WEST VIRGINIA CODE CHAPTER 51 ARTICLE 1

WV Legislature

§51-1-1. Justices.

The Supreme Court of Appeals shall consist of five justices, elected and qualified according to the Constitution and the laws of this state, any three of whom shall constitute a quorum. Effective with the primary election of 2016, all elections for justices will be on a nonpartisan basis by division. Beginning in 2016, there will no longer be primary elections held for the office of justice and all elections for justice 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 that office shall be omitted.

WV Legislature

§51-1-2. Chief justice.

The court shall designate one of its justices to be chief justice of the court for such term as the court may determine by order made and entered of record. In the absence of the chief justice, any other justice designated by the justices present shall act as chief justice. Any reference in the Constitution of this state, in this code or elsewhere in law to the president of the West Virginia Supreme Court of Appeals shall henceforth be construed to mean the chief justice of such court.

WV Legislature

§51-1-3. Jurisdiction.

The Supreme Court of Appeals shall have original jurisdiction in cases of habeas corpus, mandamus and prohibition. It shall have appellate jurisdiction in civil cases where the matter in controversy, exclusive of costs, is of greater value or amount than $100; in controversies concerning the title or boundaries of land, the probate of wills, the appointment or qualification of a personal representative, guardian, committee or curator, or concerning a mill, road, way, ferry or landing, or the right of a corporation or county to levy tolls or taxes; in cases of quo warranto, habeas corpus, mandamus, certiorari and prohibition, and in cases involving freedom or the Constitutionality of a law. It shall have appellate jurisdiction in criminal cases where there has been a conviction for felony or misdemeanor in a circuit court, and where a conviction has been had in any inferior court and been affirmed in a circuit court, and in cases relating to the public revenue, the right of appeal shall belong to the state, as well as the defendant, and such other appellate jurisdiction, in both civil and criminal cases, as may be prescribed by law.

WV Legislature

§51-1-4. Regulation of pleading, practice and procedure in all courts of record; judicial council as advisory committee.

The Supreme Court of Appeals may, from time to time, make and promulgate general rules and regulations governing pleading, practice and procedure in such court and in all other courts of record of this state. All statutes relating to pleading, practice and procedure shall have force and effect only as rules of court and shall remain in effect unless and until modified, suspended or annulled by rules promulgated pursuant to the provisions of this section. Such rules and regulations shall be uniform for all courts of the same grade or class; but any court of the state other than the Supreme Court of Appeals may adopt rules of court governing its local practice, but such rules of local practice shall not be inconsistent with any general rule of court then in existence or thereafter promulgated, and shall be effective only after approval by the Supreme Court of Appeals.

The judicial council of West Virginia is hereby designated as advisory committee to make observation and report to the Supreme Court of Appeals, from time to time, such recommendations as may, in its judgment, be proper; and all rules promulgated by the Supreme Court of Appeals under the authority of this section shall, before taking effect, be referred to the chairman of the judicial council, the president of the West Virginia bar association and to the judge of every court affected thereby. In the event a hearing is requested, within twenty days after such reference, by any five of the persons so designated, the Supreme Court of Appeals shall thereupon designate a day when a hearing on the matter of the adoption of such rules shall be held. In the event no hearing is requested or, if requested, after such hearing, the Supreme Court of Appeals shall be free to adopt or reject the proposed rules. General rules and regulations governing pleading, practice and procedure, and local rules, shall from time to time be published as an appendix to the official reports of the Supreme Court of Appeals and bound therewith.

WV Legislature

§51-1-4a. Rules governing practice of law; creation of West Virginia State Bar; providing its powers, and fees for administration.

