# WEST VIRGINIA CODE CHAPTER 50 ARTICLE 1

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## §50-1-1. Magistrate court created.

There is hereby created in each county of this state a magistrate court with such numbers of magistrates for each court as are hereafter provided. There shall be elected by the voters of each county, at the general election to be held in 1976, and in every fourth year thereafter, such number of magistrates as is provided in section two of this article. The filing fee for the office of magistrate shall be one percent of the annual salary. The term of magistrates shall be for four years and shall begin on January 1, of the year following the year of election.

Effective with the primary election of 2016, all elections for magistrates will be on a nonpartisan basis by division. Beginning in 2016, there will no longer be primary elections held for magistrates and all elections for magistrates are to be held in the nonpartisan judicial election as set forth in article five, chapter three of this code. All indications of party identification on election ballots for magistrate shall be omitted.

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## §50-1-2. Number of magistrates.

(a) The number of magistrates to be elected in each county of this state shall be determined in accordance with the provisions of this section.

(b) Beginning on the effective date of this subsection and until December 31, 2024, the number of magistrates in each county of the state shall be as follows:

(1) Barbour County shall have two magistrates;

(2) Berkeley County shall have six magistrates;

(3) Boone County shall have two magistrates;

(4) Braxton County shall have two magistrates;

(5) Brooke County shall have two magistrates;

(6) Cabell County shall have seven magistrates;

(7) Calhoun County shall have two magistrates;

(8) Clay County shall have two magistrates;

(9) Doddridge County shall have two magistrates;

(10) Fayette County shall have four magistrates;

(11) Gilmer County shall have two magistrates;

(12) Grant County shall have two magistrates;

(13) Greenbrier County shall have three magistrates;

(14) Hampshire County shall have two magistrates;

(15) Hancock County shall have three magistrates;

(16) Hardy County shall have two magistrates;

(17) Harrison County shall have five magistrates;

(18) Jackson County shall have two magistrates;

(19) Jefferson County shall have three magistrates;

(20) Kanawha County shall have 10 magistrates;

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(21) Lewis County shall have two magistrates;

(22) Lincoln County shall have two magistrates;

(23) Logan County shall have three magistrates;

(24) Marion County shall have four magistrates;

(25) Marshall County shall have three magistrates;

(26) Mason County shall have two magistrates;

(27) McDowell County shall have three magistrates;

(28) Mercer County shall have five magistrates;

(29) Mineral County shall have two magistrates;

(30) Mingo County shall have three magistrates;

(31) Monongalia County shall have four magistrates: *Provided*, That effective July 1, 2023, Monongalia County shall have five magistrates, and the initial appointment for the additional magistrate shall be made in accordance with the provisions of §50-1-6 of this code;

(32) Monroe County shall have two magistrates;

(33) Morgan County shall have two magistrates;

(34) Nicholas County shall have three magistrates;

(35) Ohio County shall have four magistrates;

(36) Pendleton County shall have two magistrates;

(37) Pleasants County shall have two magistrates;

(38) Pocahontas County shall have two magistrates;

(39) Preston County shall have three magistrates;

(40) Putnam County shall have three magistrates;

(41) Raleigh County shall have five magistrates;

(42) Randolph County shall have three magistrates;

(43) Ritchie County shall have two magistrates;

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(44) Roane County shall have two magistrates;

(45) Summers County shall have two magistrates;

(46) Taylor County shall have two magistrates;

(47) Tucker County shall have two magistrates;

(48) Tyler County shall have two magistrates;

(49) Upshur County shall have two magistrates;

(50) Wayne County shall have three magistrates;

(51) Webster County shall have two magistrates;

(52) Wetzel County shall have two magistrates;

(53) Wirt County shall have two magistrates;

(54) Wood County shall have four magistrates; and

(55) Wyoming County shall have three magistrates.

