WEST VIRGINIA CODE CHAPTER 51 ARTICLE 3

WV Legislature

§51-3-1. Seals of courts.

For every court without one, the Governor shall provide a seal to be deposited with the clerk of such court.

WV Legislature

§51-3-2. Use of private seal.

Until provided with an official seal, every clerk of such court may use his private seal or scroll by way of seal, in cases where the use of the seal is required by law or usage; and whenever so used, his attestation of the instrument, record or copy to which it is annexed shall set forth the fact that he is not provided with an official seal, and shall have the same force and effect as if an official seal was annexed.

WV Legislature

§51-3-3. Jurisdiction over watercourses.

When any river or watercourse lies between any counties in this state, the circuit and county courts and justices for the counties on each side, respectively, shall have concurrent jurisdiction over so much thereof as is opposite said counties. And the circuit and county courts and justices for counties lying on the waters bounding the state shall have jurisdiction respectively over such waters opposite said counties, so far as the jurisdiction of this state extends.

WV Legislature

§51-3-4. Records.

The orders of every court shall be entered in a book or kept digitally by the clerk of court.

WV Legislature

§51-3-5. Attending officer.

The Supreme Court of Appeals shall not be attended by any sheriff, but every circuit court, county court, and other court of record of any county shall be attended by the sheriff of the county in which it is held, who shall act as the officer thereof.

WV Legislature

§51-3-6. Citizenship and taxpaying not ground for disqualification of judge, sheriff or other court officer.

No judge of any court, and no sheriff or other officer of a court, shall be disqualified from performing his official duties with respect to any cause by reason of the fact that he is a citizen and taxpayer of a county, district, school district or municipal corporation which is interested in, or a party to, such cause.

WV Legislature

§51-3-7. Place of sessions of courts of county; destruction of courthouse.

Every circuit court, county court and other court of record of any county shall be held at the courthouse of such county, except where some other place is prescribed by law or lawfully appointed. When the courthouse of a county is destroyed or is not in a condition to be occupied, such court shall hold its sessions at such places as may be appointed by order of the county court. A copy of such order or warrant shall be posted by the clerk of the county court at the front door of his office, at the courthouse door, unless the courthouse has been destroyed, and at the place so appointed.

WV Legislature

§51-3-8. Change of place or time of session by Governor.

Whenever, by reason of the destruction of the building in which the Supreme Court of Appeals was held, or by reason of any building in which any courts are appointed to be held being in the possession of, or threatened by, a public enemy, or infected with a contagious disease, it shall seem to the Governor necessary, he shall, by proclamation, appoint a place at which such courts shall be held, so long as such reason may continue, and, when the circumstances require it, may postpone the time for holding the courts. A copy of such proclamation shall be sent to the clerk and to each of the judges of any such court, and to the president of any such county court.

WV Legislature

§51-3-9. Limitation of §§51-3-7 and 51-3-8.

No such place of session for a circuit court, county court, or other court of record of any county, shall be without the limits of the county in which it is to be held; and when such place is appointed because of the destruction of the building in which the Supreme Court of Appeals was held, the new place of session shall be within the same town as the old.

WV Legislature

§51-3-10. Opening after day fixed.

Though court be not held on the first day of a term, it may nevertheless be opened on any subsequent day; provided, in the case of any court of record for any county, the same be done before four o'clock in the afternoon of the third day. If, after a court is opened, it fails to sit on any day, it may nevertheless sit on any subsequent day of the term: Provided, That in the case of any court of record for any county, there be not more than thirty consecutive days of such failure.

WV Legislature

§51-3-11. Effect of changing time or place of session.

