WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2120

(By Delegates Boggs and Mahan)

Passed February 16, 2007

In Effect Ninety Days from Passage
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 generous and professional assistant, Mr. Ben Beeks, I have corrected an incorrect passage date on the first page of Enrolled Committee Substitute for House Bill 2120, 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 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
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.
(a) Notwithstanding any charter provision to the contrary, any city may provide by charter provision and any municipality may provide by ordinance for the creation and maintenance of a municipal court, for the appointment or election of an officer to be known as municipal court judge and for his or her compensation, and authorize the exercise by the court or judge of the jurisdiction and the judicial powers, authority and duties set forth in section one of this article and similar or related judicial powers, authority and duties enumerated in any applicable charter provisions, as set forth in the charter or ordinance. Additionally, any city may provide by charter provision and any municipality may provide by ordinance, that in the absence of or in the case of the inability of the municipal court judge to perform his or her duties, the municipal court clerk or other official designated by charter or ordinance may act as municipal court judge: Provided, That the municipal court clerk or other official designated by charter or ordinance to act as municipal court judge shall comply with the requirements set forth in subsections (b) and (c) of this section, as well as any other requirements that the city by charter provision or the municipality by ordinance may require.

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

(c) Any person who assumes the duties of municipal court judge who has not been admitted to practice law in this state shall attend and complete the next available course of
instruction in rudimentary principles of law and procedure. The course shall be conducted by the municipal league or a like association whose members include more than one half of the chartered cities and municipalities of this state. The instruction must be performed by or with the services of an attorney licensed to practice law in this state for at least three years. Any municipal court judge shall, additionally, be required to attend a course, on an annual basis for the purpose of continuing education: Provided, That the forgoing additional education requirement does not apply to municipal judges who are attorneys admitted to practice in this state. The cost of any course referred to in this section shall be paid by the municipality that employs the municipal judge.

(d) Only a defendant who has been charged with an offense for which a period of confinement in jail may be imposed is entitled to a trial by jury. If a municipal court judge determines, upon demand of a defendant, to conduct a trial by jury in a criminal matter, it shall follow the procedures set forth in the rules of criminal procedure for magistrate courts promulgated by the Supreme Court of Appeals, except that the jury in municipal court shall consist 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 15th day of March, 2007.

Governor
PRESENTED TO THE GOVERNOR

FEB 23 2007

Time 3:20p