



**JUDICIAL INVESTIGATION COMMISSION**

City Center East - Suite 1200 A  
4700 MacCorkle Ave., SE  
Charleston, West Virginia 25304  
(304) 558-0169 • FAX (304) 558-0831

March 26, 2019

Re: JIC Advisory Opinion 2019-06.

Dear Delegate

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission at its March 22, 2019 meeting. The factual scenario giving rise to your request is as follows:

You have been a member of the West Virginia House of Delegates since 2006. Your current term of office ends on December 31, 2020. You are contemplating running for Magistrate of \_\_\_\_\_ County in the May 2020 election. If you win, you would likely not take a seat on the bench until January 1, 2021. You want to know if you would be required to resign your seat in the House of Delegates to run for judicial office. You also want to know whether you could complete your legislative term if you are elected Magistrate or would you be required to resign once the results were certified in late May or early June 2020.

Unlike some other states, West Virginia does not have a resign to run law covering legislators who want to run for judicial office. In *JIC Advisory Opinion 2018-20*, the Commission stated that it would be improper for this body "to craft such a rule given the complexity of the question as legislators make the laws that judges must interpret." Since there is no statute, rule or provision that requires you to resign your legislative seat, the Commission is of the opinion that you can concurrently serve as a Delegate while simultaneously running for judicial office. Furthermore, the Commission is of the opinion that if elected, you may retain your legislative seat until such time as you take the oath of office for Magistrate. Importantly, the Commission wishes to remind you that while you are a candidate for judicial office you must follow Rules 4.1 through 4.5; and if you are

elected, you will be immediately subject to the other provisions of the Code of Judicial Conduct.

It is hoped that this opinion fully addresses the issues which you have raised. Please do not hesitate to contact the Commission if you have any other questions regarding this matter.

Sincerely,

A handwritten signature in blue ink, reading "Alan D. Moats", with a horizontal line extending to the right.

The Honorable Alan D. Moats, Chairperson  
Judicial Investigation Commission

ADM/tat