(c) Beginning on January 1, 2025, the number of magistrates in each county of the state shall be as follows:

(1) Barbour County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(2) Berkeley County shall have seven magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(3) Boone County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(4) Braxton County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(5) Brooke County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(6) Cabell County shall have seven magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(7) Calhoun County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

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(8) Clay County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(9) Doddridge County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(10) Fayette County shall have four magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(11) Gilmer County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(12) Grant County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(13) Greenbrier County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(14) Hampshire County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(15) Hancock County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(16) Hardy County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(17) Harrison County shall have five magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(18) Jackson County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(19) Jefferson County shall have four magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(20) Kanawha County shall have 13 magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(21) Lewis County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(22) Lincoln County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(23) Logan County shall have four magistrates, who shall be elected at the regularly

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scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(24) Marion County shall have four magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(25) Marshall County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(26) Mason County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(27) McDowell County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(28) Mercer County shall have five magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(29) Mineral County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(30) Mingo County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(31) Monongalia County shall have six magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(32) Monroe County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(33) Morgan County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(34) Nicholas County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(35) Ohio County shall have four magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(36) Pendleton County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(37) Pleasants County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(38) Pocahontas County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

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(39) Preston County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(40) Putnam County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(41) Raleigh County shall have six magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(42) Randolph County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(43) Ritchie County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(44) Roane County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(45) Summers County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(46) Taylor County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(47) Tucker County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(48) Tyler County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(49) Upshur County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(50) Wayne County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(51) Webster County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(52) Wetzel County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(53) Wirt County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(54) Wood County shall have five magistrates, who shall be elected at the regularly

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scheduled election(s) to be held in the year 2024, and every fourth year thereafter; and

(55) Wyoming County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter.

(d) In the year 2026, the Supreme Court of Appeals shall conduct or otherwise arrange for a caseload study of the magistrate courts of this state for the purpose of determining how many magistrates are needed in each county. Based upon the results of this study and upon consideration of county population data from the most recent decennial census, the Supreme Court of Appeals shall enter an administrative order on or before January 5, 2027, containing the Supreme Court of Appeal's recommendations as to the number of magistrates who are needed in each of the state's 55 counties for the four-year terms of office to be filled by election in the year 2028. Attested copies of the administrative order shall be provided to the President of the West Virginia Senate, the Clerk of the Senate, the Clerk and the Speaker of the West Virginia House of Delegates, and the West Virginia Secretary of State.

(e) The West Virginia Legislature may reject the allocation of magistrates recommended by the Supreme Court of Appeals in its administrative order entered for the judicial elections to be held in 2028, and allocate magistrates for the four-year terms commencing in January of 2029, and serving through December of 2032, as the Legislature may choose by enactment of a bill containing such an allocation.

(f) If the Legislature does not enact a different allocation of the magistrates to be elected in 2028, pursuant to subsection (e) of this section, then the administrative order of the Supreme Court of Appeals required by subsection (d) of this section shall become the certification to the ballot commissioners of each county in this state of the number of magistrates to be elected in each county of this state at the judicial elections to be held concurrently with the primary election.

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

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## §50-1-2a. Addition of magistrate in Berkeley County.

(a) The Legislature hereby finds that, according to the statistics compiled by the administrative office of the Supreme Court of Appeals of West Virginia, the caseload in the magistrate court of Berkeley County in the year 2020 was as follows:

Civil cases: 4,139

Criminal cases: 7,782

Total: 11,921

With five elected magistrates in Berkeley County, each magistrate had a caseload of 2,384 cases in 2020. This caseload per magistrate is substantially higher than the statewide average total caseload of 957 cases per magistrate and is higher than the caseload per magistrate in any other county in West Virginia in 2020.

(b) Notwithstanding any other provisions of this article to the contrary, the allowable number of magistrates serving in the county of Berkeley as of March 1, 2022, shall be increased by one, effective July 1, 2022. The initial appointment for the position shall be made in accordance with the provisions of §50-1-6 of this code.

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## §50-1-3. Salaries of magistrates.

Notwithstanding any provisions of this code to the contrary, beginning July 1, 2021, the annual salary of a magistrate shall be $60,375, and beginning July 1, 2022, the annual salary of a magistrate shall be $63,250. Beginning July 1, 2027, the annual salary of a magistrate shall be $70,000.

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## §50-1-4. Qualifications of magistrates; training; oath; continuing education; time devoted to public duties.

