

07/11/86

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986



# ENROLLED

Com. Sub. for  
HOUSE BILL No. 1140

(By ~~##~~ Del. Flanigan + Del. McNeely)



Passed March 8, 1986

In Effect July 1, 1986 ~~Passage~~

**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**

**H. B. 1140**

(By DELEGATE FLANIGAN and DELEGATE McNEELY)

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

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AN ACT to amend and reenact sections two, three, eight, nine and nine-a, article one, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to magistrates and magistrate staffs; establishing number of magistrates per county and new positions; establishing new total number of magistrate court deputy clerks in the state; and setting salaries of magistrates and magistrate staffs.

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

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

**ARTICLE 1. COURTS AND OFFICERS.**

**§50-1-2. Number of magistrates.**

1        In each county which has less than thirty thousand  
2        population there shall be elected two magistrates; except  
3        that in the county of Putnam there shall be elected three  
4        magistrates. In each county which has thirty thousand  
5        or more in population but less than sixty thousand in  
6        population there shall be elected three magistrates;

7 except that in the counties of McDowell and Fayette  
8 there shall be elected four magistrates, with the fourth  
9 magistrate position hereby created for Fayette County  
10 not to be subject to being filled by prior appointment,  
11 but with service to begin in January, one thousand nine  
12 hundred eighty-seven, after initial election at general  
13 election in the fall of one thousand nine hundred eighty-  
14 six, and in the county of Brooke there shall be elected  
15 two magistrates. In each county which has sixty  
16 thousand or more in population but less than one  
17 hundred five thousand in population there shall be  
18 elected four magistrates; except that in the counties of  
19 Raleigh and Mercer there shall be elected five magis-  
20 trates with the fifth magistrate position hereby created  
21 for Mercer County to be subject to being filled by prior  
22 appointment on and after the first day of July, one  
23 thousand nine hundred eighty-six and until the subse-  
24 quent general election therefor. In each county which has  
25 one hundred five thousand or more in population but  
26 less than two hundred thousand in population there shall  
27 be elected seven magistrates. In each county which has  
28 two hundred thousand or more in population there shall  
29 be elected ten magistrates. For the purpose of this  
30 article, the population of each county shall be considered  
31 to be the population as determined by the last preceding  
32 census taken under the authority of the United States  
33 government. No change in the number of magistrates  
34 caused by the publication of more recent such census  
35 figures shall be effective until the next regular election  
36 for such office occurring after the year of such publi-  
37 cation.

§50-1-3. Salary of magistrates.

1 The salary of each magistrate shall be paid by the  
2 state. Beginning on the first day of July, one thousand  
3 nine hundred eighty-four, magistrates who serve less  
4 than ten thousand in population shall be paid annual  
5 salaries of seventeen thousand two hundred fifty dollars;  
6 magistrates who serve ten thousand or more in popula-  
7 tion but less than fifteen thousand in population shall  
8 be paid annual salaries of twenty thousand six hundred  
9 twenty-five dollars: *Provided*, That magistrates in the

10 county of Putnam shall be paid annual salaries of twenty  
11 thousand six hundred twenty-five dollars. Magistrates  
12 who serve fifteen thousand or more in population shall  
13 be paid annual salaries of twenty-five thousand one  
14 hundred twenty-five dollars: *Provided, however,* That  
15 magistrates in the counties of Boone, Preston, Jefferson,  
16 Mercer and Fayette shall be paid annual salaries of  
17 twenty-five thousand one hundred twenty-five dollars.  
18 For the purpose of determining the population served  
19 by each magistrate, the number of magistrates autho-  
20 rized for each county shall be divided into the population  
21 of each county. Magistrates shall be paid once a month.

