

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2864

FISCAL
NOTE

BY DELEGATES BYRD, CRISS, ROHRBACH, LINVILLE,
MANDT, LOVEJOY, STEELE, FOSTER, BROWN, SPONAUGLE
AND R. THOMPSON

[Introduced February 6, 2019; Referred
to the Committee on the Judiciary then Finance.]

1 A BILL to amend and reenact §50-1-3 of the Code of West Virginia, 1931, as amended; to amend
 2 and reenact §51-1-10a of said code; to amend and reenact §51-2-13 of said code; and to
 3 amend and reenact §51-2A-6 of said code, all relating to increasing salaries of
 4 magistrates, supreme court justices, circuit court judges, and family court judges pursuant
 5 to the 2018 recommendations of the Judicial Compensation Commission.

Be it enacted by the Legislature of West Virginia:

CHAPTER 50. MAGISTRATE COURTS.

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 that a salary system for
 3 magistrates which is based upon the population that each magistrate serves does not violate the
 4 equal protection clause of the Constitution of the United States;

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

8 (3) The Administrative Office of the Supreme Court of Appeals of West Virginia has stated
 9 that the utilization of a two-tiered salary schedule for magistrates is no longer an equitable and
 10 rational manner by which magistrates should be compensated for work performed;

11 (4) Organizing the two tiers of the salary schedule into one tier for magistrates serving less
 12 than 7,300 in population and a second tier for magistrates serving 7,300 or more in population is
 13 no longer rational and equitable given current statistical information relating to population and
 14 caseload; and

15 (5) That, by January 1, 2017, all magistrates should be compensated equally.

16 (b) The salary of each magistrate shall be paid by the state. Magistrates who serve fewer

17 than 7,300 in population shall be paid annual salaries of \$51,125 and magistrates who serve
18 7,300 or more in population shall be paid annual salaries of \$57,500.

19 (c) For the purpose of determining the population served by each magistrate, the number
20 of magistrates authorized for each county shall be divided into the population of each county. For
21 the purpose of this article, the population of each county is the population as determined by the
22 last preceding decennial census taken under the authority of the United States government.

23 (d) Notwithstanding any provision of this code to the contrary, the amendments made to
24 this section during the 2013 First Extraordinary Session are effective upon passage and are
25 retroactive to January 1, 2013.

26 (e) On or before July 1, 2013, the Joint Committee on Government and Finance shall
27 request a study by the National Center for State Courts, working in conjunction with the
28 Administrative Office of the Supreme Court of Appeals of West Virginia, to review the weighted
29 case loads in each of the magistrate courts in this state, and present recommendations as to how
30 the present resources and personnel in the magistrate court system could be better apportioned
31 to equitably and timely meet the collective needs of the magistrate court system in West Virginia.
32 Based on the findings and data generated by that study, the National Center for State Courts shall
33 make recommendations as to the equitable redistribution of personnel and resources, by
34 temporary or permanent reassignment, to better meet the needs and weighted loads that are
35 demonstrated to exist in the various magistrate courts in this state. This study shall be presented
36 to the Joint Committee on Government and Finance no later than December 1, 2014, and shall
37 include recommendations and proposed legislation resulting from such study and shall also
38 include a plan to continue the efficient delivery of justice by the magistrate court system and the
39 justification for equalization of pay for all magistrates. As a part of the submitted study, the plan
40 shall consider the reassignment of magistrates or the extension of their duties and jurisdiction to
41 include holding court or delivering services to adjacent counties with higher caseloads, as part of
42 their regular duties, or being on call as needed to serve other needs in other adjacent counties or

43 within the same judicial circuit.

44 On or before January 15, 2015, the Supreme Court of Appeals of West Virginia shall
45 present its recommendations to the Legislature regarding how to allocate or assign a maximum
46 of 158 magistrates throughout this state to improve the magistrate process, and more equitably
47 distribute the magistrate court resources to efficiently and effectively meet the needs of the
48 citizens of this state.

49 (f) Notwithstanding any provision of this code to the contrary, beginning January 1, 2017,
50 all magistrates shall be compensated equally and the annual salary of all magistrates shall be
51 \$57,500.

52 (g) In order to effectuate the 2018 recommendations of the Judicial Compensation
53 Commission, salaries of magistrates shall be increased to an annual salary of \$62,255 on July 1,
54 2019. Beginning July 1, 2020, the annual salary of all magistrates shall be \$64,123. Beginning
55 July 1, 2021, the annual salary of all magistrates shall be \$66,047. Beginning July 1, 2022, the
56 annual salary of all magistrates shall be \$68,028.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 1. SUPREME COURT OF APPEALS.

§51-1-10a. Salary of justices.

1 The salary of each of the justices of the Supreme Court of Appeals shall be \$95,000 per
2 year: *Provided*, That beginning July, 1, 2005, the salary of each of the justices of the Supreme
3 Court shall be \$121,000: *Provided, however*, That beginning July 1, 2011, the annual salary of a
4 justice of the Supreme Court shall be \$136,000.