Each magistrate shall be at least twenty-one years of age, shall have a high school education or its equivalent, shall not have been convicted of any felony or any misdemeanor involving moral turpitude and shall reside in the county of his election. No magistrate shall be a member of the immediate family of any other magistrate in the county. In the event more than one member of an immediate family shall be elected in a county, only the member receiving the highest number of votes shall be eligible to serve. For purposes of this section, immediate family means the relationship of mother, father, sister, brother, child or spouse. Notwithstanding the foregoing provisions of this section, each person who held the office of justice of the peace on November 5, 1974, and who served in or performed the functions of such office for at least one year immediately prior thereto shall be deemed qualified to run for the office of magistrate in the county of his residence.

No person shall assume the duties of magistrate unless he shall have first attended and completed a course of instruction in rudimentary principles of law and procedure which shall be given in accordance with the supervisory rules of the Supreme Court of Appeals.

All magistrates shall be required to attend such other courses of continuing educational instruction as may be required by supervisory rule of the Supreme Court of Appeals. Failure to attend such courses of continuing educational instruction without good cause shall constitute neglect of duty. Such courses shall be provided at least once every other year. Persons attending such courses outside of the county of their residence shall be reimbursed by the state for expenses actually incurred in accordance with the supervisory rules of the Supreme Court of Appeals.

Each magistrate shall, before assuming the duties of office, take an oath of office to be administered by the circuit judge of the county, or the chief judge thereof if there is more than one judge of the circuit court. Each magistrate shall maintain the qualifications for office at all times.

Each magistrate who serves five thousand or less in population shall devote such time to his public duties as shall be required by rule or regulation of the judge of the circuit court, or the chief judge thereof if there is more than one judge of the circuit court. Each magistrate who serves more than five thousand in population shall devote full time to his public duties. As nearly as practicable, the workload and the total number of hours required shall be divided evenly among the magistrates in a county by such judge.

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## §50-1-5. Removal from office; disciplinary procedures.

A magistrate may be removed from office in the manner provided in section seven, article six, chapter six of this code. In addition to the grounds for removal enumerated in section three, article six, chapter six of this code, a magistrate may be removed from office for conviction of a felony, for conviction of a misdemeanor involving moral turpitude or a duty of the office, or for willful violation of this chapter or any rule, regulation or order provided for in this chapter. In addition to other methods provided by law, removal proceedings may be initiated upon the motion of a judge of the circuit court of the county.

A magistrate may be censured or temporarily suspended in accordance with the rules of the Supreme Court of Appeals.

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

(a) Subject to the provisions of §3-10-1 of this code, when a vacancy occurs in the office of magistrate, or upon the formal announcement by letter to the judge of the circuit court, or the chief judge thereof if there is more than one judge of the circuit court, of an upcoming resignation or retirement that will result in the occurrence of a vacancy in the office of magistrate, including resignation of a magistrate-elect following the election of such magistrate-elect but prior to the magistrate-elect taking office in the term for which he or she has most recently been elected, such judge or chief judge shall fill the same by appointment.

(b) At a nonpartisan judicial election in which a magistrate is elected for an unexpired term, the circuit judge, or the chief judge thereof if there is more than one judge of the circuit court, shall cause a notice of such election to be published prior to such election as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code, and the publication area for such publication shall be the county involved.

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## §50-1-6a. Temporary appointment of retired magistrates.

(a) The West Virginia Supreme Court of Appeals is authorized and empowered to create a panel of senior magistrates to consist of, and to utilize the talent and experience of, retired magistrates of this state.

(b) Senior magistrates recalled and assigned to service shall receive per diem compensation set by the Supreme Court of Appeals, but not to exceed $200 for each day actually served: Provided, That the combined total of per diem compensation and retirement benefits paid to a senior magistrate during a single calendar year may not exceed the annual salary of a sitting magistrate, except as set forth in subsection (c) of this section.

(c) Notwithstanding subsection (b) of this section, for purposes of maintaining magisterial efficacy and continuity of magisterial decision making, a senior magistrate may continue to receive per diem compensation after the combined total of per diem compensation and retirement benefits paid to the senior magistrate during that calendar year exceeds the annual salary of a sitting magistrate if the Chief Justice of the Supreme Court of Appeals enters an administrative order certifying there are certain extraordinary circumstances involving the necessary absence of a sitting magistrate because of a protracted, but temporary, illness or medical condition or a lengthy suspension which necessitate the extended assignment of the senior magistrate. Immediately upon entering such an order, the chief justice shall submit copies of the order to the State Auditor and the State Treasurer.