When the place for holding any court, or the day for commencing any term, is changed, or when a court fails to sit on any day appointed for it, or to which it may have adjourned, or when, for any reason, no court shall be held on any day within a term thereof, there shall be no discontinuance, but every notice, recognizance or process, given, taken or returnable to any such day or to any day between that day and the next that the court may sit, or to the day and place as it was before such change, and all matters ready for the court to act upon if it had been held on any such day, shall be in the same condition and have the same effect as if given, taken or returnable, or continued, to the substituted term or place, or to the next day of the same term that the court may sit, or to the next court in course, as the case may be.

WV Legislature

§51-3-12. Adjournments.

Any court of record may, at any term, whether regular, adjourned or special, adjourn from day to day until the business before it is dispatched, or until the end of its term.

WV Legislature

§51-3-13. Power of judges of circuit courts to act during vacation of court.

The limitations upon the powers of circuit court judges to act in or during the vacation of the court as heretofore existed, either at common law or as may exist elsewhere in this code, to the contrary notwithstanding, a judge of a circuit court may do any act or take any proceeding in any action or proceeding, whether civil, criminal or otherwise, which is instituted or pending before the court during the vacation of such court to the same extent as such judge could act during the term of such court.

WV Legislature

§51-3-14. Court Security Fund.

(a) The offices and the clerks of the magistrate courts and the circuit courts shall, on or before the 10th day of each month, transmit all fees and costs received for the Court Security Fund in accordance with the provisions of §50-3-1 and §50-3-2 of this code and §59-1-11 of this code for deposit in the State Treasury to the credit of a special revenue fund to be known as the Court Security Fund, which is hereby created under the Supreme Court of Appeals. The Court Security Fund may receive any gifts, grants, contributions or other money from any source which is specifically designated for deposit in the fund. All moneys collected and received and paid into the State Treasury and credited to the Court Security Fund shall be expended by the board exclusively to implement the improvement measures agreed upon in accordance with the security plans submitted pursuant to §51-3-16 of this code and in accordance with an appropriation by the Legislature and to pay expenses of the Supreme Court of Appeals in administering this fund, which expenses may not in any fiscal year exceed the lesser of three percent of the funds deposited into the Court Security Fund or $30,000. Amounts collected which are found from time to time to exceed the funds needed for the purposes set forth in this article may be transferred to other accounts or funds and redesignated for other purposes upon appropriation by the Legislature.

(b) Notwithstanding any provision of this code to the contrary, after June 30, 2000, the Court Security Board shall transfer such amounts from the Court Security Fund as may, from time to time, be directed by the Legislature in an appropriation act to the Domestic Violence Legal Services Fund created in §48-26-603 of this code. Any moneys transferred to the Domestic Violence Legal Services Fund pursuant to the provisions of this section shall be expended for the purposes specified in said section.

WV Legislature

§51-3-15. Court security board, terms.

(a) There is hereby created a Court Security Board who shall make decisions on how the money in the Court Security Fund is to be spent to enhance the security of courts. The board shall consist of six members and the administrative director of the Supreme Court of Appeals who shall serve ex officio and be the chair. The board shall be appointed as follows: One circuit court judge appointed by the judicial association; one magistrate appointed by the magistrate's association; one family law judge appointed by the family court judicial association; one member of the bar appointed by the president of the West Virginia State Bar; one representative of counties appointed by the West Virginia Association of Counties; and one representative of sheriffs appointed by the West Virginia sheriffs association.

(b) Each appointment shall be for a four-year term commencing upon the expiration of his or her previous term or of his or her predecessor's term. No member may be appointed for more than three consecutive terms. Vacancies shall be appointed in a like manner for the balance of an unexpired term.

(c) The board shall compile and keep a list of able and available law-enforcement officers who have obtained certification in compliance with the provisions of §30-29-5 of this code and who have maintained all necessary qualifications and firearms certifications to enable them to serve as bailiffs in court facilities. The board shall make the list available to all county sheriffs for their use in recruiting and hiring temporary, part-time, or occasional bailiffs to exercise all the powers and duties of bailiffs in the court facilities in their counties.

WV Legislature

§51-3-16. Security plans; approval by court security board; awards; training.

