

1 HOUSE BILL 113

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Christine Chandler

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10 AN ACT

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

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

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

18 "35-1-1. MAGISTRATE COURT--ESTABLISHMENT.--There is
19 established the "magistrate court" as a court of limited
20 original jurisdiction within the judicial department of the
21 state government. Personnel of the magistrate court are
22 subject to all laws and regulations applicable to other state
23 offices and agencies and to other state officers and employees
24 except where otherwise provided by law. The magistrate court
25 is [not] a court of record."

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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.

24 ~~[C.]~~ D. In magistrate districts with a population
25 of more than two hundred thousand persons in the last federal

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1 decennial census, no person is eligible for election to the
2 office of magistrate unless the person:

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

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

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

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

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

18 "35-3-6. JURISDICTION--TERRITORIAL LIMITS.--

19 A. The territorial jurisdiction of a magistrate is
20 coextensive with the [~~magistrate~~] judicial district in which
21 the magistrate serves, as established in Section 34-6-1 NMSA
22 1978. A magistrate also has statewide jurisdiction in any
23 criminal action involving violation of a law relating to motor
24 vehicles, [~~arising in a magistrate district adjoining at any~~
25 ~~point that in which the magistrate serves and within magistrate~~

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1 ~~trial jurisdiction]~~ with the exception of violations of Section
2 66-8-102 NMSA 1978; provided that the defendant is entitled to
3 a change of venue to the district where the cause of action
4 arose if the defendant so moves at, or within fifteen days
5 after, arraignment.

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

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

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

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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.