

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 2910**

BY DELEGATES FOSTER, KIMBLE, HAYNES, WAMSLEY,  
KESSINGER, ESPINOSA, KIMES, HARDY AND CROUSE

[Passed March 12, 2022; in effect ninety days from  
passage.]



1 AN ACT to amend and reenact §50-1-2, 50-1-2a, and 50-1-13 of the Code of West Virginia, 1931,  
2 as amended, all relating to the allocation of magistrates serving in each county; requiring  
3 the Supreme Court of Appeals to conduct or arrange for a caseload study of the state's  
4 magistrate courts; requiring the court to enter an administrative order by January 5, 2023,  
5 containing its recommendations which allocate no more than 170 magistrates state-wide;  
6 directing that any allocation by the supreme Court not reduce the number of magistrates  
7 below the allotted number as of the effective date of the 2022 amendments to § 50-1-2 of  
8 the West Virginia code; requiring attested copies of the order be provided to the  
9 Legislature; authorizing the Legislature to reject the recommended allocation and allocate  
10 the magistrates through legislation; providing that the court's administrative order be the  
11 certification to the ballot commissioners for each county if the Legislature does not reject  
12 the allocation; requiring process be repeated every four years; increasing the number of  
13 magistrates in Berkeley County by one, effective July 1, 2022; authorizing Chief Justice of  
14 the Supreme Court of Appeals to order a magistrate to serve outside the county where  
15 elected or appointed on a temporary basis; providing for reimbursement of reasonable  
16 expenses; requesting the court to develop a rule for assignment of magistrates to serve  
17 after hours or in an emergency on a circuit-wide or other regional basis for certain  
18 proceedings; providing for magistrates authority when presiding in these proceedings and  
19 clarifying that proceedings may be held remotely if determined appropriate by the Court.

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

**ARTICLE 1. COURTS AND OFFICERS.**

**§50-1-2. Number of magistrates.**

1 (a) The number of magistrates to be elected in each county of this state shall be  
2 determined in accordance with the provisions of this section.

3 (b) The Supreme Court of Appeals shall conduct or otherwise arrange for a caseload study  
4 of the magistrate courts of this state for the purpose of determining how many magistrates are

5 needed in each county. Based upon the results of this study and upon consideration of county  
6 population data from the most recent decennial census, the Supreme Court of Appeals shall enter  
7 an administrative order on or before January 5, 2023, containing the Supreme Court's  
8 recommendations as to the number of magistrates who are needed in each of the state's 55  
9 counties for the four-year terms of office to be filled by election in the year 2024. The  
10 administrative order shall allocate no more than 170 magistrates for the entire State of West  
11 Virginia, nor shall the allocation reduce the number of magistrates in any county below that in  
12 effect on the effective date of the amendments to this section enacted during the 2022 regular  
13 session of the Legislature. Attested copies of the administrative order shall be provided to the  
14 President of the West Virginia Senate, the Clerk of the Senate, the Clerk and the Speaker of the  
15 West Virginia House of Delegates, and the West Virginia Secretary of State.

16 (c) The West Virginia Legislature may, in the regular session of the Legislature, 2023,  
17 reject the allocation of magistrates recommended by the Supreme Court and allocate magistrates  
18 for the four-year terms commencing in January of 2025 and serving through December of 2028,  
19 as the Legislature may choose by enactment of a bill containing such an allocation.

20 (d) If the Legislature does not enact a different allocation of the magistrates to be elected  
21 in 2024 pursuant to subsection (c) of this section, then the administrative order of the Supreme  
22 Court of Appeals required by subsection (b) of this section shall become the certification to the  
23 ballot commissioners of each county in this state of the number of magistrates to be elected in  
24 each county of this state at the judicial elections to be held concurrently with the primary election  
25 in 2024.

26 (e) The process set forth in this section shall be repeated every four years in the first and  
27 second years immediately preceding the quadrennial election of magistrates.

**§50-1-2a. Addition of magistrate in Berkeley County.**

1 (a) The Legislature hereby finds that, according to the statistics compiled by the  
2 administrative office of the Supreme Court of Appeals of West Virginia, the caseload in the  
3 magistrate court of Berkeley County in the year 2020 was as follows:

4	Civil cases:	4,139
5	Criminal cases:	7,782
6	Total:	11,921

7 With five elected magistrates in Berkeley County, each magistrate had a caseload of 2,384  
8 cases in 2020. This caseload per magistrate is substantially higher than the statewide average  
9 total caseload of 957 cases per magistrate and is higher than the caseload per magistrate in any  
10 other county in West Virginia in 2020.

11 (b) Notwithstanding any other provisions of this article to the contrary, the allowable  
12 number of magistrates serving in the county of Berkeley as of March 1, 2022, shall be increased  
13 by one, effective July 1, 2022. The initial appointment for the position shall be made in accordance  
14 with the provisions of §50-1-6 of this code.

**§50-1-3. Salaries of magistrates.**

1 Notwithstanding any provisions of this code to the contrary, beginning July 1, 2021, the  
2 annual salary of a magistrate shall be \$60,375, and beginning July 1, 2022, the annual salary of  
3 a magistrate shall be \$63,250.

**§50-1-13. Temporary service within or outside of county.**

1 (a) The Chief Justice of the Supreme Court of Appeals or judge of the circuit court of the  
2 county in which a magistrate is elected, or the chief judge thereof if there is more than one judge  
3 of the circuit court, may order a magistrate to serve temporarily at locations within the county other  
4 than at the regular office or offices of the magistrate.

5 (b) The Chief Justice of the Supreme Court of Appeals may by order direct a magistrate  
6 to serve on a temporary basis outside the county of his or her election or appointment while giving  
7 due consideration to travel time and geographic circumstance. A judge of the circuit court of the  
8 county in which a magistrate is elected, or the chief judge thereof if there is more than one judge  
9 of the circuit court, may by order direct a magistrate to serve temporarily in any other county within  
10 the judicial circuit for any purposes directed by the judge. The magistrate's authority, to the extent

11 ordered by the chief justice or judge, shall be equal to the jurisdiction and authority of a magistrate  
12 elected in the county to which the magistrate is ordered to serve. The temporary assignment may  
13 not exceed 60 days in length in any given calendar year, except with the consent of the transferred  
14 magistrate.

15 (c) A magistrate serving outside the county in which he or she is elected or appointed shall  
16 be reimbursed for reasonable expenses incurred in service outside of the county, as provided by  
17 rule of the Supreme Court of Appeals.

18 (d) The Supreme Court of Appeals is requested to develop a rule creating a system in  
19 which magistrates shall, on a periodic alternating basis, be assigned to preside over initial  
20 appearances, petitions for domestic violence, emergency protective orders, emergency mental  
21 health petitions, emergency juvenile delinquency petitions, and applications for the issuance of  
22 search warrants arising outside normal court hours or in an emergency on a circuit-wide or other  
23 regional basis as determined by the Supreme Court of Appeals. The authority of the after-hours  
24 or emergency magistrate shall be equal to the jurisdiction and authority of a magistrate elected or  
25 appointed in any county in which he or she is directed to preside.

26 (e) Nothing in this section may be construed to prohibit proceedings authorized by  
27 subsection (d) of this section being held remotely as determined appropriate by the Supreme  
28 Court of Appeals.

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

.....  
*Chairman, House Committee*

.....  
*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

.....  
*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

.....  
*Speaker of the House of Delegates*

.....  
*President of the Senate*

\_\_\_\_\_

The within ..... this the.....  
day of ....., 2022.

.....  
*Governor*