(d) In addition to the compensation authorized by this section, senior magistrates recalled to service may be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

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## §50-1-7. Chief magistrates; administrative responsibility; additional duties.

The judge of the circuit court, or the chief judge thereof if there is more than one judge of the circuit court, may appoint one of the magistrates, to serve at the will and pleasure of such circuit court judge, as the chief magistrate of the county. The chief magistrate, if there is one, shall be responsible for all of the administrative functions required of the magistrate court in each county by this code and as required by rules and regulations of the Supreme Court of Appeals. These functions shall include, but not be limited to, supervising the circuit clerk or magistrate court clerk in the establishment and maintenance of a centralized docketing system, submitting all reports required by law and promptly notifying such circuit court judge that additional magistrates are required to handle the cases then pending in the magistrate court of said county. Chief magistrates shall have the additional duties of acting as liaison between the magistrate court and the judge of the circuit court, or the chief judge thereof if there is more than one judge of the circuit court, and such other additional duties as may be assigned by such judge.

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

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

(b) Magistrate court clerks shall be paid at least twice per month by the state. The annual salary of all magistrate court clerks is $52,296. Beginning July 1, 2023, the annual salary of a magistrate court clerk shall be $54,596. Magistrate court clerks may receive any general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase, implemented after July 1, 2023.

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

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

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

(a) In each county there shall be at least one magistrate assistant for each magistrate; however, the Supreme Court of Appeals may authorize additional magistrate assistants if the workload of a county's magistrate court requires extra staff support. Each magistrate assistant shall be appointed by the magistrate under whose authority and supervision and at whose will and pleasure he or she shall serve. If more than one magistrate assistant per magistrate is approved by the Supreme Court of Appeals, then the chief magistrate, or chief circuit judge if no chief magistrate is designated, shall appoint, supervise, and assign job duties for any additional magistrate assistant as needed for that county. The assistant shall not be a member of the immediate family of any magistrate and shall not have been convicted of a felony or any misdemeanor involving moral turpitude and shall reside in the State of West Virginia. For the purpose of this section, "immediate family" means the relationships of mother, father, sister, brother, child, or spouse.

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

(1) The preparation of summons in civil actions;

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

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

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

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

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

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

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

(c) Magistrate assistants shall be paid at least twice per month by the state. The annual

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salary of all magistrate assistants is $46,932. Beginning July 1, 2023, the annual salary of a magistrate assistant shall be $49,232. Magistrate assistants may receive any general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase enacted after July 1, 2023.

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

(a) Whenever required by workload and upon the recommendation of the judge of the circuit court, or the chief judge of the circuit court if there is more than one judge of the circuit court, the Supreme Court of Appeals may provide by rule for the appointment of magistrate court deputy clerks. The magistrate court deputy clerks shall be appointed by the judge of the circuit court, or the chief judge of the circuit court if there is more than one judge of the circuit court, to serve at his or her will and pleasure under the immediate supervision of the magistrate court clerk.

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

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

(d) Magistrate court deputy clerks shall be paid at least twice per month by the state. The annual salary of all magistrate court deputy clerks is $46,932. Beginning July 1, 2023, the annual salary of a magistrate court deputy clerk shall be $49,232. Magistrate court deputy clerks may receive any general salary increase granted to state employees whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase implemented after July 1, 2023.

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## §50-1-9b. Appointment of senior magistrate court clerks.

The West Virginia Supreme Court of Appeals is authorized to create a panel of senior magistrate court clerks to utilize the talent and experience of former magistrate court clerks of this state. The Supreme Court of Appeals shall promulgate rules providing for senior magistrate court clerks to be assigned duties as needed to serve: (1) In the place of magistrate court clerks who are on authorized leave or are otherwise unavailable; or (2) while there is a vacancy in a magistrate court clerk's office. The Supreme Court of Appeals shall further promulgate rules to provide for: (1) Reimbursement of travel and other necessary expenses actually incurred while the senior clerk is serving outside the county of his or her residence; and (2) reasonable compensation on a per diem basis: Provided, That the per diem and retirement compensation of a senior magistrate court clerk may not exceed the salary of the magistrate court clerk in whose place the senior clerk is serving.

