

SB 771

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998



ENROLLED

SENATE BILL NO. 771

(By Senator WOOTEN, ET AL)



PASSED MARCH 14, 1998

In Effect From Passage

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Senate Bill No. 771

(BY SENATORS WOOTON, BALL, BOWMAN,
DITTMAR, KESSLER, ROSS AND SCHOONOVER)

[Passed March 14, 1998; in effect from passage.]

AN ACT to amend and reenact sections one and four, article four, chapter forty-eight-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the terms of office and the appointment of family law masters; extending the current terms of office; creating new terms of office; extending the term of office of the temporary law master assigned to Marshall County; and providing for temporary assignments of family law masters.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4. PROCEEDING BEFORE A MASTER.**§48A-4-1. Appointment of family law masters; term of office; vacancy; removal.**

1 (a) The family law masters holding office on the first day
2 of June, one thousand nine hundred ninety-eight, by virtue
3 of appointments made under the prior enactments of this
4 article shall continue their service for a term of office
5 ending on the thirtieth day of June, one thousand nine
6 hundred ninety-nine. Before the first day of July, one
7 thousand nine hundred ninety-nine, the governor shall
8 appoint family law masters in such numbers and to serve
9 for geographical regions of the state as provided for under
10 the provisions of section four of this article, with terms
11 commencing on the first day of July, one thousand nine
12 hundred ninety-nine, and on a like date in every fourth
13 year thereafter, and ending on the thirtieth day of June,
14 two thousand three, and on a like date in every fourth year
15 thereafter. Upon the expiration of his or her term, a
16 family law master may continue to perform the duties of
17 the office until the governor makes the appointment, or
18 for sixty days after the date of the expiration of the
19 master's term, whichever is earlier. If a vacancy occurs in
20 the office of family law master, the governor shall, within
21 thirty days after such vacancy occurs, fill the vacancy by
22 appointment for the unexpired term: *Provided*, That if the
23 remaining portion of the unexpired term to be filled is less
24 than one year, the governor may, in his or her discretion,
25 simultaneously appoint an individual to the unexpired
26 term and to the next succeeding full four-year term.

27 (b) An individual may be reappointed to succeeding
28 terms as a family law master to serve in the same or a
29 different region of the state.

30 (c) Removal of a master during the term for which he or
31 she is appointed shall be as follows:

32 (1) Upon a recommendation by the judicial hearing
33 board created pursuant to the rules of procedure for the

34 handling of complaints against justices, judges, magis-
35 trates and family law masters, if the supreme court of
36 appeals shall find that a family law master has violated
37 the judicial code of ethics or that the master, because of
38 advancing years and attendant physical or mental inca-
39 pacity, should not continue to serve, the supreme court of
40 appeals may, in lieu of or in addition to any disposition
41 authorized by such rules, remove the family law master
42 from office; and

43 (2) The supreme court of appeals may remove a master
44 when conduct of the family law master evidences incom-
45 petence, unsatisfactory performance, misconduct, neglect
46 of duty or physical or mental disability.

§48A-4-4. Assignment of family law masters by geographical regions.

1 (a) There shall be a total of twenty-six family law
2 masters, not more than fourteen of whom shall be
3 full-time masters, to serve throughout the state. During
4 the year immediately preceding the appointment of law
5 masters as provided for in section one of this article, the
6 supreme court of appeals shall apportion the state into
7 geographical regions which may be single-master regions
8 or multi-master regions, or a combination of both. County
9 boundaries shall be strictly observed and no county may
10 be divided among two or more regions. Otherwise, in
11 making such apportionment, the supreme court of appeals
12 shall construct regions which provide, as nearly as is
13 practicable, for the caseload of each master to be equal to
14 that of other masters. Mathematical exactness as to
15 caseload is not required and deviations from an absolute
16 standard may be based upon concerns, other than case-
17 load, including, but not limited to, deviations dictated by
18 the following considerations:

19 (1) Judicial circuits;

20 (2) Geographical features which affect the time and

21 expense of travel;

22 (3) Traditional patterns of practice by members of the
23 bar; and

24 (4) Population variances between regions.

25 (b) In the region that includes Kanawha County, of the
26 masters appointed, not less than two shall be part-time
27 masters.

28 (c) Notwithstanding the provisions of subsection (a) of
29 this section, for the time period extending from the first
30 day of August, one thousand nine hundred ninety-six,
31 until the thirtieth day of June, one thousand nine hundred
32 ninety-nine, there shall temporarily be a total of
33 twenty-seven family law masters, not more than fourteen
34 of whom shall be full-time masters, to serve throughout
35 the state, and the additional part-time position of family
36 law master created by this subsection shall be assigned to
37 the region that includes Marshall County.

38 (d) Nothing contained herein shall prohibit the chief
39 justice of the supreme court of appeals from temporarily
40 assigning a family law master from one geographical
41 region to another geographical region, as caseload,
42 disqualification, recusal, vacation or illness may dictate.
43 In each such case of temporary assignment, the chief
44 justice shall appoint only those persons currently serving
45 as family law masters and appointed pursuant to section
46 one of this article.

47 (e) The administrative office of the supreme court shall
48 promulgate any procedural rule necessary to delineate the
49 duties of the part-time and full-time law masters consis-
50 tent with this article.

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

Kenyon H. Horner
.....
Chairman Senate Committee.

Nick Fontana
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Carroll E. Adams
.....
Clerk of the Senate

Suzanne M. Gray
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Glenn Roush
.....
Speaker House of Delegates

The within *approved* this the *21st*
day of *March*, 1998

Jeff Abernethy
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/98

Time 10:50 am