(a) The Supreme Court of Appeals of West Virginia shall, from time to time, prescribe, adopt, promulgate, and amend rules:

(1) Defining the practice of law;

(2) Prescribing a code of ethics governing the professional conduct of attorneys at law and the practice of law, and prescribing a code of judicial ethics;

(3) Prescribing procedure for disciplining, suspending, and disbarring attorneys at law;

(4) Organizing and governing by and through all of the attorneys at law practicing in this state, an administrative agency of the Supreme Court of Appeals of West Virginia, which shall be known as "The West Virginia State Bar." The West Virginia State Bar shall be a part of the judicial department of the state government and is hereby continued for the purpose of enforcing such rules prescribed, adopted and promulgated by the court from time to time under this section. It may perform the functions and purposes expressed in a Constitution, bylaws and amendments thereto that are approved by the Supreme Court of Appeals from time to time. All persons practicing law in this state shall be members of the West Virginia State Bar in good standing; and

(5) Fixing a schedule of fees to be paid by attorneys at law practicing in the State of West Virginia for the purpose of administering this section and providing for the collection and disbursement of the fees.

(b) The inherent rule-making power of the Supreme Court of Appeals is hereby declared.

(c) When and as the rules of the court authorized in this section are prescribed, adopted, and promulgated, all laws and parts of laws that conflict with the rules shall be and become of no further force or effect to the extent of such conflict.

(d) Records, files, or other documents gathered or provided pursuant to rules promulgated by the Supreme Court of Appeals relating to the procedures, referrals, and services of the West Virginia Judicial and Lawyer Assistance Program are not public records and are exempt from disclosure under the Freedom of Information Act as provided in §29B-1-1 *et seq*. of this code, to the extent those rules designate them as confidential.

WV Legislature

§51-1-5. Regular terms.

Two terms of the Supreme Court of Appeals shall be held every year at Charleston, in Kanawha county, the first commencing on the second Tuesday in January, the second on the first Wednesday in September, and shall continue until the business is dispatched. But when, in the judgment of the court, extraordinary circumstances require, such term or terms may be held at such other place or places within the state as the court may designate, such times and places to be fixed in the manner provided in this article for holding special terms of said court.

WV Legislature

§51-1-6. Special terms.

Special terms of the Supreme Court of Appeals may be held for the trial and decision of causes at Charleston, in Kanawha county, specially designated as the place for holding the regular terms thereof, and under extraordinary circumstances at such other times and places as the court may designate by an order entered of record at a regular or special term of said court.

WV Legislature

§51-1-7. Warrant of judges appointing special term.

The judges of said court, or a majority of them, may, by warrant signed by them, directed to the clerk, appoint a special term to be held for the trial and decision of causes at Charleston, or, under extraordinary circumstances, at any other point within the state designated by them, or which may hereafter be designated by law for holding regular terms thereof. The clerk shall enter such warrant in the order book of the court.

WV Legislature

§51-1-8. Hearing of cases at special term.

At any special term of the court, any cause, the record of which has been previously printed, may, in the discretion of the court, be heard and decided by consent of parties or their counsel, entered of record, or upon at least thirty days' notice in writing, given by the party desiring the hearing to the opposite party or his counsel, of his intention to insist on a hearing, when the same may, in the discretion of the court, be heard and determined at any such special term.

WV Legislature

§51-1-9. What cases may be decided at regular or special term.

The court may, at any regular or special term, decide any cause or proceeding which may have been previously heard by the court at any regular or special term thereof.

WV Legislature

§51-1-10. Adjournment.

The court may, at any regular or special term, adjourn from day to day or from time to time, as the court may order, until its close.

WV Legislature

§51-1-10a. Salary of justices.

The salary of each of the justices of the Supreme Court of Appeals shall be $95,000 per year: *Provided*, That beginning July 1, 2005, the salary of each of the justices of the Supreme Court shall be $121,000: *Provided, however*, That beginning July 1, 2011, the annual salary of a justice of the Supreme Court shall be $136,000: *Provided further*, That beginning July 1, 2021, the annual salary of a justice of the Supreme Court of Appeals shall be $142,800, and beginning July 1, 2022, the annual salary of a justice of the Supreme Court of Appeals shall be $149,600: *And provided further*, That beginning July 1, 2027, the annual salary of a justice of the Supreme Court of Appeals shall be $154,600: *And provided further*, That beginning July 1, 2028, the annual salary of a justice of the Supreme Court of Appeals shall be $159,600.