(a) The sheriff of each county in conjunction with the circuit judges, magistrates and family law master may develop a security plan to enhance the security of all the court facilities in use in the county and submit said plan to the court security board.

(b) Each security plan shall include, but not be limited to:

(1) An assessment of the existing security measures in place and any problems or shortcomings with the existing procedures;

(2) A description of how the county responds to court security emergencies and whether the response is adequate;

(3) A prioritized listing of equipment or personnel, or both, needed to improve the security of the court facilities in the county, including cost estimates for such equipment and personnel;

(4) A description of the physical locations of court facilities around the county and a discussion of whether changes or consolidation of space could improve court security in the county; and

(5) An assessment of the training needs for bailiffs currently employed in the county or for additional bailiffs and the options for securing the necessary training.

(c) Each plan prepared under this section is subject to approval by the court security board. Any plan rejected by the court security board shall be returned to the county with a statement of the insufficiencies in such plan. The county shall revise the plan to eliminate the insufficiencies and resubmit it to the court security board.

(d) Upon receipt of the plans the court security board shall meet at least twice a year to review the plans and to award money from the court security fund to the circuit clerk, county commission or county sheriff to be used solely and exclusively to purchase equipment, hire personnel or make other identified expenditures in accordance with the plan. The board shall develop an application form and establish criteria to assist them in making the decisions on which applications will receive money and how much money will be awarded. Once an award has been made, the recipient will have a fixed amount of time in which to execute the expenditures described in their plan. The board will set forth in writing the amount of the award, the time frame for accomplishing the plan objectives and the requirement that any unexpended money be returned to the board for deposit in the court security fund. The award or decision not to award these funds shall not relieve any person or office of their duty or obligation to provide security services to courts in this state.

(e) The board is authorized to award money from the court security fund to be used by the counties for costs and expenses of training for bailiffs. The board may establish minimum standards for training and it may designate specific agencies or institutions approved for administering such training.

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§51-3-17. Promulgation of legislative rules.

[Repealed.]

WV Legislature

§51-3-18. Expeditious filling of judicial vacancies.

(a) The Legislature finds that when judicial offices created under the Constitution and laws of the state are vacant for extended periods of time, the proper functioning of the judicial branch of the government is impeded. The Legislature further finds that when a vacancy in a judicial office is to be filled by appointment, it is in the public interest that any questions regarding the qualifications or eligibility of the person nominated or appointed to fill the vacancy be determined expeditiously.

(b) When, pursuant to the provisions of section seven, article VIII of the Constitution of West Virginia, the Governor appoints a person to fill a vacancy in the office of Justice of the Supreme Court of Appeals or in the office of judge of the circuit court, no suit or action challenging the qualifications or eligibility of the person so appointed, if it be based upon any fact or circumstance in existence at the time of the appointment, will be cognizable in any court of this state unless it be brought within twenty days after the appointment by the Governor.

(c) When, pursuant to the provisions of section ten, article VIII of the Constitution of West Virginia and the general laws adopted thereunder, a person is appointed to fill a vacancy in the office of magistrate, no suit or action challenging the qualifications or eligibility of the person so appointed, if it be based upon any fact or circumstance in existence at the time of the appointment, will be cognizable in any court of this state unless it be brought within twenty days after the appointment.

(d) When, pursuant to the provisions of section sixteen, article VIII of the Constitution of West Virginia, the Governor appoints a person to fill a vacancy in the office of judge of the family court, no suit or action challenging the qualifications or eligibility of the person so appointed, if it be based upon any fact or circumstance in existence at the time of the appointment, will be cognizable in any court of this state unless it be brought within twenty days after the appointment by the Governor.

