

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 3174**

By Delegates Statler, Chiarelli, Warner, Walker, and  
Hansen

[Introduced January 31, 2023; 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; to amend  
 2 said code by adding thereto a new section, designated §50-1-2a; and to amend and  
 3 reenact §50-1-6 of said code, all relating to clarifying the number of magistrate judges in  
 4 this state, and providing for an additional magistrate court judge in Monongalia County.

*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 Supreme Court of Appeals shall conduct or otherwise arrange for a caseload study~~  
 4 ~~of the magistrate courts of this state for the purpose of determining how many magistrates are~~  
 5 ~~needed in each county. Based upon the results of this study and upon consideration of county~~  
 6 ~~population data from the most recent decennial census, the Supreme Court of Appeals shall enter~~  
 7 ~~an administrative order on or before January 5, 2023, containing the Supreme Court's~~  
 8 ~~recommendations as to the number of magistrates who are needed in each of the state's 55~~  
 9 ~~counties for the four-year terms of office to be filled by election in the year 2024. The~~  
 10 ~~administrative order shall allocate no more than 170 magistrates for the entire State of West~~  
 11 ~~Virginia, nor shall the allocation reduce the number of magistrates in any county below that in~~  
 12 ~~effect on the effective date of the amendments to this section enacted during the 2022 regular~~  
 13 ~~session of the Legislature. Attested copies of the administrative order shall be provided to the~~  
 14 ~~President of the West Virginia Senate, the Clerk of the Senate, the Clerk and the Speaker of the~~  
 15 ~~West Virginia House of Delegates, and the West Virginia Secretary of State.~~

16 ~~(c) The West Virginia Legislature may, in the regular session of the Legislature, 2023,~~  
 17 ~~reject the allocation of magistrates recommended by the Supreme Court and allocate magistrates~~  
 18 ~~for the four-year terms commencing in January of 2025 and serving through December of 2028, as~~  
 19 ~~the Legislature may choose by enactment of a bill containing such an allocation.~~

20 ~~(d) If the Legislature does not enact a different allocation of the magistrates to be elected in~~  
21 ~~2024 pursuant to subsection (c) of this section, then the administrative order of the Supreme Court~~  
22 ~~of Appeals required by subsection (b) of this section shall become the certification to the ballot~~  
23 ~~commissioners of each county in this state of the number of magistrates to be elected in each~~  
24 ~~county of this state at the judicial elections to be held concurrently with the primary election in~~  
25 ~~2024.~~

26 ~~(e) The process set forth in this section shall be repeated every four years in the first and~~  
27 ~~second years immediately preceding the quadrennial election of magistrates.~~

28 (a) Upon the effective date of this section, the number of magistrates serving in each  
29 county shall be as follows:

30 (1) Barbour County shall have two magistrates.

31 (2) Berkeley County shall have six magistrates.

32 (3) Boone county shall have two magistrates.

33 (4) Braxton County shall have two magistrates.

34 (5) Brooke County shall have two magistrates.

35 (6) Cabell County shall have seven magistrates.

36 (7) Calhoun County shall have two magistrates.

37 (8) Clay County shall have two magistrates.

38 (9) Doddridge County shall have two magistrates.

39 (10) Fayette County shall have four magistrates.

40 (11) Gilmer County shall have two magistrates.

41 (12) Grant County shall have two magistrates.

42 (13) Greenbrier County shall have three magistrates.

43 (14) Hampshire County shall have two magistrates.

44 (15) Hancock County shall have three magistrates.

45 (16) Hardy County shall have two magistrates.

