

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 589**

By Senators Woodrum, Woelfel, Taylor, and Takubo

[Reported March 4, 2025, from the Committee on the  
Judiciary]

1 A BILL to amend and reenact §50-1-3, §51-1-10a, §51-2-13, §51-2A-6, §51-9-4, §51-9-6a, §51-9-  
2 6b, §51-9-6c, and §51-11-11 of the Code of West Virginia, 1931, as amended; and to  
3 repeal §51-9-6d, relating to salaries and retirement benefits of judges; increasing annual  
4 salary of magistrates, justices of the Supreme Court of Appeals, circuit court judges, family  
5 court judges, and judges of the Intermediate Court of Appeals; providing salary for  
6 secretary-clerks of family court judges and family case coordinators determined by a pay  
7 scale established by court; suspending contribution of courts into judicial retirement  
8 system until certain condition met; providing for actuarially reduced pension benefit for  
9 judges in certain circumstances; increasing surviving spouse plan benefit; eliminating  
10 distinction between certain judges for purposes of calculating surviving spouse plan  
11 benefits, surviving dependent children plan benefits, and adjusted annual retirement  
12 benefit; and providing sunset date for limitation on retirement benefits.

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

## **CHAPTER 50. MAGISTRATE COURTS.**

### **ARTICLE 1. COURTS AND OFFICERS.**

#### **§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 a  
3 magistrate shall be \$63,250-: Provided, That beginning July 1, 2025, the annual salary of a  
4 magistrate is \$75,840.

## **CHAPTER 51. COURTS AND THEIR OFFICERS.**

### **ARTICLE 1. SUPREME COURT OF APPEALS.**

#### **§51-1-10a. Salary of justices.**

1 The salary of each of the justices of the Supreme Court of Appeals shall be \$95,000 per  
2 year: *Provided, That beginning July 1, 2005, the salary of each of the justices of the Supreme*

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3 Court shall be \$121,000: *Provided, however,* That beginning July 1, 2011, the annual salary of a  
4 justice of the Supreme Court shall be \$136,000: *Provided further,* That beginning July 1, 2021, the  
5 annual salary of a justice of the Supreme Court of Appeals shall be \$142,800, and beginning July  
6 1, 2022, the annual salary of a justice of the Supreme Court of Appeals shall be \$149,600-: And  
7 provided further, That beginning July 1, 2025, the annual salary of a justice of the Supreme Court  
8 of Appeals shall be \$167,552.

**ARTICLE            2.            CIRCUIT            COURTS;            CIRCUIT            JUDGES.**

**§51-2-13. Salaries of judges of circuit courts.**

1            The salaries of the judges of the various circuit courts shall be paid solely out of the State  
2 Treasury. No county, county commission, board of commissioners, or other political subdivision  
3 shall supplement or add to such salaries.

4            The annual salary of all circuit judges shall be \$90,000 per year: *Provided,* That beginning  
5 July 1, 2005, the annual salary of all circuit judges shall be \$116,000 per year: *Provided, however,*  
6 That beginning July 1, 2011, the annual salary of a circuit court judge shall be \$126,000: *Provided*  
7 *further,* That beginning July 1, 2021, the annual salary of a circuit judge shall be \$132,300, and  
8 beginning July 1, 2022, the annual salary of a circuit court judge shall be \$138,600-: And provided  
9 further, That beginning July 1, 2025, the annual salary of a circuit judge shall be \$155,232.

**ARTICLE                            2A.                            FAMILY                            COURTS.**

**§51-2A-6. Compensation and expenses of family court judges and their staffs.**

1            (a) A family court judge ~~is entitled to~~ may receive as compensation for his or her services  
2 an annual salary of \$62,500: *Provided,* That beginning July 1, 2005, a family court judge ~~is entitled~~  
3 ~~to~~ may receive as compensation for his or her services an annual salary of \$82,500: *Provided,*  
4 *however,* That beginning July 1, 2011, the annual salary of a family court judge shall be \$94,500:  
5 *Provided further,* That beginning July 1, 2020, the annual salary of a family court judge shall be

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6 ~~\$103,950-: *And provided further*, That beginning July 1, 2025, the annual salary of a family court~~  
7 ~~judge shall be \$125,416.~~

8 (b) The secretary-clerk of the family court judge is appointed by the family court judge and  
9 serves at his or her will and pleasure. The secretary-clerk of the family court shall be paid at least  
10 twice per month by the state. The annual salary of all secretary-clerks of the family court is  
11 ~~\$42,576. Beginning July 1, 2023, the annual salary of a family court secretary clerk shall be~~  
12 ~~\$44,876. shall be determined by a pay scale established by the Administrative Director of the~~  
13 ~~Supreme Court of Appeals.~~ Family court secretary-clerks may receive any general salary increase  
14 granted to state employees, whose salaries are not set by statute, expressed as a percentage  
15 increase or an across-the-board increase enacted after July 1, 2023.