WV Legislature

§51-1-11. Appointment and compensation of the Clerk and employees of the clerks' office; compensation.

The justices of the Supreme Court of Appeals may appoint a clerk. Notwithstanding any code provision to the contrary, no bond shall be required to be posted by the clerk. The justices of the Supreme Court of Appeals may also appoint any other full-time and part-time professional and clerical assistants necessary to efficiently perform the functions and duties of the office of the clerk. These employees shall serve at the will and pleasure of the justices of the Supreme Court of Appeals. The salary of the clerk and persons employed within the office of the clerk shall be established by the justices of the Supreme Court of Appeals. If any position becomes vacant while the Supreme Court of Appeals is in vacation, the position may be filled by appointment, in writing, issued by the justices of the Supreme Court of Appeals.

WV Legislature

§51-1-12. Duties of clerk.

It shall be the duty of the Clerk of the Supreme Court of Appeals to attend in person, or by designated staff, all the sessions of the court, to obey its orders and directions, to preserve all digital and physical court records, and to perform such other duties as may be prescribed by law or required of him or her by the court.

WV Legislature

§51-1-13.

Repealed.

Acts, 1975 Reg. Sess., Ch. 126.

WV Legislature

§51-1-14.

Repealed.

Acts, 1975 Reg. Sess., Ch. 126.

WV Legislature

§51-1-15. Administrative office of Supreme Court of Appeals continued; director; assistants and secretaries; seal.

The administrative office of the Supreme Court of Appeals heretofore established is hereby continued. The court shall appoint a director thereof and such assistants and secretaries as it deems necessary to perform the duties of the office as specified in section seventeen of this article and such other duties as may be specified by the court. Such appointees shall serve at the will and pleasure of the court and shall receive such compensation as may be fixed from time to time by the court. They shall also be reimbursed out of the state Treasury for all reasonable and necessary expenses actually incurred for travel, meals and lodging incident to the performance of their duties as such appointees. The director, when so directed by the court, shall cause a seal of office to be made for such office of such design as the court shall approve, and judicial notice shall be taken of such seal.

WV Legislature

§51-1-16. Director and assistant directors not to practice law.

During his employment in the administrative office, no director or assistant director shall engage directly or indirectly in the practice of law in any of the courts of this state.

WV Legislature

§51-1-17. Administrative office of Supreme Court of Appeals -- duties of director.

The director shall, when authorized by the Supreme Court of Appeals, be the administrative officer of said court and shall have charge, under the supervision and direction of the Supreme Court of Appeals, of:

(a) All administrative matters relating to the offices of the clerks of the circuit and intermediary courts and of the offices of justice of the peace and all other clerical and administrative personnel of said courts; but nothing contained in this article shall be construed as affecting the authority of the courts to appoint their administrative or clerical personnel;

(b) Examining the state of the dockets of the various courts and securing information as to their needs for assistance, if any, and the preparation of statistical data and reports of the business transacted by the courts;

(c) The preparation of a proper budget to secure the appropriation of moneys for the maintenance, support and operation of the courts;

(d) The purchase, exchange, transfer and distribution of equipment and supplies, as may be needful or desirable;

(e) Such other matters as may be assigned to him by the Supreme Court of Appeals. The clerks of the circuit courts, intermediate courts and courts of the justices of the peace shall comply with any and all requests made by the director or his assistants for information and statistical data bearing on the state of the dockets of such courts, or such other information as may reflect the business transacted by them;

(f) Annual report of activities and estimates of expenditures. -- The director, when required to do so by the Supreme Court of Appeals, shall submit annually to the court a report of the activities of the administrative office and of the state of business of the courts, together with the statistical data compiled by him with his recommendations;

(g) Serve as the chair of the court security board created under the provisions of section fifteen, article three of this chapter.

