

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

**Introduced**

### **Senate Bill 573**

BY SENATORS TRUMP AND WELD

[Introduced February 03, 2022; referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §50-1-13 of the Code of West Virginia, 1931, as amended, relating  
 2 to requesting that the Chief Justice of the Supreme Court of Appeals develop a rule  
 3 creating a system in which magistrates may be assigned on a temporary rotating basis  
 4 outside the county of their election or appointment to preside over initial appearances,  
 5 petitions for domestic violence emergency protective orders, and emergency mental  
 6 hygiene petitions in counties in which he or she was not elected or appointed during none  
 7 court hours; granting the court authority to organize the system on a circuit-wide or  
 8 regional basis as the court chooses; clarifying that magistrates presiding remotely is  
 9 authorized if the Supreme Court of Appeals deems it appropriate; and eliminating  
 10 antiquated language.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 1. COURTS AND OFFICERS.**

### **§50-1-13. Temporary service within or outside of county.**

1 (a) The Chief Justice of the Supreme Court of Appeals or judge of the circuit court of the  
 2 county in which a magistrate is elected, or the chief judge thereof if there is more than one judge  
 3 of the circuit court, may order a magistrate to serve temporarily at locations within the county other  
 4 than at the regular office or offices of the magistrate.

5 (b) The Chief Justice of the Supreme Court of Appeals or judge of the circuit court of the  
 6 county in which a magistrate is elected, or the chief judge thereof if there is more than one judge  
 7 of the circuit court, may by order direct a magistrate to serve temporarily in any other county within  
 8 the judicial circuit for such purposes as the judge may direct. The magistrate's authority, to the  
 9 extent ordered by the judge, shall be equal to the jurisdiction and authority of a magistrate elected  
 10 in the county to which the magistrate is ordered to serve. The temporary assignment may not  
 11 exceed 60 days in length in any given calendar year, except with the consent of the transferred  
 12 magistrate.

13 ~~(c) A magistrate who is temporarily assigned to a county with a higher salary schedule for~~

14 ~~magistrates than the salary schedule in the county from which the magistrate was elected, shall~~  
15 ~~be reimbursed for the difference of the salary in the assigned county and the lower salary which~~  
16 ~~the magistrate received in the county of election, prorated for the number of days of the temporary~~  
17 ~~assignment. An assigned magistrate may not be reimbursed on a pro rata basis for less than the~~  
18 ~~salary received in the county of that magistrate's election~~

19 ~~(d)~~ (c) A magistrate serving outside the county in which he or she is elected or appointed  
20 shall be reimbursed for reasonable expenses incurred in service outside of the county, as  
21 provided by rule of the Supreme Court of Appeals.

22 (d) The Supreme Court of Appeals is requested to develop a rule creating a system in  
23 which magistrates shall, on a periodic alternating basis, be assigned to preside over initial  
24 appearances, petitions for domestic violence emergency protective orders, and emergency  
25 mental health petitions arising outside normal court hours on a circuit-wide or other regional basis  
26 as determined by the Supreme Court of Appeals. The authority of a magistrate so serving shall  
27 be equal to the jurisdiction and authority of a magistrate elected or appointed in any county in  
28 which he or she is directed to preside.

29 (e) Nothing in this section should be construed to prohibit a magistrate from appearing  
30 remotely if that is deemed appropriate by the Supreme Court of Appeals

NOTE: The purpose of this bill is to provide a system where magistrates shall preside in certain instances outside normal court hours.

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