

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 573**

BY SENATORS TRUMP AND WELD

[Originating in the Committee on the Judiciary;

reported on February 16, 2022]



1 A BILL to amend and reenact §50-1-13 of the Code of West Virginia, 1931, as amended, relating  
2 to requesting the Chief Justice of the Supreme Court of Appeals develop a rule creating a  
3 system in which magistrates may be assigned on a temporary rotating basis outside the  
4 county of their election or appointment to preside over initial appearances, petitions for  
5 domestic violence, emergency protective orders, emergency mental hygiene petitions,  
6 emergency juvenile delinquency petitions, and applications for issuance of search  
7 warrants in counties in which he or she was not elected or appointed during non-court  
8 hours; granting the court authority to organize the system on a circuit-wide or regional  
9 basis as the court chooses; clarifying that magistrates may preside remotely if the  
10 Supreme Court of Appeals determines it appropriate; and eliminating antiquated  
11 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~~ any purposes as directed by the judge. ~~may direct.~~ The magistrate's  
9 authority, to the extent ordered by the judge, shall be equal to the jurisdiction and authority of a  
10 magistrate elected in the county to which the magistrate is ordered to serve. The temporary  
11 assignment may not exceed 60 days in length in any given calendar year, except with the consent  
12 of the transferred 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, emergency mental~~  
25 ~~health petitions, emergency juvenile delinquency petitions, and applications for the issuance of~~  
26 ~~search warrants arising outside normal court hours on a circuit-wide or other regional basis as~~  
27 ~~determined by the Supreme Court of Appeals. The authority of that magistrate shall be equal to~~  
28 ~~the jurisdiction and authority of a magistrate elected or appointed in any county in which he or she~~  
29 ~~is directed to preside.~~

30 ~~(e) Nothing in this section should be construed to prohibit proceedings authorized by~~  
31 ~~subsection (d) of this section being held remotely if that is determined appropriate by the Supreme~~  
32 ~~Court of Appeals.~~