

H. B. 2434

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[Introduced February 14, 2013; referred to the
Committee on the Judiciary then Finance.]

A BILL to amend and reenact §50-1-3, §50-1-8, §50-1-9 and §50-1-9a of the Code of West Virginia, 1931, as amended, all relating generally to the magistrate court system; providing compensation for magistrates, magistrate assistants, magistrate court clerks and magistrate court deputy clerks; and authorizing judges to appoint magistrate court clerks in certain circumstances.

Be it enacted by the Legislature of West Virginia:

That §50-1-3, §50-1-8, §50-1-9 and §50-1-9a of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1. COURTS AND OFFICERS.

§50-1-3. Salaries of magistrates.

- 1 ~~(a)~~ The Legislature finds and declares that:
- 2 ~~(1) The West Virginia Supreme Court of Appeals has held~~
- 3 ~~that a salary system for magistrates which is based upon the~~

4 population that each magistrate serves does not violate the equal
5 protection clause of the Constitution of the United States;

6 ~~(2) The West Virginia Supreme Court of Appeals has held~~
7 ~~that a salary system for magistrates which is based upon the~~
8 ~~population that each magistrate serves does not violate section~~
9 ~~thirty-nine, article VI of the Constitution of West Virginia;~~

10 ~~(3) The utilization of a two-tiered salary schedule for~~
11 ~~magistrates is an equitable and rational manner by which~~
12 ~~magistrates should be compensated for work performed;~~

13 ~~(4) Organizing the two tiers of the salary schedule into one~~
14 ~~tier for magistrates serving less than eight thousand four~~
15 ~~hundred in population and the second tier for magistrates~~
16 ~~serving eight thousand four hundred or more in population is~~
17 ~~rational and equitable given current statistical information~~
18 ~~relating to population and caseload; and~~

19 ~~(5) That all magistrates who fall under the same tier should~~
20 ~~be compensated equally.~~

21 ~~(b) The salary of each magistrate shall be paid by the state.~~
22 ~~Magistrates who serve fewer than eight thousand four hundred~~
23 ~~in population shall be paid annual salaries of thirty thousand six~~

24 ~~hundred twenty-five dollars and magistrates who serve eight~~
25 ~~thousand four hundred or more in population shall be paid~~
26 ~~annual salaries of thirty-seven thousand dollars: *Provided, That*~~
27 ~~on and after the first day of July, two thousand three, magis-~~
28 ~~trates who serve fewer than eight thousand four hundred in~~
29 ~~population shall be paid annual salaries of thirty-three thousand~~
30 ~~six hundred twenty-five dollars and magistrates who serve eight~~
31 ~~thousand four hundred or more in population shall be paid~~
32 ~~annual salaries of forty thousand dollars: *Provided, however,*~~
33 ~~That on and after the first day of July, two thousand five,~~
34 ~~magistrates who serve fewer than eight thousand four hundred~~
35 ~~in population shall be paid annual salaries of forty-three~~
36 ~~thousand six hundred twenty-five dollars and magistrates who~~
37 ~~serve eight thousand four hundred or more in population shall~~
38 ~~be paid annual salaries of fifty thousand dollars. *Provided*~~
39 ~~*further, That on and after the first day of July, 2011, magistrates*~~
40 ~~who serve fewer than eight thousand four hundred in population~~
41 ~~shall be paid annual salaries of \$51,125 and magistrates who~~
42 ~~serve eight thousand four hundred or more in population shall~~
43 ~~be paid annual salaries of \$57,500.~~

44 (c) ~~For the purpose of determining the population served by~~
45 ~~each magistrate, the number of magistrates authorized for each~~
46 ~~county shall be divided into the population of each county. For~~
47 ~~the purpose of this article, the population of each county is the~~
48 ~~population as determined by the last preceding decennial census~~
49 ~~taken under the authority of the United States government.~~
50 All magistrates shall be compensated equally. Beginning July
51 1, 2013, the annual salary of all magistrates is \$57,500.

§50-1-8. Magistrate court clerks; salaries; duties; duties of circuit clerk.