(e) Following a judicial appointment, if no suit or action is commenced within the time specified above, or if, in a suit having been timely brought, it is finally adjudged that the appointee is qualified and eligible to hold the office to which he or she has been appointed, then the appointee may take the oath of office and thereafter execute the office for the unexpired term to which he or she has been appointed, subject to removal under section eight, article VIII of the Constitution of West Virginia, in the case of a judge of the Supreme Court of Appeals, the circuit court or the family court, only by impeachment, and in the case of a magistrate, in the manner provided by general law for removal of a magistrate.

(f) An action timely brought to challenge the qualifications or eligibility of an appointee to judicial office shall be given priority over all other actions on the docket of the court in which the action is brought.

(g) Nothing contained in this section is intended by the Legislature to interfere with the

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authority of the Supreme Court of Appeals to discipline or retire judges or magistrates as that authority is set forth in the Constitution of West Virginia and in rules adopted by the Supreme Court of Appeals pursuant to the Constitution of West Virginia.

(h) The Legislature declares that the offices of magistrate, judge of the family court, judge of the circuit court and Justice of the Supreme Court of Appeals are elective in nature and are all "offices to be filled by election by the people" within the meaning of the exceptions clause of section fifteen, article VI of the Constitution of West Virginia, which clause describes the kind and character of the offices thereby removed from the operation of the prohibitory clause and not the method by which the offices are to be filled.

WV Legislature

§51-3-19. Courthouse security officers; arrest authority; concealed-carry authority; requirements for participation; authorization to carry firearms concealed consistent with federal law.

(a) In furtherance of enhanced courthouse security for court personnel, litigants, and the general public, courthouse security officers charged with effecting courthouse security may arrest any person committing a violation of the criminal laws of the State of West Virginia, the United States, or a violation of Rule 42 of the West Virginia Rules of Criminal Procedure occurring within a courthouse while the courthouse security officer is engaged in his or her official duties;

(b) For purposes of subsection (a) of this section, the arrest authority of courthouse security officers is consistent with that of a county deputy sheriff;

(c) In any judicial circuit where there is an order in effect authorizing courthouse security officers to carry a firearm, the circuit court may also authorize, consistent with the provisions of this section, qualifying courthouse security officers to carry a concealed firearm for self-defense purposes pursuant to 18 U.S.C. § 926B, upon the following criteria being met:

(1) The supervising authority of the courthouse security officer shall require courthouse security officers desiring to participate to regularly qualify in the use of firearms with standards therefor which are equal to or exceed those required of sheriff's deputies in the county in which the courthouse security officers are employed;

(2) The supervising authority of the courthouse security officers shall issue photographic identification and certification cards which identify the courthouse security officers as law-enforcement employees of the supervising entity pursuant to the provisions of §30-29-12 of this code;

(3) Any policy instituted pursuant to this section shall include provisions that:

(A) Preclude or remove a person from participation in the concealed firearm program who is subject to any disciplinary or legal action which could result in the loss of his or her authority to participate in the program;

(B) Preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm; and

(C) Prohibit persons from carrying a firearm pursuant to this subsection while in an impaired state as defined in §17C-5-2 of this code; and

(4) A courthouse security officer who participates in a program authorized by this section is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition for use when not engaged in his or her official duties.

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(d) It is the intent of the Legislature in enacting this section during the 2019 regular session of the Legislature that active courthouse security personnel meeting all the requirements of this section to also meet the requirements of the federal Law-Enforcement Officers Safety Act, 18 U.S.C. § 926B.

(e) The provisions of this section shall become effective July 1, 2020.

WV Legislature

§51-3-20. Judicial officer education and training.

(a) The Supreme Court of Appeals may, in its discretion, pay a newly appointed or elected circuit judge, family court judge, or magistrate per diem compensation and expenses for attending any training and education session prior to taking the oath of office and beginning his or her term.

(b) The Supreme Court of Appeals may compensate the judicial officers specified in subsection (a) of this section up to a rate equivalent to the daily per diem rate of senior status circuit judges, senior status family court judges, or senior status magistrates for each required day of attendance, plus travel expenses.

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