

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 3331**

By Delegate Hanshaw (Mr. Speaker) and Kump

(By Request)

[Introduced February 08, 2023; Referred to the  
Committee on the Judiciary]



1 A BILL to amend and reenact §50-1-8, §50-1-9, and §50-1-9a of the Code of West Virginia, 1931,  
2 as amended; to amend said code by adding thereto a new section, designated §50-1-9c;  
3 and to amend and reenact §51-2A-6 of said code, all relating generally to support staff in  
4 the family courts and magistrate courts of this state.

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

## **CHAPTER 50. MAGISTRATE COURTS.**

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

#### **§50-1-8. Magistrate court clerks; salaries; duties; duties of circuit clerk.**

1 (a) In each county having three or more magistrates the judge of the circuit court or the  
2 chief judge of the circuit court, if there is more than one judge of the circuit court, shall appoint a  
3 magistrate court clerk. In all other counties the judge may appoint a magistrate court clerk or may  
4 by rule require the duties of the magistrate court clerk to be performed by the clerk of the circuit  
5 court, in which event the circuit court clerk is entitled to additional compensation in the amount of  
6 \$2,500 per year. The magistrate court clerk serves at the will and pleasure of the circuit judge.

7 (b) Magistrate court clerks shall be paid at least twice per month by the state. Magistrate  
8 ~~court clerks serving magistrates who serve less than seven thousand three hundred in population~~  
9 ~~shall be paid up to \$39,552 per year and magistrate court clerks serving magistrates who serve~~  
10 ~~seven thousand three hundred or more in population shall be paid up to \$44,712 per year:~~  
11 ~~Provided, That after the effective date of this section, any general salary increase granted to all~~  
12 ~~state employees, whose salaries are not set by statute, expressed as a percentage increase or an~~  
13 ~~across the board increase, may also be granted to magistrate court clerks. For the purpose of~~  
14 ~~determining the population served by each magistrate, the number of magistrates authorized for~~  
15 ~~each county shall be divided into the population of each county. The salary of the magistrate court~~  
16 ~~clerk shall be established by the judge of the circuit court, or the chief judge of the circuit court if~~  
17 ~~there is more than one judge of the circuit court, within the limits set forth in this section~~ The annual

18 salary of all magistrate court clerks is \$52,296. Beginning July 1, 2023, the annual salary of a  
19 magistrate court clerk shall be \$54,846. Magistrate court clerks may receive any general salary  
20 increase granted to state employees, whose salaries are not set by statute, expressed as a  
21 percentage increase or an across-the-board increase enacted after July 1, 2023.

22 (c) In addition to other duties that may be imposed by the provisions of this chapter or by  
23 the rules of the Supreme Court of Appeals or the judge of the circuit court or the chief judge of the  
24 circuit court if there is more than one judge of the circuit court, it is the duty of the magistrate court  
25 clerk to establish and maintain appropriate dockets and records in a centralized system for the  
26 magistrate court, to assist in the preparation of the reports required of the court and to carry out on  
27 behalf of the magistrates or chief magistrate if a chief magistrate is appointed, the administrative  
28 duties of the court.

29 (d) The magistrate court clerk, or if there is no magistrate court clerk in the county, the clerk  
30 of the circuit court, may issue all manner of civil process and require the enforcement of  
31 subpoenas and subpoenas duces tecum in magistrate court.

32 (e) Notwithstanding any provision of this code to the contrary, the amendments made to  
33 this section during the 2013 first extraordinary session are effective upon passage and are  
34 retroactive to January 1, 2013.