16 (c) The family court judge may employ not more than one family case coordinator who  
17 serves at his or her will and pleasure: *Provided*, That the Supreme Court of Appeals may authorize  
18 additional family case coordinators if the workload of a circuit's family court requires extra staff  
19 support. The annual salary of the family case coordinator of the family court judge ~~shall be~~  
20 ~~established by the Administrative Director of the Supreme Court of Appeals but may not exceed~~  
21 ~~\$54,576. Beginning July 1, 2023, the annual salary of a family court case coordinator shall not~~  
22 ~~exceed \$56,876. shall be determined by a pay scale established by the Administrative Director of~~  
23 ~~the Supreme Court of Appeals.~~ Family court case coordinators may receive any general salary  
24 increase granted to state employees, whose salaries are not set by statute, expressed as a  
25 percentage increase or an across-the-board increase enacted after July 1, 2023. If more than one  
26 family case coordinator is approved by the Supreme Court of Appeals, then the chief family court  
27 judge of that circuit shall appoint, supervise, and assign job duties for any additional family case  
28 coordinator as needed for that circuit.

29 (d) The sheriff or his or her designated deputy shall serve as a bailiff for a family court  
30 judge. The sheriff of each county shall serve or designate persons to serve so as to assure that a

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bailiff is available when a family court judge determines the same is necessary for the orderly and efficient conduct of the business of the family court.

(e) Disbursement of salaries for family court judges and members of their staffs are made by or pursuant to the order of the Director of the Administrative Office of the Supreme Court of Appeals.

(f) Family court judges and members of their staffs staff are allowed their actual and necessary expenses incurred in the performance of their duties. The expenses and compensation will be determined and paid by the Director of the Administrative Office of the Supreme Court of Appeals under such guidelines as he or she may prescribe, as approved by the Supreme Court of Appeals.

(g) The Supreme Court of Appeals ~~is authorized to~~ may create additional classifications of support staff that it deems necessary to adequately and efficiently staff the family courts of this state, including, but not limited to, receptionists, assistant case coordinators, and assistant secretary-clerks. The Supreme Court of Appeals may determine the authority to hire and terminate, supervise, and assign job duties for these positions pursuant to its own employment rules, policies, and procedures. The annual salary of additional support staff authorized by this section shall not exceed the regular annual salary of a secretary-clerk and shall be paid by the state on the same basis established for secretary-clerks as provided in this section.

## **ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF COURTS OF RECORD.**

### **§51-9-4. Required percentage contributions from salaries; any termination of required contributions prior to actual retirement disallowed; leased employees; military service credit; maximum allowable and qualified military service; qualifiable prosecutorial service.**

(a) Every person who is now serving or shall hereafter serve as a judge of any court of record of this state shall pay into the Judges' Retirement Fund six percent of the salary received by

3 such person out of the State Treasury: *Provided*, That when a judge becomes eligible to receive  
4 benefits from such trust fund by actual retirement, no further payment by him or her shall be  
5 required, since such employee contribution, in an equal treatment sense, ceases to be required in  
6 the other retirement systems of the state, also, only after actual retirement: *Provided, however*,  
7 That on and after January 1, 1995, every person who is then serving or shall thereafter serve as a  
8 judge of any court of record in this state shall pay into the Judges' Retirement Fund nine percent of  
9 the salary received by that person: *Provided further*, That consistent with the salary increase  
10 granted to judges of courts of record during the 2005 regular legislative session and to changes  
11 effectuated in judicial retirement by provisions enacted during the third extraordinary legislative  
12 session of 2005, on and after July 1, 2005, every person who is then serving or shall thereafter  
13 serve as a judge of any court of record in this state shall pay into the Judges' Retirement Fund ten  
14 and one-half percent of the salary received by that person: *And provided further*, That on and after  
15 July 1, 2013, except as provided in subsection (b) of this section, every person who is then serving  
16 or shall thereafter serve as a judge of any court of record in this state and who elects to participate  
17 in this retirement system shall pay into the Judges' Retirement Fund seven percent of the salary  
18 received. Any prior occurrence or practice to the contrary, in any way allowing discontinuance of  
19 required employee contributions prior to actual retirement under this retirement system, is rejected  
20 as erroneous and contrary to legislative intent and as violative of required equal treatment and is  
21 hereby nullified and discontinued fully, with the State Auditor to require such contribution in every  
22 instance hereafter, except where no contributions are required to be made under any of the  
23 provisions of this article.

