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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 2120**

(By Delegates Boggs and Mahan)



19

Passed February 16, 2007

In Effect Ninety Days from Passage



WEST VIRGINIA HOUSE OF DELEGATES

OFFICE OF THE CLERK **FILED**

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

M. GRAY
THE HOUSE

April 16, 2007

Honorable Betty Ireland
Secretary of State
Capitol
Charleston, WV 25305

Secretary Ireland:

As Keeper of the Rolls of the Legislature, I have visited your Office and, working with your courteous and professional assistant, Mr. Ben Beeks, I have corrected an incorrect passage date on the cover and within brackets on the first page of Enrolled Committee Substitute for House Bill 2120, the original of which is filed in your Office.

As printed, the incorrect passage date was February 16, 2007. The actual, corrected passage date is February 19, 2007. You will note my signature affixed to the handwritten correction.

Since this bill is effective ninety days from passage, and since the passage date is actually three days later than anticipated, I am also notifying the Governor and the Superintendent of the State Police concerning this adjustment inasmuch as it requires the State Police to conduct criminal background checks of persons applying for appointment or election to municipal judgeships.

Should you have particular questions or if I or my office may be of assistance to you, please do not hesitate to call upon me.

Thank you for your continued cooperation.

Very truly yours,

Gregory M. Gray
Clerk of the House

Honorable Joe Manchin III, Governor
Colonel D. L. Lemmon, Superintendent

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SECRETARY OF STATE

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COMMITTEE SUBSTITUTE

FOR

H. B. 2120

(BY DELEGATES BOGGS AND MAHAN)

19

[Passed February 16, 2007; in effect ninety days from passage.]

*de
Boggs on Conf
Check of the Senate*

AN ACT to amend and reenact §8-10-2 of the Code of West Virginia, 1931, as amended, relating to prescribing minimum standards for municipal judges; requiring criminal background checks of persons applying for municipal judgeships; excluding persons convicted of certain offenses from serving as municipal judge; and requiring municipal judges receive continuing legal training.

Be it enacted by the Legislature of West Virginia:

That §8-10-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 10. POWERS AND DUTIES OF CERTAIN OFFICERS.

§8-10-2. Municipal court for municipalities.

1 (a) Notwithstanding any charter provision to the contrary,
2 any city may provide by charter provision and any
3 municipality may provide by ordinance for the creation and
4 maintenance of a municipal court, for the appointment or
5 election of an officer to be known as municipal court judge
6 and for his or her compensation, and authorize the exercise
7 by the court or judge of the jurisdiction and the judicial
8 powers, authority and duties set forth in section one of this
9 article and similar or related judicial powers, authority and
10 duties enumerated in any applicable charter provisions, as set
11 forth in the charter or ordinance. Additionally, any city may
12 provide by charter provision and any municipality may
13 provide by ordinance, that in the absence of or in the case of
14 the inability of the municipal court judge to perform his or
15 her duties, the municipal court clerk or other official
16 designated by charter or ordinance may act as municipal
17 court judge: *Provided*, That the municipal court clerk or
18 other official designated by charter or ordinance to act as
19 municipal court judge shall comply with the requirements set
20 forth in subsections (b) and (c) of this section, as well as any
21 other requirements that the city by charter provision or the
22 municipality by ordinance may require.

23 (b) Any person who makes application for appointment
24 to, or who files to become a candidate in any election for
25 municipal judge, shall first submit to a criminal background
26 check, to be conducted by the State Police. The cost of the
27 criminal background check shall be paid by the applicant or
28 candidate. The result of each background check conducted
29 in accordance with this section shall be forwarded to the
30 municipal court clerk or recorder whose duty it is to review
31 the results and confirm the eligibility of the applicant or
32 candidate to serve as a municipal judge. No person convicted
33 of a felony or any misdemeanor crime set forth in articles
34 eight, eight-A, eight-B, eight-C or eight-D, chapter sixty-one,
35 of this code is eligible to become a municipal judge.

36 (c) Any person who assumes the duties of municipal
37 court judge who has not been admitted to practice law in this
38 state shall attend and complete the next available course of

39 instruction in rudimentary principles of law and procedure.
40 The course shall be conducted by the municipal league or a
41 like association whose members include more than one half
42 of the chartered cities and municipalities of this state. The
43 instruction must be performed by or with the services of an
44 attorney licensed to practice law in this state for at least three
45 years. Any municipal court judge shall, additionally, be
46 required to attend a course, on an annual basis for the purpose
47 of continuing education: *Provided*, That the forgoing
48 additional education requirement does not apply to municipal
49 judges who are attorneys admitted to practice in this state.
50 The cost of any course referred to in this section shall be paid
51 by the municipality that employs the municipal judge.

52 (d) Only a defendant who has been charged with an
53 offense for which a period of confinement in jail may be
54 imposed is entitled to a trial by jury. If a municipal court
55 judge determines, upon demand of a defendant, to conduct a
56 trial by jury in a criminal matter, it shall follow the
57 procedures set forth in the rules of criminal procedure for
58 magistrate courts promulgated by the Supreme Court of
59 Appeals, except that the jury in municipal court shall consist
60 of twelve members.

Enr. Com. Sub. for H.B. 2120]

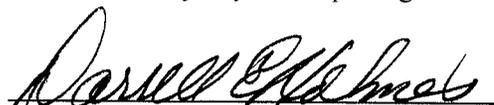
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

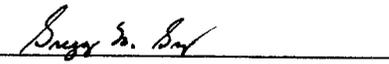

Chairman Senate Committee

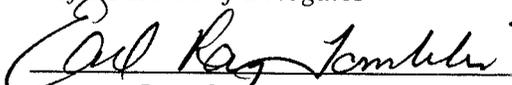

Chairman House Committee

Originating in the House.

In effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 19th
day of March, 2007.


Governor

PRESENTED TO THE
GOVERNOR

FEB 23 2007

Time 3:30