

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2197

FISCAL
NOTE

BY DELEGATE FOSTER AND PORTERFIELD

[Introduced January 9, 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 §51-2-13 of said code; and to amend and reenact §51-2A-6 of said code, all
 3 relating to increasing the salaries of circuit court judges, family court judges, and
 4 magistrates.

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 seven thousand three hundred in population and a second tier for magistrates serving seven~~
 13 ~~thousand three hundred or more in population is no longer rational and equitable given current~~
 14 ~~statistical information relating to population and 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 one hundred fifty-eight magistrates throughout this state to improve the magistrate process,~~
 47 ~~and more equitably distribute the magistrate court resources to efficiently and effectively meet the~~
 48 ~~needs of the citizens of this state~~

49 (f) Notwithstanding any provision of this code to the contrary, beginning January 1, 2019,
 50 all magistrates shall be compensated equally and the annual salary of all magistrates shall be is
 51 \$57,500. However, beginning:

- 52 (1) July 1, 2020, the annual salary of all magistrates is \$60,375;
- 53 (2) July 1, 2021, the annual salary of all magistrates is \$61,884.38;
- 54 (3) July 1, 2022, the annual salary of all magistrates is \$63,431.48; and
- 55 (4) July 1, 2023, the annual salary of all magistrates is \$65,017.27.

CHAPTER 51. COURTS AND THEIR OFFICERS.

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~~ the 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~~ is \$126,000.

7 However, beginning:

- 8 (1) July 1, 2019, the annual salary of all circuit judges is \$132,300 per year;
- 9 (2) July 1, 2020, the annual salary of all circuit judges is \$135,607.50 per year;
- 10 (3) July 1, 2021, the annual salary of all circuit judges is \$138,997.69 per year; and
- 11 (4) July 1, 2022, the annual salary of all circuit judges is \$142,472.63.

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 However, beginning:

6 (1) July 1, 2019, the annual salary of a family court judge is \$101,115;

7 (2) July 1, 2020, the annual salary of a family court judge is \$103,642.88;

8 (3) July 1, 2021, the annual salary of a family court judge is \$106,233.95; and

9 (4) July 1, 2022, the annual salary of a family court judge is \$108,889.80.

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 \$39,000. 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 §51-2A-8 of this during the second extraordinary session of the Legislature in the
 19 year 1999 shall continue to receive such additional amount. Further, the secretary-clerk ~~will~~ shall
 20 receive such percentage or proportional salary increases as may be provided by general law for
 21 other public employees and is entitled to receive the annual incremental salary increase as
 22 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 \$51,000.~~ The family case
28 coordinator ~~will~~ shall receive such percentage or proportional salary increases as may be provided
29 by 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 increase the salaries of circuit court judges, family court judges, and magistrates by enacting into law the recommendations contained in the 2017 Final Report of the West Virginia Judicial Compensation Commission with regard to those positions.

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