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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992



ENROLLED

HOUSE BILL No. 4208

(By Delegates Lane and Manuel)



Passed March 7 1992

In Effect Ninety Days from Passage

ENROLLED
H. B. 4208

(By DELEGATES LANE AND MANUEL)

[Passed March 7, 1992; in effect ninety days from passage.]

AN ACT to amend and reenact sections nine and nine-a, article one, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to removing the requirement that a magistrate assistant or magistrate court deputy clerk reside in the county where appointed.

Be it enacted by the Legislature of West Virginia:

That sections 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, all to read as follows:

ARTICLE ONE. COURTS AND OFFICERS.

§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 or she
5 shall serve. The 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 state of West
9 Virginia. For the purpose of this section, immediate
10 family means the relationships of mother, father, sister,

11 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
28 provided 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 is accountable to the magistrate
42 court clerk as the magistrate determines.

43 Magistrate assistants shall be paid a monthly salary
44 by the state. Magistrate assistants serving magistrates
45 who serve less than ten thousand in population shall be
46 paid up to nine hundred sixty-seven dollars per month
47 and magistrate assistants serving magistrates who serve

48 ten thousand or more in population shall be paid up to
49 one thousand two hundred twenty-five dollars per
50 month: *Provided*, That on and after the first day of
51 January, one thousand nine hundred ninety-two, mag-
52 istrate assistants serving magistrates who serve less
53 than ten thousand in population shall be paid up to one
54 thousand fifty-one dollars per month and magistrate
55 assistants serving magistrates who serve ten thousand
56 or more in population shall be paid up to one thousand
57 three hundred nine dollars per month: *Provided*,
58 *however*, That on and after the first day of January, one
59 thousand nine hundred ninety-three, magistrate assist-
60 ants serving magistrates who serve less than eight
61 thousand five hundred in population shall be paid up to
62 one thousand one hundred seventy-six dollars per month
63 and magistrate assistants serving magistrates who serve
64 eight thousand five hundred or more in population shall
65 be paid up to one thousand four hundred thirty-four
66 dollars per month: *Provided further*, That after the
67 effective date of this section, any general salary increase
68 granted to all state employees, whose salaries are not set
69 by statute, expressed as a percentage increase or an
70 “across-the-board” increase, may also be granted to
71 magistrate assistants. For the purpose of determining
72 the population served by each magistrate, the number
73 of magistrates authorized for each county shall be
74 divided into the population of each county. The salary
75 of the magistrate assistant shall be established by the
76 magistrate within the limits set forth in this section.

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

1 Whenever required by workload and upon the recom-
2 mendation of the judge of the circuit court, or the chief
3 judge thereof if there is more than one judge of the
4 circuit court, the supreme court of appeals may by rule
5 provide for the appointment of magistrate court deputy
6 clerks, not to exceed fifty-two in number. Such magis-
7 trate court deputy clerks shall be appointed by the judge
8 of the circuit court, or the chief judge thereof if there
9 is more than one judge of the circuit court, with such
10 appointee to serve at his will and pleasure under the
11 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 state of West
28 Virginia. 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.

Somer Duck

Chairman Senate Committee

Ernest C. Moore

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Harold Edelman

Clerk of the Senate

Donald G. Hopp

Clerk of the House of Delegates

Paul Brantley

President of the Senate

Robert C. Bell

Speaker of the House of Delegates

The within is approved this the *27th*
day of *March*, 1992.

Yaston Caperton

Governor

PRESENTED TO THE

GOVERNOR

Date 3/19/92

Time 2:49 pm