35 ~~(f) Beginning January 1, 2017, the annual salary of all magistrate court clerks is \$44,720.~~  
36 ~~After the effective date of this section, a general salary increase granted to state employees,~~  
37 ~~whose salaries are not set by statute, expressed as a percentage increase or an across-the-board~~  
38 ~~increase, may also be granted to magistrate court clerks~~

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

1 (a) In each county there shall be at least one magistrate assistant for each magistrate,  
2 however, the Supreme Court of Appeals may authorize additional magistrate assistants if the  
3 workload of a county's magistrate court requires extra staff support. Each magistrate assistant  
4 shall be appointed by the magistrate under whose authority and supervision and at whose will and

5 pleasure he or she shall serve. If more than one magistrate assistant per magistrate is approved  
6 by the Supreme Court, then the Chief Magistrate, or Chief Circuit Judge if no Chief Magistrate is  
7 designated, shall appoint, supervise, and assign job duties for any additional magistrate assistant  
8 as needed for that county. The assistant shall not be a member of the immediate family of any  
9 magistrate and shall not have been convicted of a felony or any misdemeanor involving moral  
10 turpitude and shall reside in the State of West Virginia. For the purpose of this section, "immediate  
11 family" means the relationships of mother, father, sister, brother, child or spouse.

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

17 (1) The preparation of summons in civil actions;

18 (2) The assignment of civil actions to the various magistrates;

19 (3) The collection of all costs, fees, fines, forfeitures and penalties which are payable to the  
20 court;

21 (4) The submission of moneys, along with an accounting of the moneys, to appropriate  
22 authorities as provided by law;

23 (5) The daily disposition of closed files which are to be located in the magistrate clerk's  
24 office;

25 (6) All duties related to the gathering of information and documents necessary for the  
26 preparation of administrative reports and documents required by the rules of the Supreme Court of  
27 Appeals or the judge of the circuit court or the chief judge of the circuit court if there is more than  
28 one judge of the circuit court;

29 (7) All duties relating to the notification, certification and payment of jurors serving pursuant  
30 to the terms of this chapter; and

31 (8) All other duties or responsibilities whereby the magistrate assistant is accountable to  
32 the magistrate court clerk as determined by the magistrate.

33 (c) Magistrate assistants shall be paid at least twice per month by the state. The annual  
34 salary of all magistrate assistants is \$46,932. Beginning July 1, 2023, the annual salary of a  
35 magistrate assistant shall be \$49,482. Magistrate assistants may receive any general salary  
36 increase granted to state employees, whose salaries are not set by statute, expressed as a  
37 percentage increase or an across-the-board increase enacted after July 1, 2023. Magistrate  
38 assistants serving magistrates who serve less than seven thousand three hundred in population  
39 shall be paid up to \$36,048 per year and magistrate assistants serving magistrates who serve  
40 seven thousand three hundred or more in population shall be paid up to \$39,348 per year:  
41 *Provided*, That after the effective date of this section, any general salary increase granted to all  
42 state employees, whose salaries are not set by statute, expressed as a percentage increase or an  
43 across-the-board increase, may also be granted to magistrate assistants. For the purpose of  
44 determining the population served by each magistrate, the number of magistrates authorized for  
45 each county shall be divided into the population of each county. The salary of the magistrate  
46 assistant shall be established by the magistrate within the limits set forth in this section

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

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

**§50-1-9a. Magistrate court deputy clerks; duties; salary.**

1 (a) Whenever required by workload and upon the recommendation of the judge of the  
2 circuit court, or the chief judge of the circuit court if there is more than one judge of the circuit court,  
3 the Supreme Court of Appeals may, by rule, provide for the appointment of magistrate court  
4 deputy clerks. ~~not to exceed seventy-two in number~~ The magistrate court deputy clerks shall be  
5 appointed by the judge of the circuit court, or the chief judge if there is more than one judge of the  
6 circuit court, to serve at his or her will and pleasure under the immediate supervision of the  
7 magistrate court clerk.

8 (b) Magistrate court deputy clerks shall have the duties, clerical or otherwise, as may be  
9 assigned by the magistrate court clerk and as may be prescribed by the rules of the Supreme  
10 Court of Appeals or the judge of the circuit court or the chief judge if there is more than one judge of  
11 the circuit court. Magistrate court deputy clerks may also exercise the power and perform the  
12 duties of the magistrate court clerk as may be delegated or assigned by the magistrate court clerk.