**§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-four, magistrate court  
16 clerks serving magistrates who serve less than ten  
17 thousand in population shall be paid up to nine hundred  
18 eighty-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 forty-one  
22 dollars per month: *Provided,* That the magistrate court  
23 clerk in the county of Putnam shall be paid up to one  
24 thousand two hundred forty-one dollars per month; and  
25 magistrate court clerks serving magistrates who serve  
26 fifteen thousand or more in population shall be paid up  
27 to one thousand five hundred sixteen dollars per month:

28 *Provided, however,* That the magistrate court clerks in  
29 the counties of Boone, Preston, Jefferson, Mercer,  
30 Fayette and Raleigh shall be paid up to one thousand  
31 five hundred sixteen dollars per month. For the purpose  
32 of determining the population served by each magis-  
33 trate, the number of magistrates authorized for each  
34 county shall be divided into the population of each  
35 county. The salary of the magistrate court clerk shall  
36 be established by the judge of the circuit court, or the  
37 chief judge thereof if there is more than one judge of  
38 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 where  
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 admin-  
33 istrative reports and documents required by the rules  
34 of the supreme court of appeals or the judge of the  
35 circuit court, or the chief judge thereof if there is more  
36 than one judge of the circuit court;

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 magis-  
42 trate court clerk as the magistrate shall determine.

43 Magistrates assistants shall be paid a monthly salary  
44 by the State. Beginning on the first day of July, one  
45 thousand nine hundred eighty-four, magistrate assist-  
46 ants serving magistrates who serve less than ten  
47 thousand in population shall be paid up to seven

48 hundred eighty-eight dollars per month; magistrate  
49 assistants serving magistrates who serve ten thousand  
50 or more in population but less than fifteen thousand in  
51 population shall be paid up to nine hundred seventeen  
52 dollars per month: *Provided*, That magistrate assistants  
53 in the county of Putnam shall be paid up to nine  
54 hundred seventeen dollars per month; and magistrate  
55 assistants serving magistrates who serve fifteen thou-  
56 sand or more in population shall be paid up to one  
57 thousand forty-five dollars per month: *Provided, how-*  
58 *ever*, That magistrate assistants in the counties of Boone,  
59 Preston, Jefferson, Mercer, Fayette and Raleigh shall be  
60 paid up to one thousand forty-five dollars per month.  
61 For the purpose of determining the population served  
62 by each magistrate, the number of magistrates autho-  
63 rized for each county shall be divided into the population  
64 of each county. The salary of the magistrate assistant  
65 shall be established by the magistrate within the limits  
66 set forth in this section.

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

1 Whenever required by work load and upon the  
2 recommendation of the judge of the circuit court, or the  
3 chief judge thereof if there is more than one judge of  
4 the circuit court, the supreme court of appeals may by  
5 rule provide for the appointment of magistrate court  
6 deputy clerks, not to exceed fifty-one in number. Such  
7 magistrate court deputy clerks shall be appointed by the  
8 judge of the circuit court, or the chief judge thereof if  
9 there is more than one judge of the circuit court, with  
10 such appointee to serve at his will and pleasure under  
11 the immediate supervision of the magistrate court clerk.  
12 Such magistrate court deputy clerk shall have such  
13 duties, clerical or otherwise, as may be assigned by the  
14 magistrate court clerk and as may be prescribed by the  
15 rules of the supreme court of appeals or the judge of the  
16 circuit court, or the chief judge thereof if there is more  
17 than one judge of the circuit court. Such magistrate  
18 court deputy clerks shall also have authority to exercise  
19 the power and perform the duties of the magistrate  
20 court clerk as may be delegated or assigned by such  
21 magistrate court clerk.

22 Such magistrate court deputy clerk shall not be a  
23 member of the immediate family of any magistrate,  
24 magistrate court clerk, magistrate assistant or circuit  
25 court judge within the same county, shall not have been  
26 convicted of a felony or any misdemeanor involving  
27 moral turpitude and shall reside in the county where  
28 appointed. For the purpose of this section, immediate  
29 family shall mean the relationships of mother, father,  
30 sister, brother, child or spouse.

31 Magistrate court deputy clerks shall be paid a  
32 monthly salary by the State. Such salary shall be paid  
33 on the same basis and in the same applicable amounts  
34 as for magistrate assistants in each county as provided  
35 in section nine 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.

*Todd C. Nulle*  
-----  
Clerk of the Senate

*Donald Stepp*  
-----  
Clerk of the House of Delegates

*Don Tonkovich*  
-----  
President of the Senate

*Joseph P. Allright*  
-----  
Speaker of the House of Delegates

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

*Arch. B. ...*  
-----  
Governor

TO THE

GOVERNOR

Date 3/21/86

Time 4:28 p.m.

RECEIVED

1003 MAR 29 PM 9 03

OFFICE OF THE  
SECRETARY OF STATE

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 3/26/86