

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3138

By Delegate C. Pritt

[Introduced January 30, 2023; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §50-1-9 of the Code of West Virginia, 1931, as amended, relating to
2 permitting magistrate assistants to assess and process fines for basic charges.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. COURTS AND OFFICERS.

§50-1-9. Magistrate assistants; salary; duties.

1 (a) In each county there shall be one magistrate assistant for each magistrate. Each
2 magistrate assistant shall be appointed by the magistrate under whose authority and supervision
3 and at whose will and pleasure he or she shall serve. The assistant shall not be a member of the
4 immediate family of any magistrate and shall not have been convicted of a felony or any
5 misdemeanor involving moral turpitude and shall reside in the State of West Virginia. For the
6 purpose of this section, "immediate family" means the relationships of mother, father, sister,
7 brother, child or spouse.

8 (b) A magistrate assistant shall have the duties, clerical or otherwise, assigned by the
9 magistrate and prescribed by the rules of the Supreme Court of Appeals or the judge of the circuit
10 court or the chief judge of the circuit court if there is more than one judge of the circuit court. In
11 addition to these duties, magistrate assistants shall perform and are accountable to the magistrate
12 court clerks with respect to the following duties:

- 13 (1) The preparation of summons in civil actions;
- 14 (2) The assignment of civil actions to the various magistrates;
- 15 (3) The collection of all costs, fees, fines, forfeitures and penalties which are payable to the
16 court;
- 17 (4) The submission of moneys, along with an accounting of the moneys, to appropriate
18 authorities as provided by law;
- 19 (5) The daily disposition of closed files which are to be located in the magistrate clerk's
20 office;
- 21 (6) All duties related to the gathering of information and documents necessary for the

22 preparation of administrative reports and documents required by the rules of the Supreme Court of
23 Appeals or the judge of the circuit court or the chief judge of the circuit court if there is more than
24 one judge of the circuit court;

25 (7) To assess and process fines for vehicular and other charges that include fines under
26 \$500, that do not allow incarceration;

27 ~~(7)~~ (8) All duties relating to the notification, certification and payment of jurors serving
28 pursuant to the terms of this chapter; and

29 ~~(8)~~ (9) All other duties or responsibilities whereby the magistrate assistant is accountable
30 to the magistrate court clerk as determined by the magistrate.

31 (c) Magistrate assistants shall be paid at least twice per month by the state. Magistrate
32 assistants serving magistrates who serve less than seven thousand three hundred in population
33 shall be paid up to \$36,048 per year and magistrate assistants serving magistrates who serve
34 seven thousand three hundred or more in population shall be paid up to \$39,348 per year:
35 *Provided*, That after the effective date of this section, any general salary increase granted to all
36 state employees, whose salaries are not set by statute, expressed as a percentage increase or an
37 across-the-board increase, may also be granted to magistrate assistants. For the purpose of
38 determining the population served by each magistrate, the number of magistrates authorized for
39 each county shall be divided into the population of each county. The salary of the magistrate
40 assistant shall be established by the magistrate within the limits set forth in this section.

41 (d) Notwithstanding any provision of this code to the contrary, the amendments made to
42 this section during the 2013 first extraordinary session are effective upon passage and are
43 retroactive to January 1, 2013.

44 (e) Beginning January 1, 2017, the annual salary of all magistrate assistants is \$39,348.
45 After the effective date of this section, a general salary increase granted to state employees,
46 whose salaries are not set by statute, expressed as a percentage increase or an across-the-board
47 increase, may also be granted to magistrate assistants.

NOTE: The purpose of this bill is to allow magistrate assistants to assess fines on basic charges.

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