

No: 1478

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986



ENROLLED

Com. Sub. for
HOUSE BILL No. 1478

(By Mr. Del Murensky & Del. Neal)



Passed March 8, 1986

In Effect July 1, 1986 ~~Passage~~

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1478
(By DELEGATE MURENSKY and DELEGATE NEAL)

[Passed March 8, 1986; in effect July 1, 1986.]

AN ACT to amend and reenact sections eight, nine and nine-b, article one, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the judicial system and magistrate courts; providing for an increase in the maximum allowable salaries of magistrate court clerks, magistrate assistants and magistrate court deputy clerks in specified amounts; and specifying effective date.

Be it enacted by the Legislature of West Virginia:

That sections eight, nine and nine-b, article one, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted as follows:

ARTICLE 1. COURTS AND OFFICERS.

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

1 In each county having three or more magistrates the
2 judge of the circuit court or the chief judge thereof, if
3 there is more than one judge of the circuit court, shall
4 appoint a magistrate court clerk. In all other counties
5 such judge may appoint a magistrate court clerk or may
6 by rule require the duties of the magistrate court clerk

7 to be performed by the clerk of the circuit court, in
8 which event such circuit court clerk shall be entitled to
9 additional compensation in the amount of two thousand
10 five hundred dollars per year. The magistrate court
11 clerk shall serve at the will and pleasure of such circuit
12 judge.

13 Magistrate court clerks shall be paid a monthly salary
14 by the state. Beginning on the first day of July, one
15 thousand nine hundred eighty-six, magistrate court
16 clerks serving magistrates who serve less than ten
17 thousand in population shall be paid up to one thousand
18 thirty-one dollars per month; magistrate court clerks
19 serving magistrates who serve ten thousand or more in
20 population but less than fifteen thousand in population
21 shall be paid up to one thousand two hundred ninety-
22 one dollars per month: *Provided*, That the magistrate
23 court clerk in the county of Putnam shall be paid up to
24 one thousand two hundred ninety-one dollars per month;
25 and magistrate court clerks serving magistrates who
26 serve fifteen thousand or more in population shall be
27 paid up to one thousand five hundred sixty-six dollars
28 per month: *Provided, however*, That the magistrate court
29 clerks in the counties of Boone, Preston, Jefferson,
30 Mercer, Fayette and Raleigh shall be paid up to one
31 thousand five hundred sixty-six dollars per month. For
32 the purpose of determining the population served by
33 each magistrate, the number of magistrates authorized
34 for each county shall be divided into the population of
35 each county. The salary of the magistrate court clerk
36 shall be established by the judge of the circuit court, or
37 the chief judge thereof if there is more than one judge
38 of the circuit court, within the limits set forth in this
39 section.

40 In addition to other duties as may be imposed by the
41 provisions of this chapter or by the rules of the supreme
42 court of appeals or the judge of the circuit court, or the
43 chief judge thereof if there is more than one judge of
44 the circuit court, it shall be the duty of the magistrate
45 court clerk to establish and maintain appropriate
46 dockets and records in a centralized system for the
47 magistrate court, to assist in the preparation of such

48 reports as may be required of the court and to carry out
49 on behalf of the magistrates or chief magistrate if a
50 chief magistrate is appointed, the administrative duties
51 of the court.

52 The magistrate court clerk or, if there is no magis-
53 trate court clerk in the county the clerk of the circuit
54 court shall have the authority to issue all manner of civil
55 process and to require the enforcement of subpoenas and
56 subpoenas duces tecum in magistrate court.

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

1 In each county there shall be one magistrate assistant
2 for each magistrate. Each magistrate assistant shall be
3 appointed by the magistrate under whose authority and
4 supervision and at whose will and pleasure he shall
5 serve. Such assistant shall not be a member of the
6 immediate family of any magistrate and shall not have
7 been convicted of a felony or any misdemeanor involving
8 moral turpitude and shall reside in the county were
9 appointed. For the purpose of this section, immediate
10 family shall mean the relationships of mother, father,
11 sister, brother, child or spouse.

12 A magistrate assistant shall have such duties, clerical
13 or otherwise, as may be assigned by the magistrate and
14 as may be prescribed by the rules of the supreme court
15 of appeals or the judge of the circuit court, or the chief
16 judge thereof if there is more than one judge of the
17 circuit court. In addition to these duties, magistrate
18 assistants shall perform and be accountable to the
19 magistrate court clerks with respect to the following
20 duties:

- 21 (1) The preparation of summons in civil actions;
- 22 (2) The assignment of civil actions to the various
23 magistrates;
- 24 (3) The collection of all costs, fees, fines, forfeitures
25 and penalties which may be payable to the court;
- 26 (4) The submission of such moneys, along with an
27 accounting thereof to appropriate authorities as pro-
28 vided by law;

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

31 (6) All duties related to the gathering of information
32 and documents necessary for the preparation of administrative reports and documents required by the rules
33 of the supreme court of appeals or the judge of the
34 circuit court, or the chief judge thereof if there is more
35 than one judge of the circuit court;
36

