

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 108**

4 (By Senators Jenkins, Plymale and Foster)

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6 [Originating in the Committee on the Judiciary;

7 reported January 26, 2012.]

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11 A BILL to amend and reenact §50-1-4 of the Code of West Virginia,
12 1931, as amended, relating to requirements to serve as a
13 magistrate; requiring an associate's degree or greater to
14 serve; providing exceptions to education requirements;
15 providing internal operative date; clarifying training
16 requirements; and deleting antiquated provisions.

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

18 That §50-1-4 of the Code of West Virginia, 1931, as amended,
19 be amended and reenacted to read as follows:

20 **ARTICLE 1. COURTS AND OFFICERS.**

21 **§50-1-4. Qualifications of magistrates; training; oath; continuing**
22 **education; time devoted to public duties.**

23 ~~Each magistrate shall be~~ (a) Effective January 1, 2015, a
24 person is qualified to serve as a magistrate if he or she:

25 (1) Is at least twenty-one years of age;

1 (2) Has any of the following qualifications:

2 (A) An associate's or higher degree from an accredited college
3 or university;

4 (B) A minimum of four years of experience as a magistrate; or

5 (C) ~~shall have~~ At least a high school education or its
6 equivalent for persons holding the office of magistrate on January
7 1, 2015;

8 (3) ~~shall not have~~ Has not been convicted of any a felony or
9 any misdemeanor involving moral turpitude; and

10 (4) ~~reside~~ Resides in the county of his or her election.

11 (b) ~~No magistrate shall~~ A magistrate may not be a member of
12 the immediate family of any other magistrate in the county. In the
13 event If more than one member of an immediate family ~~shall be~~ is
14 elected in a county, only the member receiving the highest number
15 of votes ~~shall be~~ is eligible to serve. For purposes of this
16 section, "immediate family" means ~~the relationship of~~ mother,
17 father, sister, brother, child or spouse. Notwithstanding the
18 foregoing provisions of this section, each person who held the
19 office of justice of the peace on the fifth day of November, one
20 thousand nine hundred seventy-four, and who served in or performed
21 the functions of such office for at least one year immediately
22 prior thereto shall be deemed qualified to run for the office of
23 magistrate in the county of his residence.

24 (c) No person ~~shall~~ may assume the duties of magistrate unless
25 he ~~shall have first attended~~ and he or she has completed a course
26 of instruction in rudimentary principles of law and procedure which

1 shall be given in accordance with the ~~supervisory~~ rules of the
2 Supreme Court of Appeals.

3 (d) All magistrates ~~shall be~~ are required to attend ~~such other~~
4 ~~courses of continuing educational instruction as may be required by~~
5 ~~supervisory rule of~~ training as provided by law and the Supreme
6 Court of Appeals. ~~Failure to attend without good cause such~~
7 ~~courses of continuing educational instruction shall constitute~~
8 Failure to attend the training without good cause or without the
9 permission of the Supreme Court Administrator is neglect of duty.
10 ~~Such courses shall be provided at least once every other year.~~
11 ~~Persons attending such courses~~ Magistrates attending training
12 outside of the county of their residence shall be reimbursed by the
13 state for expenses actually incurred in accordance with the
14 ~~supervisory~~ rules of the Supreme Court of Appeals.

15 (e) Each magistrate shall, before assuming the duties of
16 office, take an oath of office to be administered by the circuit
17 judge of the county or the chief judge ~~thereof~~ if there is more
18 than one judge. ~~of the circuit court.~~

19 (f) Each magistrate shall maintain the qualifications for
20 office at all times.

21 ~~Each magistrate who serves five thousand or less in population~~
22 ~~shall devote such time to his public duties as shall be required by~~
23 ~~rule or regulation of the judge of the circuit court, or the chief~~
24 ~~judge thereof if there is more than one judge of the circuit court.~~
25 ~~Each magistrate who serves more than five thousand in population~~
26 ~~shall devote full time to his public duties. As nearly as~~

1 ~~practicable, the workload and the total number of hours required~~
2 ~~shall be divided evenly among the magistrates in a county by such~~
3 ~~judge.~~

(NOTE: The purpose of this bill is to require magistrates to possess a bachelor's degree, an associate's degree in criminal justice or have at least four years prior experience as a magistrate.

Strike-throughs indicate language that would be stricken from the present law and underscoring indicates new language that would be added.

This bill was recommended for introduction and passage during the 2011 Regular Session by the Joint Standing Committee on the Judiciary.)