

HOUSE BILL 113

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

INTRODUCED BY

Christine Chandler

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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

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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."

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

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

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

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

(1) is thirty years of age or older; and

(2) has at least eight years of experience as

a magistrate court judge, court clerk or the equivalent or has  
a HJC→four-year←HJC HJC→two-year←HJC degree HJC→or  
higher←HJC from an accredited institution of higher education

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HJC→~~or a two-year degree and four years of work experience in teaching, social services, law enforcement, arbitration, mediation, the court system or counseling~~←HJC .

C. The eligibility requirements prescribed by Subsection B of this section do not apply to individuals holding the office of magistrate on July 1, 2023.

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

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

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

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

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

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

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

A. The territorial jurisdiction of a magistrate is coextensive with the ~~[magistrate]~~ judicial district in which the magistrate serves, as established in Section 34-6-1 NMSA 1978. A magistrate also has statewide jurisdiction in any criminal action involving violation of a law relating to motor vehicles, ~~[arising in a magistrate district adjoining at any point that in which the magistrate serves and within magistrate trial jurisdiction]~~ with the exception of violations of Section 66-8-102 NMSA 1978; provided that the defendant is entitled to a change of venue to the district where the cause of action arose if the defendant so moves at, or within fifteen days after, arraignment.

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

C. In a criminal action in which a magistrate has territorial jurisdiction over the offense pursuant to this section, the magistrate court has personal jurisdiction over

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the defendant for the purpose of service of process upon the defendant wherever the defendant resides or may be found within the state.

D. In a civil action arising within the magistrate's territorial jurisdiction, the magistrate court has personal jurisdiction over the defendant for the purpose of service of process upon the defendant wherever the defendant resides or may be found within the state.

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

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