1 (a) In each county, ~~having three or more magistrates the~~
2 ~~judge of the circuit court or the chief judge of the circuit court,~~
3 ~~if there is more than one judge of the circuit court, shall appoint~~
4 ~~a magistrate court clerk. In all other counties the judge may~~
5 ~~appoint a magistrate court clerk or may by rule require the~~
6 ~~duties of the magistrate court clerk to be performed by the clerk~~
7 ~~of the circuit court, in which event the circuit court clerk is~~
8 ~~entitled to additional compensation in the amount of \$2,500 per~~
9 ~~year. The magistrate court clerk serves at the will and pleasure~~
10 ~~of the circuit judge.~~

11 (b) Magistrate court clerks shall be paid a monthly salary by
12 the state. Magistrate court clerks serving magistrates who serve
13 less than eight thousand four hundred in population shall be
14 paid up to \$26,436 per year and magistrate court clerks serving
15 magistrates who serve eight thousand four hundred or more in
16 population shall be paid up to \$31,344 per year: *Provided, That*
17 ~~on and after July 1, 2006, magistrate court clerks serving~~
18 ~~magistrates who serve less than eight thousand four hundred in~~
19 ~~population shall be paid up to \$31,436 per year and magistrate~~
20 ~~court clerks serving magistrates who serve eight thousand four~~
21 ~~hundred or more in population shall be paid up to \$36,344 per~~
22 ~~year: *Provided, however, That on and after July 1, 2007,*~~
23 ~~magistrate court clerks serving magistrates who serve less than~~
24 ~~eight thousand four hundred in population shall be paid up to~~
25 ~~\$36,436 per year and magistrate court clerks serving magistrates~~
26 ~~who serve eight thousand four hundred or more in population~~
27 ~~shall be paid up to \$41,344 per year: *Provided further, That*~~
28 ~~after the effective date of this section, any general salary~~
29 ~~increase granted to all state employees, whose salaries are not~~
30 ~~set by statute, expressed as a percentage increase or an “across-~~

31 ~~the-board” increase, may also be granted to magistrate court~~
32 ~~clerks. For the purpose of determining the population served by~~
33 ~~each magistrate, the number of magistrates authorized for each~~
34 ~~county shall be divided into the population of each county. The~~
35 ~~salary of the magistrate court clerk shall be established by the~~
36 ~~judge of the circuit court, or the chief judge of the circuit court~~
37 ~~if there is more than one judge of the circuit court, within the~~
38 ~~limits set forth in this section~~ compensated equally.

39 (c) Beginning July 1, 2013, the annual salary of all magis-
40 trate court clerks is \$44,720. After the effective date of this
41 section, a general salary increase granted to state employees,
42 whose salaries are not set by statute, expressed as a percentage
43 increase or an “across-the-board” increase, may also be granted
44 to magistrate court clerks.

45 ~~(c)~~ (d) In addition to other duties that may be imposed by
46 the provisions of this chapter or by the rules of the Supreme
47 Court of Appeals or the judge of the circuit court or the chief
48 judge of the circuit court if there is more than one judge of the
49 circuit court, it is the duty of the magistrate court clerk to
50 establish and maintain appropriate dockets and records in a

51 centralized system for the magistrate court, to assist in the
52 preparation of the reports required of the court and to carry out
53 on behalf of the magistrates or chief magistrate if a chief
54 magistrate is appointed, the administrative duties of the court.

55 ~~(d)~~ (e) The magistrate court clerk ~~or if there is no magistrate~~
56 ~~court clerk in the county, the clerk of the circuit court,~~ may issue
57 all manner of civil process and require the enforcement of
58 subpoenas and subpoenas duces tecum in magistrate court.

§50-1-9. Magistrate assistants; salary; duties.

1 (a) In each county there shall be one magistrate assistant for
2 each magistrate. Each magistrate assistant shall be appointed by
3 the magistrate under whose authority and supervision and at
4 whose will and pleasure he or she shall serve. The assistant
5 ~~shall~~ may not be a member of the immediate family of any
6 magistrate and ~~shall~~ may not have been convicted of a felony or
7 ~~any~~ a misdemeanor involving moral turpitude and ~~shall~~ must
8 reside in the State of West Virginia. For the purpose of this
9 section, “immediate family” means the relationships of mother,
10 father, sister, brother, child or spouse.

11 (b) A magistrate assistant shall have the duties, clerical or
12 otherwise, assigned by the magistrate and prescribed by the
13 rules of the Supreme Court of Appeals or the judge of the circuit
14 court or the chief judge of the circuit court if there is more than
15 one judge of the circuit court. In addition to these duties,
16 magistrate assistants shall perform and are accountable to the
17 magistrate court clerks with respect to the following duties:

18 (1) The preparation of summons in civil actions;

19 (2) The assignment of civil actions to the various magis-
20 trates;

21 (3) The collection of all costs, fees, fines, forfeitures and
22 penalties which are payable to the court;

23 (4) The submission of moneys, along with an accounting of
24 the moneys, to appropriate authorities as provided by law;

25 (5) The daily disposition of closed files which are to be
26 located in the magistrate clerk's office;

27 (6) All duties related to the gathering of information and
28 documents necessary for the preparation of administrative
29 reports and documents required by the rules of the Supreme
30 Court of Appeals or the judge of the circuit court or the chief

31 judge of the circuit court if there is more than one judge of the
32 circuit court;

33 (7) All duties relating to the notification, certification and
34 payment of jurors serving pursuant to the terms of this chapter;

35 (8) All other duties or responsibilities whereby the magis-
36 trate assistant is accountable to the magistrate court clerk as
37 determined by the magistrate.