24 (b) On and after July 1, 2014, every person who is serving or shall hereafter serve as a  
25 judge of any court of record of this state and who elects to participate in this retirement system  
26 shall contribute to the fund an amount determined by the board. This amount will be based on the  
27 annual actuarial valuation prepared by the State Actuary: *Provided*, That the contribution will be no  
28 less than seven percent or no more than ten and one-half percent of the participant's annual

compensation.

(c) On or after July 1, 2013, and each year thereafter, the annual actuarial valuation prepared by the State Actuary for determination of all participants' contributions and the annual actuarially required contribution prepared by the State Actuary for use by the courts of this state for legislative appropriation shall be provided to the Legislature's Joint Committee on Government and Finance and the Joint Committee on Pensions and Retirement: Provided, That the responsibility of the courts to pay, deposit, or transfer the calculated contribution into the plan shall be suspended until such time that the actual overfunded nature of the pension fund has fallen below a rate of 150 percent, or until July 1, 2029, whichever comes sooner in time.

(d) An individual who is a leased employee shall not be eligible to participate in the system. For purposes of this system, a "leased employee" means any individual who performs services as an independent contractor or pursuant to an agreement with an employee leasing organization or other similar organization. If a question arises regarding the status of an individual as a leased employee, the board has the final power to decide the question.

(e) In drawing warrants for the salary checks of judges, the State Auditor shall deduct from the amount of each such salary check six percent thereof, which amount so deducted shall be credited by the Consolidated Public Retirement Board to the trust fund: *Provided*, That on or after January 1, 1995, the amount so deducted and credited shall be nine percent of each such salary check: *Provided, however*, That consistent with the salary increase granted to judges of courts of record during the 2005 regular legislative session and to changes effectuated in judicial retirement by provisions enacted during the third extraordinary legislative session of 2005, on or after July 1, 2005, the amount so deducted and credited shall be ~~ten~~ 10 and one-half percent of each such salary check: *Provided further*, That on and after July 1, 2013, except as provided in subsection (b) of this section, the amount so deducted and credited shall be seven percent of each salary check: *And provided further*, That on and after July 1, 2014, the amount so deducted and credited will be determined by the board.

55 (f) Any judge seeking to qualify military service to be claimed as credited service, in  
56 allowable aggregate maximum amount up to five years, shall be entitled to be awarded the same  
57 without any required payment in respect thereof to the Judges' Retirement Fund.

58 (g) Notwithstanding the preceding provisions of this section, contributions, benefits, and  
59 service credit with respect to qualified military service shall be provided in accordance with Section  
60 414(u) of the Internal Revenue Code. For purposes of this section, "qualified military service" has  
61 the same meaning as in Section 414(u) of the Internal Revenue Code. The Retirement Board is  
62 authorized to determine all questions and make all decisions relating to this section and may  
63 promulgate rules relating to contributions, benefits and service credit pursuant to the authority  
64 granted to the retirement board in ~~section one, article ten-d, chapter five~~ §5-10D-1 of this code to  
65 comply with Section 414(u) of the Internal Revenue Code.

66 (h) Any judge holding office as such on the effective date of the amendments to this article  
67 adopted by the Legislature at its 1987 regular session who seeks to qualify service as a  
68 prosecuting attorney as credited service, which service credit must have been earned prior to the  
69 year 1987, shall be required to pay into the Judges' Retirement Fund nine percent of the annual  
70 salary which was actually received by such person as prosecuting attorney during the time such  
71 prosecutorial service was rendered prior to the year 1987 and for which credited service is being  
72 sought, together with applicable interest. No judge whose term of office shall commence after the  
73 effective date of such amendments to this article shall be eligible to claim any credit for service  
74 rendered as a prosecuting attorney as eligible service for retirement benefits under this article, nor  
75 shall any time served as a prosecutor after the year 1988 be considered as eligible service for any  
76 purposes of this article.

