equivalent of a~~
10 ~~high school education as indicated by possession of a high~~
11 ~~school equivalency credential issued by the public education~~
12 ~~department based upon the record made on the high school~~
13 ~~equivalency credential test~~]:

- 14 (1) is thirty years of age or older; and
- 15 (2) has at least eight years of experience as
16 a magistrate court judge, court clerk or the equivalent or has
17 a four-year degree from an accredited institution of higher
18 education or a two-year degree and four years of work
19 experience in teaching, social services, law enforcement,
20 arbitration, mediation, the court system or counseling.

21 C. The eligibility requirements prescribed by
22 Subsection B of this section do not apply to individuals
23 holding the office of magistrate on July 1, 2023. If an
24 individual seeks reelection after serving a four-year term as a
25 magistrate court judge, the eligibility requirements prescribed

underscored material = new
[bracketed material] = delete

1 by Subsection B of this section shall apply at the time of the
2 election.

3 ~~[G-]~~ D. In magistrate districts with a population
4 of more than two hundred thousand persons in the last federal
5 decennial census, no person is eligible for election to the
6 office of magistrate unless the person:

7 (1) is a member of the bar of this state and
8 licensed to practice law in this state; or

9 (2) holds the office of magistrate in that
10 district when the federal decennial census is published, as
11 long as there is no break in service.

12 ~~[D-]~~ E. In magistrate districts with a population
13 of more than two hundred thousand persons in the last federal
14 decennial census, no person is eligible for appointment to the
15 office of magistrate unless the person is a member of the bar
16 of this state and licensed to practice law in this state.

17 ~~[E-]~~ F. A person holding the office of magistrate
18 shall not engage in the private practice of law during tenure
19 in office."

20 **SECTION 3.** Section 35-3-6 NMSA 1978 (being Laws 1968,
21 Chapter 62, Section 51, as amended) is amended to read:

22 "35-3-6. JURISDICTION--TERRITORIAL LIMITS.--

23 A. The territorial jurisdiction of a magistrate is
24 coextensive with the ~~[magistrate]~~ judicial district in which
25 the magistrate serves, as established in Section 34-6-1 NMSA

.223471.1SA

underscored material = new
[bracketed material] = delete

1 1978. A magistrate also has statewide jurisdiction in any
2 criminal action involving violation of a law relating to motor
3 vehicles, [~~arising in a magistrate district adjoining at any~~
4 ~~point that in which the magistrate serves and within magistrate~~
5 ~~trial jurisdiction~~] with the exception of violations of Section
6 66-8-102 NMSA 1978; provided that the defendant is entitled to
7 a change of venue to the district where the cause of action
8 arose if the defendant so moves at, or within fifteen days
9 after, arraignment.

10 B. A magistrate has jurisdiction to sit in any
11 action arising in any other magistrate district when designated
12 for a specific period of time by a district judge because of
13 the unavailability of a magistrate in that magistrate district.
14 A magistrate acting in another magistrate district by
15 designation pursuant to this subsection shall include the cases
16 heard by designation in the magistrate's own reports to the
17 administrative office of the courts, indicating on the reports
18 that the magistrate's jurisdiction is by designation.

19 C. In a criminal action in which a magistrate has
20 territorial jurisdiction over the offense pursuant to this
21 section, the magistrate court has personal jurisdiction over
22 the defendant for the purpose of service of process upon the
23 defendant wherever the defendant resides or may be found within
24 the state.

25 D. In a civil action arising within the

.223471.1SA

underscoring material = new
~~[bracketed material] = delete~~

1 magistrate's territorial jurisdiction, the magistrate court has
2 personal jurisdiction over the defendant for the purpose of
3 service of process upon the defendant wherever the defendant
4 resides or may be found within the state.

5 E. The territorial limitations of magistrate court
6 jurisdiction shall not apply to actions to enforce judgments
7 entered in the magistrate district and writs issued in aid of
8 those actions."

9 SECTION 4. EFFECTIVE DATE.--The effective date of the
10 provisions of Section 1 of this act is July 1, 2024.