WV Legislature

§51-1-18. Same -- Annual report of activities and estimates of expenditures.

The director shall submit annually to the Supreme Court of Appeals a report of the activities of the administrative office and of the state of business of the courts, together with the statistical data compiled by him with his recommendations.

WV Legislature

§51-1-19.

Repealed.

Acts, 1993 Reg. Sess., Ch. 56.

WV Legislature

§51-1-20. Feasibility study of one day-one trial jury selection system.

The Supreme Court of Appeals shall conduct a study to determine the feasibility of a system of jury selection for petit juries in West Virginia wherein those prospective jurors who are called for jury duty are required to report for duty for not more than one day or until the completion of one trial for which they are chosen on that day. The supreme court shall designate a judicial circuit within this state and direct the court of that circuit to order the jury commission of each county within the circuit to employ this a jury selection system in whole, or in part, from July 1, 1988, to June 30, 1989.

Before September 1, 1989, the jury commission shall prepare and deliver a report to the Supreme Court of Appeals relating the cost, efficiency, effectiveness and general acceptance of the system. The Supreme Court of Appeals shall report to the Legislature on the feasibility of the system before January 1, 1990. The Supreme Court of Appeals shall fund those expenses necessary to conduct this study out of the budget of the court.

WV Legislature

§51-1-21. Authority to maintain domestic violence database.

(a) The West Virginia Supreme Court of Appeals is hereby authorized to maintain a domestic violence database containing copies of protective orders entered by the courts of this state and granted pursuant to the provisions of article twenty-seven, chapter forty-eight of this code. Further, the domestic violence database shall also include, upon request, protection orders issued by a jurisdiction outside of this state pursuant to its law.

(b) Only a protected individual who obtains a protection order from a jurisdiction other than this state pursuant to its law or his or her representative as provided in section five, article twenty-eight of this chapter may register that order with the West Virginia Supreme Court of Appeals.

(c) Failure to register an order as provided in this section shall not affect its enforceability in any county or jurisdiction.

WV Legislature

§51-1-22. Court Advanced Technology Subscription Fund created.

(a) There is created within the State Treasury a special revenue fund designated the Court Advanced Technology Subscription Fund to be administered by the West Virginia Supreme Court of Appeals.

(b) The fund shall consist of moneys received from subscribers using the court's advanced technology systems including, but not limited to, the e-filing system and the Unified Judicial Application Information System.

(c) All moneys deposited into the State Treasury and credited to the Court Advanced Technology Subscription Fund shall be used to pay the costs associated with maintaining and administering the court's advanced technology systems.

(d) All moneys collected by the administrator of the Supreme Court of Appeals for the use of the court's advanced technology shall be deposited into the Court Advanced Technology Subscription Fund. Expenditures from the fund shall be for the purposes set forth in subsection (c) of this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature in accordance with article three, chapter twelve of this code and upon fulfillment of the requirements of article two, chapter eleven-b of this code: Provided, That for the fiscal year ending June 30, 2017, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.

WV Legislature

§51-1-23. Court Facilities Maintenance Fund created.

(a) There is created within the State Treasury a special revenue fund designated the Court Facilities Maintenance Fund to be administered by the West Virginia Supreme Court of Appeals.

(b) The fund shall consist of moneys received from rent or other payments from tenants leasing space owned by the Supreme Court of Appeals of West Virginia.

(c) All moneys deposited into the State Treasury and credited to the Court Facilities Maintenance Fund shall be used to offset the cost to maintain property owned by the Supreme Court of Appeals of West Virginia.

(d) All moneys collected by the administrator of the Supreme Court of Appeals from rent or other payments from tenants leasing space owned by the Supreme Court of Appeals of West Virginia shall be deposited into the Court Facilities Maintenance Fund. Expenditures from the fund shall be for the purposes set forth in subsection (c) of this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature in accordance with §12-3-1 *et seq*. of this code and upon fulfillment of the requirements of §11B-2-1 *et seq*. of this code.

WV Legislature