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

40 (8) All other duties or responsibilities whereby the
41 magistrate assistant shall be accountable to the magistrate court clerk as the magistrate shall determine.
42

43 Magistrate assistants shall be paid a monthly salary
44 by the State. Beginning on the first day of July, one
45 thousand nine hundred eighty-six, magistrate assistants
46 serving magistrates who serve less than ten thousand
47 population shall be paid up to eight hundred thirty-eight
48 dollars per month; magistrate assistants serving magistrates who serve ten thousand or more in population
49 but less than fifteen thousand in population shall be paid
50 up to nine hundred sixty-seven dollars per month:
51 *Provided*, That magistrate assistants in the county of
52 Putnam shall be paid up to nine hundred sixty-seven
53 dollars per month; and magistrate assistants serving
54 magistrates who serve fifteen thousand or more in
55 population shall be paid up to one thousand ninety-five
56 dollars per month: *Provided, however*, That magistrate
57 assistants in the counties of Boone, Preston, Jefferson,
58 Mercer, Fayette and Raleigh shall be paid up to one
59 thousand ninety-five dollars per month. For the purpose
60 of determining the population served by each magistrate,
61 the number of magistrates authorized for each
62 county shall be divided into the population of each
63 county. The salary of the magistrate assistant shall be
64 established by the magistrate within the limits set forth
65 in this section.
66

§50-1-9b. Putnam and Raleigh counties—Salaries of clerks, deputy clerks, magistrate assistants,

for certain periods prior to July 1, 1986.

1 (a) The Legislature finds and declares:

2 (1) That during the regular session of the Legislature,
3 one thousand nine hundred eighty, it adopted certain
4 amendments to sections two, three, eight, nine and
5 eleven of this article in an act designated chapter eighty,
6 acts of the Legislature, regular session, one thousand
7 nine hundred eighty;

8 (2) That included within the provisions of that act
9 were provisions specifically increasing the number of
10 magistrates for the counties of Putnam and Raleigh
11 whereby the Legislature provided for the election of
12 three magistrates for the county of Putnam and five
13 magistrates for the county of Raleigh;

14 (3) That it has come to the attention of the Legislature
15 that the fact of increasing the number of magistrates in
16 the counties of Putnam and Raleigh has been inter-
17 preted as necessitating a decrease in the respective
18 salaries of the magistrate court clerks, magistrate
19 assistants and magistrate court deputy clerks, in those
20 counties effective the first day of January, one thousand
21 nine hundred eighty-one; and

22 (4) That it was not the intent of the Legislature in
23 enacting the provisions of chapter eighty, acts of the
24 Legislature, regular session, one thousand nine hundred
25 eighty, to reduce the salaries of magistrate court clerks,
26 magistrate assistants and magistrate court deputy
27 clerks in the counties of Putnam and Raleigh.

28 Therefore, in view of the foregoing findings, it is the
29 intent of the Legislature in enacting this section to
30 restore the respective salaries of the magistrate court
31 clerks, magistrate assistants and magistrate court
32 deputy clerks in the counties of Putnam and Raleigh to
33 those sums which were applicable to those various
34 positions prior to the first day of January, one thousand
35 nine hundred eighty-one, retroactively to that date.

36 (b) In view of the foregoing findings and purposes,
37 effective the first day of January, one thousand nine
38 hundred eighty-one, the respective salaries for magis-

39 trate court clerks, magistrate assistants and magistrate
40 court deputy clerks in the counties of Putnam and
41 Raleigh shall be as follows:

42 (1) The salary for the magistrate court clerk in the
43 county of Putnam shall be up to one thousand twenty-
44 six dollars per month.

45 (2) The salary for the magistrate court clerk in the
46 county of Raleigh shall be up to one thousand two
47 hundred fifty-four dollars per month;

48 (3) The salary for each magistrate assistant in the
49 county of Putnam shall be up to seven hundred forty-
50 one dollars per month;

51 (4) The salary for each magistrate assistant in the
52 county of Raleigh shall be up to eight hundred fifty-five
53 dollars per month; and

54 (5) The salaries of the various magistrate court
55 deputy clerks for the counties of Putnam and Raleigh
56 shall be in amounts up to and not exceeding the amounts
57 paid to the magistrate assistants in those respective
58 counties.

59 (c) Effective the first day of July, one thousand nine
60 hundred eighty-six, the maximum allowable salaries of
61 magistrate court clerks, magistrate assistants and
62 magistrate court deputy clerks in the counties of
63 Putnam and Raleigh shall be the amounts set forth in
64 sections eight, nine and nine-a of this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce O. Williams

Chairman Senate Committee

Floyd Fuller

Chairman House Committee

Originating in the House.

Takes effect July 1, 1986.

Ladd C. Hall

Clerk of the Senate

Donald G. Kopp

Clerk of the House of Delegates

Don Tombrail

President of the Senate

Joseph P. Albright

Speaker of the House of Delegates

The within *approved* this the *26th*
March
day of _____, 1986.

Richard S. Murphy, Jr.

Governor

PRESENTED TO THE
GOVERNOR

Date 3/21/86

Time 4:50 p.m.

RECEIVED

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SECRETARY OF STATE

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/26/86