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

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

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## §50-1-10. Clerks, deputy clerks and magistrate assistants to take oath and post bond.

Each magistrate court clerk, magistrate court deputy clerk, and magistrate assistant, shall take an oath of office and shall post a bond in the penalty of $25,000 with sufficient surety approved by the administrative director of the Supreme Court of Appeals or the judge of the circuit court, or the chief judge thereof if there is more than one judge of the circuit court, which bond shall be conditioned upon the faithful performance of the duties of the office. The state shall pay the cost of such bond and the administrative director of the Supreme Court of Appeals may obtain, in lieu of individual bonds, a bond including more than one magistrate court clerk, magistrate court deputy clerk or magistrate assistant.

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## §50-1-11. Offices for magistrates; location; expenses; copy of state code.

Subject to the rules of the Supreme Court of Appeals, the location of offices for magistrates shall be determined by order of the judge of the circuit court, or the chief judge thereof if there is more than one judge of the circuit court. When required by geography or population dispersion and in order to make such offices accessible to the public, an order may require more than one location for each magistrate. As near as practicable within a county, all office accommodations shall be comparable. All expenses of acquiring or renting offices and utility and telephone expenses shall be paid by the county. All other expenses, including, but not limited to, expenses for furniture, equipment and supplies, shall be paid by the state. The administrative director of the Supreme Court of Appeals shall supply each magistrate with a current copy of the West Virginia code which shall remain the property of the state.

Magistrates who serve at more than one location within the county, whether on a regular or temporary basis, shall be reimbursed travel expenses for travel between locations at a rate per mile equal to that allowed for reimbursement of travel expenses of officers in the judicial branch of state government.

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## §50-1-12. Conduct of office; penalty.

Magistrates shall be subject to and shall abide by the code of judicial ethics as adopted and amended by the Supreme Court of Appeals. In addition to such conduct as may be regulated by the rules of the Supreme Court of Appeals, no magistrate, magistrate court clerk or magistrate court deputy clerk or magistrate assistant shall:

(a) Acquire or hold any interest in any matter which is before the magistrate court;

(b) Purchase, either directly or indirectly, any property being sold upon execution issued by the magistrate court;

(c) Act as agent or attorney for any party in any proceeding in any magistrate court in the state; or

(d) Engage in, or assist in, any remunerative endeavor, except the duties of his office, while on the premises of the magistrate court office.

Any person who violates the provisions of this section shall be guilty of official misconduct and shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $500.

Nothing contained in this section shall preclude a magistrate, magistrate court clerk, magistrate court deputy clerk, or magistrate assistant from being a party to an action in the magistrate court: Provided, That any action in which the magistrate court clerk is a party shall not be assigned to the chief magistrate nor shall any action in which a magistrate court deputy clerk or magistrate assistant is a party be assigned or heard by the magistrate for whom such magistrate assistant is employed or to whose court such deputy clerk is assigned.

WV Legislature

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

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

(b) The Chief Justice of the Supreme Court of Appeals may by order direct a magistrate to serve on a temporary basis outside the county of his or her election or appointment while giving due consideration to travel time and geographic circumstance. A judge of the circuit court of the county in which a magistrate is elected, or the chief judge thereof if there is more than one judge of the circuit court, may by order direct a magistrate to serve temporarily in any other county within the judicial circuit for any purposes directed by the judge. The magistrate's authority, to the extent ordered by the chief justice or judge, shall be equal to the jurisdiction and authority of a magistrate elected in the county to which the magistrate is ordered to serve. The temporary assignment may not exceed 60 days in length in any given calendar year, except with the consent of the transferred magistrate.

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

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

(e) Nothing in this section may be construed to prohibit proceedings authorized by subsection (d) of this section being held remotely as determined appropriate by the Supreme Court of Appeals.

