

Senate Bill No. 195

(By Senators Jenkins, Kessler (Acting President), Barnes,
Browning, Palumbo, Stollings, Williams and Plymale)

[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;

(2) Has any of the following qualifications:

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

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

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

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

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

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

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

24 (c) No person shall may assume the duties of magistrate unless
25 ~~he shall have first attended and~~ he or she has completed a course

1 of instruction in ~~rudimentary~~ principles of law and procedure which
2 shall be given in accordance with the ~~supervisory~~ rules of the
3 Supreme Court of Appeals.

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

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

21 (f) Each magistrate shall maintain the qualifications for
22 office at all times.

23 ~~Each magistrate who serves five thousand or less in population~~
24 ~~shall devote such time to his public duties as shall be required by~~
25 ~~rule or regulation of the judge of the circuit court, or the chief~~

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