**§51-9-6a. Eligibility benefits; service and retirement of judges over sixty-five 65 years of age.**

1 (a) Any judge of a court of record of this state who shall have served for a period of not less  
2 than eight full years after attaining the age of ~~sixty-five~~ 65 years and who shall have made

3 payments into the Judges' Retirement Fund as provided in this article for each month during which  
4 he or she served as such judge following the effective date of this section, shall be subject to all the  
5 applicable terms and provisions of this article, not inconsistent with the provisions hereof, and shall  
6 receive retirement benefits in an amount equal to seventy-five percent of the annual salary of the  
7 office from which he or she has retired based upon such salary of such office as such salary may  
8 be changed from time to time during the period of his or her retirement and the amount of his or her  
9 retirement benefits shall be based upon and be equal to seventy-five percent of the highest annual  
10 salary of such office for any one calendar year during the period of his or her retirement and shall  
11 be payable in monthly installments. If such judge shall become incapacitated to perform his or her  
12 said duties before the expiration of his or her said term and after serving for six years thereof, and  
13 upon the acceptance of his or her resignation as in this article provided, he or she shall be paid the  
14 annual retirement benefits as herein provided so long as he or she shall live. The provisions of this  
15 section shall prevail over any language to the contrary in this article contained, except those  
16 provisions of sections twelve-a and twelve-b of this article: *Provided*, That no individual who is  
17 appointed or elected for the first time as judge of a court of record of this state after July 1, 2005, is  
18 eligible for retirement under this section.

19 (b) Any individual who is appointed or elected for the first time as a family court judge, a  
20 judge of a court of record, judge of the Intermediate Court of Appeals, or as a justice of the  
21 Supreme Court of Appeals of West Virginia, of this State after July 1, 2005, who having attained  
22 the age of 65 years, and who served as a sitting judge of said court or courts for a period of not less  
23 than 12 full years, and who made payments into the Judges' Retirement Fund as provided in this  
24 article for each month during which he or she served as a judge or justice, is eligible to receive the  
25 pension to which he or she would otherwise have been entitled to receive as if at 16 years of  
26 credited service, but with an actuarial reduction of pension benefit to be established as a reduced  
27 annuity receivable throughout retirement, and shall be paid as an annual retirement benefit as  
28 herein provided as long as he or she lives.

**§51-9-6b. Annuities for surviving spouses and surviving dependent children of judges; automatic escalation and increase of annuity benefit; proration designation by judge permitted.**

(a) There shall be paid, from the fund created or continued by section two of this article, or from such funds as may be appropriated by the Legislature for such purpose, an annuity to the surviving spouse of a judge, if such judge at the time of his or her death is eligible for the retirement benefits provided by any of the provisions of this article, or who has, at death, actually served five years or more as a sitting judge of any court of record of this state, exclusive of any other service credit to which such judge may otherwise be entitled, and who dies either while in office or after resignation or retirement from office pursuant to the provisions of this article. Said annuity shall amount to ~~forty~~ fifty percent of the annual salary of the office which said judge held at his or her death or from which he or she resigned or retired. In the event said salary is increased or decreased while an annuitant is receiving the benefits hereunder, his or her annuity shall amount to forty percent of the new salary: ~~Provided, That with respect to any individual who is appointed or elected for the first time as judge of a court of record of this state after July 1, 2005, any annuity to the surviving spouse of the judge shall be an amount equal to forty percent of the judge's final average salary: Provided, however,~~ That the annuitant is not entitled to an increase in benefits by virtue of any increase in the salaries of the offices of circuit court judge or Justice of the Supreme Court of Appeals. The annuity granted hereunder shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month for which the annuity shall have accrued. Such annuity shall commence on the first day of the month in which said judge dies and shall, subject to the provisions of subsection (b) of this section, terminate upon the death of the annuitant or shall terminate upon the remarriage of the annuitant.