5 In order to effectuate the 2018 recommendations of the Judicial Compensation
6 Commission, on July 1, 2019, the annual salary of a justice of the Supreme Court shall be
7 \$147,247. Beginning July 1, 2020, the annual salary of a justice of the Supreme Court shall be
8 \$151,665. Beginning July 1, 2021, the annual salary of a justice of the Supreme Court shall be
9 \$156,215. Beginning July 1, 2022, the annual salary of a justice of the Supreme Court shall be

10 \$160,901.

ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES.

§51-2-13. Salaries of judges of circuit courts.

1 The salaries of the judges of the various circuit courts shall be paid solely out of the State
2 Treasury. No county, county commission, board of commissioners or other political subdivision
3 shall supplement or add to such salaries.

4 The annual salary of all circuit judges shall be \$90,000 per year: *Provided*, That beginning
5 July 1,2005, the annual salary of all circuit judges shall be \$116,000 per year: *Provided, however*,
6 That beginning July 1, 2011, the annual salary of a circuit court judge shall be \$126,000.

7 In order to effectuate the 2018 recommendations of the Judicial Compensation
8 Commission, on July 1, 2019, the annual salaries of circuit court judges shall be \$136,420.
9 Beginning July 1, 2020, the annual salaries of circuit court judges shall be \$140,513. Beginning
10 July 1, 2021, the annual salaries of circuit court judges shall be \$144,728. Beginning July 1, 2022,
11 the annual salaries of circuit court judges shall be \$149,070.

ARTICLE 2A. FAMILY COURTS.

§51-2A-6. Compensation and expenses of family court judges and their staffs.

1 (a) A family court judge is entitled to receive as compensation for his or her services an
2 annual salary of \$62,500: *Provided*, That beginning July 1, 2005, a family court judge is entitled
3 to receive as compensation for his or her services an annual salary of \$82,500: *Provided*,
4 *however*, That beginning July 1, 2011, the annual salary of a family court judge shall be \$94,500.
5 In order to effectuate the 2018 recommendations of the Judicial Compensation Commission, on
6 July 1, 2019, the annual salary of a family court judge shall be \$104,262. Beginning July 1, 2020,
7 the annual salary of a family court judge shall be \$107,390. Beginning July 1, 2021, the annual
8 salary of a family court judge shall be \$110,611. Beginning July 1, 2022, the annual salary of a
9 family court judge shall be \$113,930.

10 (b) The secretary-clerk of the family court judge is appointed by the family court judge and
11 serves at his or her will and pleasure. The secretary-clerk of the family court judge is entitled to
12 receive an annual salary of \$27,036: *Provided*, That on and after July 1, 2006, the annual salary
13 of the secretary-clerk shall be established by the administrative director of the Supreme Court of
14 Appeals, but may not exceed \$35,000. In addition, any person employed as a secretary-clerk to
15 a family court judge on the effective date of the enactment of this section during the sixth
16 extraordinary session of the Legislature in the year 2001 who is receiving an additional \$500 per
17 year up to 10 years of a certain period of prior employment under the provisions of the prior
18 enactment of section eight of this article during the second extraordinary session of the
19 Legislature in the year 1999 shall continue to receive such additional amount. Further, the
20 secretary-clerk will receive such percentage or proportional salary increases as may be provided
21 by general law for other public employees and is entitled to receive the annual incremental salary
22 increase as provided in §5-5-1 *et seq.* of this code.

23 (c) The family court judge may employ not more than one family case coordinator who
24 serves at his or her will and pleasure. The annual salary of the family case coordinator of the
25 family court judge shall be established by the Administrative Director of the Supreme Court of
26 Appeals but may not exceed \$36,000: *Provided*, That on and after July 1, 2006, the annual salary
27 of the family case coordinator of the family court judge may not exceed \$46,060. The family case
28 coordinator will receive such percentage or proportional salary increases as may be provided by
29 general law for other public employees and is entitled to receive the annual incremental salary
30 increase as provided in §5-5-1 *et seq.* of this code.

31 (d) The sheriff or his or her designated deputy shall serve as a bailiff for a family court
32 judge. The sheriff of each county shall serve or designate persons to serve so as to assure that
33 a bailiff is available when a family court judge determines the same is necessary for the orderly
34 and efficient conduct of the business of the family court.

35 (e) Disbursement of salaries for family court judges and members of their staffs are made

36 by or pursuant to the order of the Director of the Administrative Office of the Supreme Court of
37 Appeals.

38 (f) Family court judges and members of their staffs are allowed their actual and necessary
39 expenses incurred in the performance of their duties. The expenses and compensation will be
40 determined and paid by the Director of the Administrative Office of the Supreme Court of Appeals
41 under such guidelines as he or she may prescribe, as approved by the Supreme Court of Appeals.

42 (g) Notwithstanding any other provision of law, family court judges are not eligible to
43 participate in the retirement system for judges under the provisions of §51-9-1 *et seq.* of this code.

NOTE: The purpose of this bill is to enact the 2018 recommendations of the Judicial Compensation Commission providing salary increases for magistrates, family court judges, circuit court judges, and Supreme Court justices.

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