WV Legislature

## §50-1-14. Duties of sheriff; service of process; bailiff.

(a) It shall be the duty of each sheriff to execute all civil and criminal process from any magistrate court which may be directed to such sheriff. Process shall be served in the same manner as provided by law for process from circuit courts.

Subject to the supervision of the chief justice of the Supreme Court of Appeals or of the judge of the circuit court, or the chief judge thereof if there is more than one judge of the circuit court, it shall be the duty of the sheriff, or his or her designated deputy, to serve as bailiff of a magistrate court upon the request of the magistrate. Such service shall also be subject to such administrative rules as may be promulgated by the Supreme Court of Appeals. A writ of mandamus shall lie on behalf of a magistrate to enforce the provisions of this section.

(b) The sheriff of any county may employ, by and with the consent of the county commission, one or more persons whose sole duties shall be the service of civil process and the service of subpoenas and subpoenas duces tecum. Any such person shall not be considered a deputy or deputy sheriff within the meaning of subdivision (2), subsection (a), section two, article fourteen, chapter seven of this code, nor shall any such person be authorized to carry deadly weapons in the performance of his or her duties: Provided, That the sheriff may authorize an employee whose sole duties involve service of civil process to carry a firearm if the employee completes all training requirements otherwise applicable to deputy sheriffs for the use and handling of firearms: Provided, however, That the sheriff may authorize previously certified West Virginia law-enforcement officers to carry a deadly weapon in the performance of the duties of the officers under the provisions of this section: Provided further, That these officers and employees maintain yearly weapons qualifications and are bonded through the office of the sheriff.

WV Legislature

## §50-1-15. Transitional provisions.

Except as the same may be otherwise amended by act of the Legislature, and except for the provisions of article twenty of this chapter, all of the provisions of chapter fifty of this code existing immediately prior to the effective date of this chapter shall remain in full force and effect until January 1, 1977.

Immediately after the expiration of his term of office and in no event later than thirty days thereafter each justice of the peace shall pay over to appropriate authorities or persons such moneys as may be held by him and submit such reports to such authorities or persons as are required by law.

Every justice of the peace, upon the expiration of his term of office, shall forthwith deliver his official docket, together with such dockets of his predecessors as he may have, to the magistrate court clerk or, if there is no magistrate court clerk, to the clerk of the circuit court, who shall maintain such dockets as directed by the Supreme Court of Appeals or by the judge of the circuit court, or the chief judge thereof if there is more than one judge of the circuit court.

No act done by a justice of the peace prior to January 1, 1977, shall be affected by virtue of the abolition of the office of justice of the peace. Matters pending before a justice of the peace prior to such date or which might otherwise require further action by a justice of the peace shall be handled by the magistrate to whom such matter is assigned or in such other manner as may be ordered by the judge of the circuit court, or the chief judge thereof if there is more than one judge of the circuit court.

WV Legislature

## §50-1-16. Supervisory rules.

The Supreme Court of Appeals is hereby authorized to promulgate rules to carry out the intent of this chapter and to exercise rule-making authority granted by article VIII of the Constitution of West Virginia. Rules promulgated by the judge of a circuit court, or the chief judge thereof, pursuant to the provisions of this chapter shall be subordinate and subject to the rules of the Supreme Court of Appeals or the orders of the chief justice thereof. Rules promulgated by the judge of a circuit court, or the chief judge thereof, shall be made by order entered upon the order book of the circuit court, as hereinafter provided, and shall be effective when filed with the clerk of the Supreme Court of Appeals and the magistrate court clerk for the magistrate court in which such rules apply. All rules promulgated under this section by the Supreme Court of Appeals, or by the judge of a circuit court, or the chief judge thereof, shall be entered upon an order book designated for the purpose of magistrate court rules by the clerk of the circuit court.

WV Legislature

## §50-1-17. Reference to justice of the peace; abolition of the office of constable.

On and after January 1, 1977, the phrase "justice of the peace" and the word "justice," when used in a context meaning "justice of the peace," shall be construed to mean magistrate as created by the provisions of this chapter. At such time the office of constable shall be abolished, and the duties previously performed by constables shall be assumed by deputy sheriffs or by such other persons as elsewhere provided in this code.

WV Legislature