(b) If there be no surviving spouse at the time of death of a judge who dies after serving five years or more as a sitting judge of any court of record and such judge leaves surviving him or her any dependent child or children, such dependent child or children shall receive an amount equal to

twenty percent of the annual salary of the office which said judge held at the time of his or her death: *Provided*, That the total of all such annuities payable to each such child shall not exceed in the aggregate an amount equal to forty percent of such salary. Such annuity shall continue as to each such child until: (i) He or she or she attains the age of eighteen years; or (ii) attains the age of twenty-three years so long as such child remains a full-time student. The Auditor shall by legislative rule establish the criteria for determining a person's status as a full-time student within the meaning and intent of this subsection. In the event there are surviving any such judge three or more dependent children, then each such child's annuity shall be proratably reduced in order that the aggregate annuity received by all such dependent children does not exceed forty percent of such salary and the amount to be so received by any such child shall continue throughout the entire period during which each such child is eligible to receive such annuity. The provisions of this subsection shall also apply to those circumstances and situations wherein a surviving spouse of a deceased judge shall die while receiving benefits pursuant to subsection (a) of this section and who shall leave surviving dependent children of such deceased judge who would be entitled to benefits under this subsection as if they had succeeded to such annuity benefits upon the death of such judge in the first instance. In the event the salary of judges is increased or decreased while an annuitant is receiving benefits pursuant to this subsection, the annuities payable shall be likewise increased or decreased proportionately to reflect such change in salary: *Provided, however*, That ~~with respect to any individual who is appointed or elected for the first time as judge of a court of record of this state after July 1, 2005, any annuity to any children of the judge shall be calculated with respect to the judge's final average salary:~~ *Provided further*, That the child is not entitled to an increase in benefits by virtue of any increase in the salaries of the offices of circuit court judge or Justice of the Supreme Court of Appeals. The annuities granted hereunder shall accrue monthly and shall be due and payable in monthly installments on the same day as surviving spouses' benefits are required to be paid. Such annuities shall commence on the first day of the month in which any such dependent child becomes eligible for benefits hereunder and shall terminate on

the last day of the month during which such eligibility ceases.

**§51-9-6c. Limitations on benefit increases.**

(a) The state shall not increase any existing benefits or create any new benefits for any retirees or beneficiaries currently receiving monthly benefit payments from the system, other than an increase in benefits or new benefits effected by operation of law in effect on the effective date of this article, in an amount that would exceed more than one percent of the accrued actuarial liability of the system as of the last day of the preceding fiscal year as determined in the annual actuarial valuation for the plan completed for the Consolidated Public Retirement Board as of the first day of the following fiscal year as of the date the improvement is adopted by the Legislature.

(b) If any increase of existing benefits or creation of new benefits for any retirees or beneficiaries currently receiving monthly benefit payments under the system, other than an increase in benefits or new benefits effected by operation of law in effect on the effective date of this article, causes any additional unfunded actuarial accrued liability in any of the West Virginia state sponsored pension systems as calculated in the annual actuarial valuation for the plan during any fiscal year, the additional unfunded actuarial accrued liability of the system shall be fully amortized over no more than the six consecutive fiscal years following the date the increase in benefits or new benefits become effective as certified by the Consolidated Public Retirement Board. Following the receipt of the certification of additional actuarial accrued liability, the Governor shall submit the amount of the amortization payment each year for the system as part of the annual budget submission or in an executive message to the Legislature.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the computation of annuities or benefits for active members due to retirement, death or disability as provided for in the system shall not be amended in such a manner as to increase any existing benefits or to provide for new benefits.

(d) The provisions of this section terminate effective ~~July 1, 2019~~ July 1, 2029: *Provided*, That if bonds are issued pursuant to article eight, chapter twelve of this code, the provisions of this

25 section shall not terminate while any of the bonds are outstanding.

**§51-9-6d. Adjusted annual retirement benefit calculations.**

[Repealed]

**ARTICLE 11. THE WEST VIRGINIA APPELLATE REORGANIZATION ACT.**

**§51-11-11. Judicial compensation and benefits; expenses.**

1 (a) The annual salary of a Judge of the Intermediate Court of Appeals is \$142,500-;  
2 Provided, That beginning July 1, 2025 the annual salary of a Judge of the Intermediate Court of  
3 Appeals shall be \$159,600. The budget for the payment of compensation and expenses of  
4 Intermediate Court of Appeals judges shall be included in the appropriation for the Supreme Court  
5 of Appeals.

6 (b) Judges of the Intermediate Court of Appeals and staff shall be reimbursed for their  
7 actual and necessary expenses incurred in the performance of their duties under the guidelines  
8 prescribed by the Administrative Director of the Supreme Court of Appeals.