- 46           (17) Harrison County shall have five magistrates.
- 47           (18) Jackson County shall have two magistrates.
- 48           (19) Jefferson County shall have three magistrates.
- 49           (20) Kanawha County shall have ten magistrates.
- 50           (21) Lewis County shall have two magistrates.
- 51           (22) Lincoln County shall have two magistrates.
- 52           (23) Logan County shall have three magistrates.
- 53           (24) Marion County shall have four magistrates.
- 54           (25) Marshall County shall have three magistrates.
- 55           (26) Mason County shall have two magistrates.
- 56           (27) McDowell County shall have three magistrates.
- 57           (28) Mercer County shall have five magistrates.
- 58           (29) Mineral County shall have two magistrates.
- 59           (30) Mingo County shall have three magistrates.
- 60           (31) Monongalia County shall have four magistrates, except that beginning on July 1,  
61 2023, Monongalia County shall have five magistrates.
- 62           (32) Monroe County shall have two magistrates.
- 63           (33) Morgan county shall have two magistrates.
- 64           (34) Nicholas County shall have three magistrates.
- 65           (35) Ohio County shall have four magistrates.
- 66           (36) Pendleton County shall have two magistrates.
- 67           (37) Pleasants County shall have two magistrates.
- 68           (38) Pocahontas County shall have two magistrates.
- 69           (39) Preston County shall have three magistrates.
- 70           (40) Putnam County shall have three magistrates.
- 71           (41) Raleigh County shall have five magistrates.

72 (42) Randolph County shall have three magistrates.

73 (43) Ritchie County shall have two magistrates.

74 (44) Roane County shall have two magistrates.

75 (45) Summers County shall have two magistrates.

76 (46) Taylor County shall have two magistrates

77 (47) Tucker County shall have two magistrates.

78 (48) Tyler County shall have two magistrates.

79 (49) Upshur County shall have two magistrates.

80 (50) Wayne County shall have three magistrates.

81 (51) Webster County shall have two magistrates.

82 (52) Wetzel County shall have two magistrates

83 (53) Wirt County shall have two magistrates.

84 (54) Wood County shall have four magistrates.

85 (55) Wyoming County shall have three magistrates.

86 (b) Initial appointment. - Magistrates shall be appointed to fill initial vacancies in the  
87 magisterial offices created by the amendments to this section during the 2023 regular session  
88 according to the requirements of §50-1-6 of this code. Thereafter, magistrates shall be elected to  
89 such offices as required by §50-1-1 of this code.

**§50-1-2a. Addition of magistrate in Monongalia County.**

1 The Legislature finds that, according to the statistics compiled by the administrative office  
2 on the Supreme Court of Appeals of West Virginia, the caseload in the magistrate court of  
3 Monongalia County in the year 2021 increased 1.13 percent from 2020, and was as follows:

4 Civil cases: 2,249

5 Criminal cases: 4,188

6 Total: 6,437

7 With four elected magistrates in Monongalia County, each magistrate had a caseload of

8 1,609 cases in 2021. The caseload per magistrate is notably higher than the statewide average  
 9 total caseload of 1,001 cases per magistrate. Data and recommendations published as part of the  
 10 2022 West Virginia Magistrate Court Needs Assessment shows a need for two additional  
 11 magistrate judges in Monongalia County.

12 (b) Notwithstanding any other provisions of this article to the contrary, the allowable  
 13 number of magistrates serving in the county of Monongalia shall be increased by one, effective  
 14 July 1, 2023. The initial appointment for the position shall be made in accordance with the  
 15 provisions of §50-1-6 of this code.

**§50-1-6. Vacancy in office of magistrate.**

1 Subject to the provisions of section one, article ten, chapter three of this code, when a  
 2 vacancy occurs in the office of magistrate, or when an additional magisterial office is created by  
 3 statute to commence before the expiration of the term of office for sitting magistrates, the judge of  
 4 the circuit court, or the chief judge thereof if there is more than one judge of the circuit court, shall  
 5 fill the same by appointment.

6 At a nonpartisan judicial election in which a magistrate is elected for an unexpired term, the  
 7 circuit judge, or the chief judge thereof if there is more than one judge of the circuit court, shall  
 8 cause a notice of such election to be published prior to such election as a Class II-0 legal  
 9 advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and  
 10 the publication area for such publication shall be the county involved.

NOTE: The purpose of this bill is to increase the number of magistrates in Monongalia County.

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