

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2910

FISCAL
NOTE

BY DELEGATES FOSTER, KIMBLE, HAYNES, WAMSLEY,
KESSINGER, ESPINOSA, KIMES, J. PACK AND HARDY

[Introduced March 04, 2021; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §50-1-2 of the Code of West Virginia, 1931, as amended, relating
 2 to the allocation of magistrates serving in each county and provided for adjustment of
 3 those numbers of magistrates every 10 years following the census.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. COURTS AND OFFICERS.

§50-1-2. Number of magistrates.

1 (a) The number of magistrates to be elected in each county of this state shall be
 2 determined in accordance with the provisions of this section.

3 (b) The number of magistrates serving in each county of the state shall comport with the
 4 numbers certified by the Supreme Court of Appeals to the ballot commissioners of each county
 5 on or before January 31, 2000, for purposes of the primary and general elections to be held in the
 6 year 2000. For all elections after January 1, 2022, the number of magistrates serving in each
 7 county of the state shall comport with the numbers established by this section.

8 (c)(1) The Legislature finds that there exists among the various counties large and
 9 unwarranted disparities of caseload between the magistrate courts. ~~The Legislature further finds~~
 10 ~~that the disparity causes an inequity with regard to magistrate court resources and the ability of~~
 11 ~~the courts to effectively meet the needs of the citizens of this state who need to avail themselves~~
 12 ~~of this judicial resource. The Legislature further finds that the system currently in place for~~
 13 ~~allocating magistrate court resources which has been in effect since the year 1991 produces~~
 14 ~~certain anomalies which cause quadrennial reallocation of magistrate resources based upon said~~
 15 ~~anomalies which in turn cause a waste of funds, inequitable workloads, unnecessary shifting of~~
 16 ~~resources and confusion among the various counties.~~

17 (2) ~~The office of Legislative Services is hereby directed to undertake a comprehensive~~
 18 ~~study of the magistrate courts of the various counties to determine, among other things, the work~~
 19 ~~performed by various personnel in the magistrate court system, how work time is spent by said~~
 20 ~~employees and to report its findings no later than December 10, 2001, to the joint standing~~

21 ~~committee on the judiciary~~ In order to be fair and equitable in the distribution of such magistrates,
 22 magistrates shall be allocated utilizing the following formula:

23 (A) Each county shall be assigned one magistrate per every 16,500 population; but

24 (B) There shall be at least two magistrates allocated to each county.

25 ~~(3) The division of criminal justice and highway safety shall, in conjunction with the~~
 26 ~~administrative office of the West Virginia Supreme Court of Appeals, compile for consideration by~~
 27 ~~the Legislature statistical information and documentation regarding caseloads, cases handled per~~
 28 ~~year per magistrate, cases per county, cases per circuit and provide to the President of the Senate~~
 29 ~~and the Speaker of the House of Delegates no later than the first day of the 2002 regular session~~
 30 ~~of the Legislature, their recommendations for improving the magistrate process, better utilization~~
 31 ~~of court resources, including, but not limited to, categorizing the various types of cases heard in~~
 32 ~~magistrate court and developing a new weighted formula to evaluate types of cases by the amount~~
 33 ~~of time necessary to bring said cases to a resolution~~

34 (d) Notwithstanding the other provisions of this section, the allowable number of
 35 magistrates allocated to each county shall be adjusted every 10 years following the decennial
 36 census of the United States, according to the varying population of each county utilizing the above
 37 formula. ~~serving the counties of Berkeley and Nicholas on March 1, 2001, shall be increased by~~
 38 ~~one in each county, effective July 1, 2001. The initial appointment to the position shall be made~~
 39 ~~in accordance with the provisions of section six of this article~~

NOTE: The purpose of this bill is to establish factors by which magistrates are allocated for each county and allow adjustment every 10 years following the census.

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