13 (c) A magistrate court deputy clerk may not be an immediate family member of any  
14 magistrate, magistrate court clerk, magistrate assistant or judge of the circuit court within the same  
15 county, may not have been convicted of a felony or any misdemeanor involving moral turpitude  
16 and must reside in this state. For purposes of this subsection, "immediate family member" means  
17 a mother, father, sister, brother, child or spouse.

18 (d) ~~Magistrate court deputy clerks shall be paid an annual salary by the state on the same~~  
19 ~~basis and in the same amounts established for magistrate assistants in each county, as provided~~  
20 ~~in section nine of this article~~ Magistrate court deputy clerks shall be paid at least twice per month  
21 by the state. The annual salary of all magistrate court deputy clerks is \$46,932. Beginning July 1,  
22 2023, the annual salary of a magistrate court deputy clerk shall be \$49,482. Magistrate court  
23 deputy clerks may receive any general salary increase granted to state employees, whose  
24 salaries are not set by statute, expressed as a percentage increase or an across-the-board  
25 increase enacted after July 1, 2023.

26 (e) Notwithstanding any provision of this code to the contrary, the amendments made to  
27 section nine of this article during the 2013 First Extraordinary Session, and the effects of those  
28 amendments on subsection (d) of this section, are effective upon passage and are retroactive to  
29 January 1, 2013.

30 ~~(f) Beginning January 1, 2017, the annual salary of all magistrate court deputy clerks is~~  
31 ~~\$39,348. After the effective date of this section, a general salary increase granted to state~~  
32 ~~employees, whose salaries are not set by statute, expressed as a percentage increase or an~~  
33 ~~across-the-board increase, may also be granted to magistrate court deputy clerks~~

**§50-1-9c. Additional magistrate court support staff; duties; salary.**

1 The Supreme Court of Appeals is authorized to create additional classifications of support  
2 staff that it deems necessary to adequately and efficiently staff the magistrate courts of this state,  
3 including but not limited to cashiers, data entry clerks, and deputy magistrate assistants. The  
4 Supreme Court may determine the authority to hire and terminate, supervise, and assign job  
5 duties for these positions pursuant to its own employment rules, policies, and procedures. The  
6 annual salary of these additional support staff shall not exceed the regular annual salary of a  
7 magistrate assistant, and shall be paid by the state on the same basis and in the same amounts  
8 established for magistrate assistants in each county, as provided in §50-1-9 of this code.

**CHAPTER 51. COURTS AND THEIR OFFICERS.**

**ARTICLE 2A. FAMILY COURTS.**

**§51-2A-6. Compensation and expenses of family court judges and their staffs.**

1 (a) A family court judge is entitled to receive as compensation for his or her services an  
2 annual salary of \$62,500: *Provided*, That beginning July 1, 2005, a family court judge is entitled to  
3 receive as compensation for his or her services an annual salary of \$82,500: *Provided, however*,  
4 That beginning July 1, 2011, the annual salary of a family court judge shall be \$94,500: *Provided*  
5 *further*, That beginning July 1, 2020, the annual salary of a family court judge shall be \$103,950.



6 (b) The secretary-clerk of the family court judge is appointed by the family court judge and  
7 serves at his or her will and pleasure. ~~The secretary-clerk of the family court judge is entitled to~~  
8 ~~receive an annual salary of \$27,036: *Provided*, That on and after July 1, 2006, the annual salary of~~  
9 ~~the secretary-clerk shall be established by the Administrative Director of the Supreme Court of~~  
10 ~~Appeals, but may not exceed \$39,000. In addition, any person employed as a secretary-clerk to a~~  
11 ~~family court judge on the effective date of the enactment of this section during the sixth~~  
12 ~~extraordinary session of the Legislature in the year 2001 who is receiving an additional \$500 per~~  
13 ~~year up to 10 years of a certain period of prior employment under the provisions of the prior~~  
14 ~~enactment of §51-2A-8 of this code during the second extraordinary session of the Legislature in~~  
15 ~~the year 1999 shall continue to receive such additional amount. Further, the secretary-clerk will~~  
16 ~~receive such percentage or proportional salary increases as may be provided by general law for~~  
17 ~~other public employees and is entitled to receive the annual incremental salary increase as~~  
18 ~~provided in §5-5-1 et seq. of this code~~ The secretary-clerk of the family court shall be paid at least  
19 twice per month by the state. The annual salary of all secretary-clerks of the family court is  
20 \$42,576. Beginning July 1, 2023, the annual salary of a family court secretary-clerk shall be  
21 \$45,126. Family court secretary-clerks may receive any general salary increase granted to state  
22 employees, whose salaries are not set by statute, expressed as a percentage increase or an  
23 across-the-board increase enacted after July 1, 2023.

