

H. B. 2540

(By Delegates Skaff, Ellem, Hunt,
Michael and Longstreth)

[Introduced January 18, 2011; referred to the
Committee on the Judiciary.]

**Interim
Bill**

A BILL to amend and reenact §50-1-4 of the Code of West Virginia, 1931, as amended, relating to requirements to serve as a magistrate; requiring a bachelor degree or two years of experience to serve as a magistrate; authorizing the Supreme Court Administrator to relieve magistrates from annual training requirements; and deleting antiquated provisions.

Be it enacted by the Legislature of West Virginia:

That §50-1-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. COURTS AND OFFICERS.

§50-1-4. Qualifications of magistrates; training; oath; continuing education; time devoted to public duties.

(a) Each magistrate shall be Effective January 1, 2014, a person is qualified to serve as a magistrate if he or she:

(1) Is at least twenty-one years of age;

1 (2) Has any of the following qualifications:

2 (A) A bachelor degree from an accredited college;

3 (B) An associate's degree in criminal justice from an
4 accredited college;

5 (C) A minimum of four years of experience as a magistrate; or

6 (D) ~~shall have~~ At least a high school education or its
7 equivalent for persons holding the office of magistrate on January
8 1, 2014;

9 (3) ~~shall not have~~ Has not been convicted of any a felony or
10 any misdemeanor involving moral turpitude; and

11 (4) ~~reside~~ Resides in the county of his or her election.

12 (b) ~~No magistrate shall~~ A magistrate may not be a member of
13 the immediate family of any other magistrate in the county. In the
14 event If more than one member of an immediate family shall be is
15 elected in a county, only the member receiving the highest number
16 of votes shall be is eligible to serve. For purposes of this
17 section, "immediate family" means the relationship of mother,
18 father, sister, brother, child or spouse. Notwithstanding the
19 foregoing provisions of this section, each person who held the
20 office of justice of the peace on the fifth day of November, one
21 thousand nine hundred seventy-four, and who served in or performed
22 the functions of such office for at least one year immediately
23 prior thereto shall be deemed qualified to run for the office of
24 magistrate in the county of his residence.

1 (c) No person ~~shall~~ may assume the duties of magistrate unless
2 ~~he shall have first attended and he or she has~~ completed a course
3 of instruction in ~~rudimentary~~ principles of law and procedure which
4 shall be given in accordance with the ~~supervisory~~ rules of the
5 Supreme Court of Appeals.

6 (d) All magistrates ~~shall be~~ are required to attend ~~such other~~
7 ~~courses of continuing educational instruction as may be required~~
8 ~~by supervisory rule~~ training conferences as required by the rules
9 of the Supreme Court of Appeals. ~~Failure to attend without good~~
10 ~~cause such courses of continuing educational instruction shall~~
11 ~~constitute~~ Failure to attend the training conferences without good
12 cause or without the permission of the Supreme Court Administrator
13 constitutes neglect of duty. ~~Such courses shall be provided at~~
14 ~~least once every other year. Persons attending such courses~~
15 Magistrates attending training conferences outside of the county of
16 their residence shall be reimbursed by the state for expenses
17 actually incurred in accordance with the ~~supervisory~~ rules of the
18 Supreme Court of Appeals.

19 (e) Each magistrate shall, before assuming the duties of
20 office, take an oath of office to be administered by the circuit
21 judge of the county or the chief judge ~~thereof~~ if there is more
22 than one judge. ~~of the circuit court.~~

23 (f) Each magistrate shall maintain the qualifications for
24 office at all times.

1 ~~Each magistrate who serves five thousand or less in population~~
2 ~~shall devote such time to his public duties as shall be required by~~
3 ~~rule or regulation of the judge of the circuit court, or the chief~~
4 ~~judge thereof if there is more than one judge of the circuit court.~~
5 ~~Each magistrate who serves more than five thousand in population~~
6 ~~shall devote full time to his public duties. As nearly as~~
7 ~~practicable, the workload and the total number of hours required~~
8 ~~shall be divided evenly among the magistrates in a county by such~~
9 ~~judge.~~

NOTE: The purpose of this bill is to require magistrates to possess a bachelor's degree, an associate's degree in criminal justice or have at least four years prior experience as a magistrate.

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

This bill was recommended for introduction and passage during the 2011 Regular Session by the Joint Standing Committee on the Judiciary.