38 (c) Magistrate assistants shall be paid a monthly salary by
39 the state. Magistrate assistants serving magistrates who serve
40 less than eight thousand four hundred in population shall be
41 paid up to \$23,148 per year and magistrate assistants serving
42 magistrates who serve eight thousand four hundred or more in
43 population shall be paid up to \$26,244 per year: *Provided, That*
44 ~~on and after July 1, 2006, magistrate assistants serving magis-~~
45 ~~trates who serve less than eight thousand four hundred in~~
46 ~~population shall be paid up to \$28,148 per year and magistrate~~
47 ~~assistants serving magistrates who serve eight thousand four~~
48 ~~hundred or more in population shall be paid up to \$31,244 per~~
49 ~~year: *Provided, however, That on and after July 1, 2007,*~~
50 ~~magistrate assistants serving magistrates who serve less than~~

51 ~~eight thousand four hundred in population shall be paid up to~~
52 ~~\$33,148 per year and magistrate assistants serving magistrates~~
53 ~~who serve eight thousand four hundred or more in population~~
54 ~~shall be paid up to \$36,244 per year. *Provided further,* That~~
55 ~~after the effective date of this section, any general salary~~
56 ~~increase granted to all state employees, whose salaries are not~~
57 ~~set by statute, expressed as a percentage increase or an “across-~~
58 ~~the-board” increase, may also be granted to magistrate assis-~~
59 ~~tants. For the purpose of determining the population served by~~
60 ~~each magistrate, the number of magistrates authorized for each~~
61 ~~county shall be divided into the population of each county. The~~
62 ~~salary of the magistrate assistant shall be established by the~~
63 ~~magistrate within the limits set forth in this section compensated~~
64 ~~equally.~~

65 (d) Beginning July 1, 2013, the annual salary of all magis-
66 trate assistants is \$39,348. After the effective date of this
67 section, a general salary increase granted to state employees,
68 whose salaries are not set by statute, expressed as a percentage
69 increase or an “across-the-board” increase, may also be granted
70 to magistrate assistants.

§50-1-9a. Magistrate court deputy clerks; duties; salary.

1 (a) Whenever required by workload and upon the recom-
2 mendation of the judge of the circuit court, or the chief judge of
3 the circuit court if there is more than one judge of the circuit
4 court, the Supreme Court of Appeals may, by rule, provide for
5 the appointment of magistrate court deputy clerks, not to exceed
6 seventy-two in number. The magistrate court deputy clerks
7 shall be appointed by the judge of the circuit court, or the chief
8 judge if there is more than one judge of the circuit court, to
9 serve at his or her will and pleasure under the immediate
10 supervision of the magistrate court clerk.

11 (b) Magistrate court deputy clerks shall have the duties,
12 clerical or otherwise, as may be assigned by the magistrate court
13 clerk and as may be prescribed by the rules of the Supreme
14 Court of Appeals or the judge of the circuit court or the chief
15 judge if there is more than one judge of the circuit court.
16 Magistrate court deputy clerks may also exercise the power and
17 perform the duties of the magistrate court clerk as may be
18 delegated or assigned by the magistrate court clerk.

19 (c) A magistrate court deputy clerk may not be an immedi-
20 ate family member of ~~any~~ a magistrate, magistrate court clerk,
21 magistrate assistant or judge of the circuit court within the same
22 county, may not have been convicted of a felony or ~~any~~ a
23 misdemeanor involving moral turpitude and must reside in this
24 state. For purposes of this subsection, “immediate family
25 member” means a mother, father, sister, brother, child or spouse.

26 (d) Magistrate court deputy clerks shall be ~~paid an annual~~
27 ~~salary by the state on the same basis and in the same amounts~~
28 ~~established for magistrate assistants in each county, as provided~~
29 ~~in section nine of this article~~ compensated equally.

30 (e) Beginning July 1, 2013, the annual salary of all magis-
31 trate court deputy clerks is \$39,348. After the effective date of
32 this section, a general salary increase granted to state employees,
33 whose salaries are not set by statute, expressed as a percentage
34 increase or an “across-the-board” increase, may also be granted
35 to magistrate court deputy clerks.

NOTE: The purpose of this bill is to provide compensation of equal amount to all magistrates, magistrate assistants, magistrate court clerks and magistrate court deputy clerks within their respective job titles.

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