24 (c) The family court judge may employ not more than one family case coordinator who  
25 serves at his or her will and pleasure. However, the Supreme Court of Appeals may authorize  
26 additional family case coordinators if the workload of a circuit's family court requires extra staff  
27 support. The annual salary of the family case coordinator of the family court judge shall be  
28 established by the Administrative Director of the Supreme Court of Appeals but may not exceed  
29 ~~\$36,000~~ \$54,576. ~~*Provided*, That on and after July 1, 2006, the annual salary of the family case~~  
30 ~~coordinator of the family court judge may not exceed \$51,000. The family case coordinator will~~  
31 ~~receive such percentage or proportional salary increases as may be provided by general law for~~

32 ~~other public employees and is entitled to receive the annual incremental salary increase as~~  
33 ~~provided in §5-5-1 et seq. of this code~~ Beginning July 1, 2023, the annual salary of a family court  
34 case coordinator shall not exceed \$57,126. Family court case coordinators may receive any  
35 general salary increase granted to state employees, whose salaries are not set by statute,  
36 expressed as a percentage increase or an across-the-board increase enacted after July 1, 2023.~~If~~  
37 more than one family case coordinator is approved by the Supreme Court, then the Chief Family  
38 Court Judge of that circuit shall appoint, supervise, and assign job duties for any additional family  
39 case coordinator as needed for that circuit.

40 (d) The sheriff or his or her designated deputy shall serve as a bailiff for a family court  
41 judge. The sheriff of each county shall serve or designate persons to serve so as to assure that a  
42 bailiff is available when a family court judge determines the same is necessary for the orderly and  
43 efficient conduct of the business of the family court.

44 (e) Disbursement of salaries for family court judges and members of their staffs are made  
45 by or pursuant to the order of the Director of the Administrative Office of the Supreme Court of  
46 Appeals.

47 (f) Family court judges and members of their staffs are allowed their actual and necessary  
48 expenses incurred in the performance of their duties. The expenses and compensation will be  
49 determined and paid by the Director of the Administrative Office of the Supreme Court of Appeals  
50 under such guidelines as he or she may prescribe, as approved by the Supreme Court of Appeals.

51 (g) Notwithstanding any other provision of law, family court judges are not eligible to  
52 participate in the retirement system for judges under the provisions of §51-9-1 et seq. of this code.

53 (h) The Supreme Court of Appeals is authorized to create additional classifications of  
54 support staff that it deems necessary to adequately and efficiently staff the family courts of this  
55 state, including but not limited to receptionists, assistant case coordinators, and assistant  
56 secretary-clerks. The Supreme Court may determine the authority to hire and terminate,  
57 supervise, and assign job duties for these positions pursuant to its own employment rules,

58 policies, and procedures. The annual salary of these additional support staff shall not exceed the  
59 regular annual salary of a secretary-clerk, and shall be paid by the state on the same basis  
60 established for secretary-clerks as provided in this section.

NOTE: The purpose of this bill is to allow the Supreme Court of Appeals greater flexibility to efficiently staff the family courts and magistrate courts of this state by eliminating certain statutory restrictions on the number and ratio of existing staff, and authorizing the creation of additional classifications of support staff at or below statutorily established salary levels for other support staff. The bill also removes outdated language regarding staff pay to reflect current levels.

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