

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 108

(By Senators Jenkins, Plymale and Foster)

[Originating in the Committee on the Judiciary;
reported January 26, 2012.]

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 an associate's degree or greater to serve; providing exceptions to education requirements; providing internal operative date; clarifying 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.

1 Each magistrate shall be (a) Effective January 1, 2015, a
2 person is qualified to serve as a magistrate if he or she:

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

4 (2) Has any of the following qualifications:

5 (A) An associate's or higher degree from an accredited
6 college or university;

7 (B) A minimum of four years of experience as a magis-
8 trate; or

9 (C) shall have At least a high school education or its
10 equivalent for persons holding the office of magistrate on
11 January 1, 2015;

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

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

15 (b) No magistrate shall A magistrate may not be a
16 member of the immediate family of any other magistrate in
17 the county. In the event If more than one member of an
18 immediate family shall be is elected in a county, only the
19 member receiving the highest number of votes shall be is
20 eligible to serve. For purposes of this section, "immediate
21 family" means the relationship of mother, father, sister,
22 brother, child or spouse. Notwithstanding the foregoing

23 ~~provisions of this section, each person who held the office of~~
24 ~~justice of the peace on the fifth day of November, one~~
25 ~~thousand nine hundred seventy-four, and who served in or~~
26 ~~performed the functions of such office for at least one year~~
27 ~~immediately prior thereto shall be deemed qualified to run~~
28 ~~for the office of magistrate in the county of his residence.~~

29 (c) No person ~~shall~~ may assume the duties of magistrate
30 unless ~~he shall have first attended and he or she has com-~~
31 ~~pleted a course of instruction in rudimentary~~ principles of
32 law and procedure which shall be given in accordance with
33 the ~~supervisory~~ rules of the Supreme Court of Appeals.

34 (d) All magistrates ~~shall be~~ are required to attend ~~such~~
35 ~~other courses of continuing educational instruction as may~~
36 ~~be required by supervisory rule of~~ training as provided by
37 law and the Supreme Court of Appeals. ~~Failure to attend~~
38 ~~without good cause such courses of continuing educational~~
39 ~~instruction shall constitute~~ Failure to attend the training
40 without good cause or without the permission of the Su-
41 preme Court Administrator is neglect of duty. Such courses
42 ~~shall be provided at least once every other year. Persons~~
43 ~~attending such courses~~ Magistrates attending training
44 outside of the county of their residence shall be reimbursed

45 by the state for expenses actually incurred in accordance
46 with the ~~supervisory~~ rules of the Supreme Court of Appeals.

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

51 (f) Each magistrate shall maintain the qualifications for
52 office at all times.

53 ~~Each magistrate who serves five thousand or less in~~
54 ~~population shall devote such time to his public duties as shall~~
55 ~~be required by rule or regulation of the judge of the circuit~~
56 ~~court, or the chief judge thereof if there is more than one~~
57 ~~judge of the circuit court. Each magistrate who serves more~~
58 ~~than five thousand in population shall devote full time to his~~
59 ~~public duties. As nearly as practicable, the workload and the~~
60 ~~total number of hours required shall be divided evenly~~
61 ~~among the magistrates in a county by such 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.)