

Senate Bill No. 282

(By Senator Barnes)

[Introduced January 8, 2014; referred to the Committee on the
Judiciary.]

A BILL to amend and reenact §8-10-2 of the Code of West Virginia,
1931, as amended, relating to decreasing the number of jurors
on a municipal jury in criminal matters from twelve to six.

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~~
a city may provide by charter provision and ~~any~~ a 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

1 forth in section one of this article and similar or related
2 judicial powers, authority and duties enumerated in any applicable
3 charter provisions, as set forth in the charter or ordinance.
4 Additionally, ~~any~~ a city may provide by charter provision and ~~any~~
5 a municipality may provide by ordinance, that in the absence of or
6 ~~in the case of~~ the inability of the municipal court judge to
7 perform his or her duties, the municipal court clerk or other
8 official designated by charter or ordinance may act as municipal
9 court judge: *Provided*, That the municipal court clerk or other
10 official designated by charter or ordinance to act as municipal
11 court judge shall comply with the requirements set forth in
12 subsections (b) and (c) of this section, as well as any other
13 requirements that the city by charter provision or the municipality
14 by ordinance may require.

15 (b) ~~Any~~ A person who makes application for appointment to or
16 who files to become a candidate in any election for municipal
17 judge, shall first submit to a criminal background check to be
18 conducted by the State Police. The cost of the criminal background
19 check shall be paid by the applicant or candidate. The result of
20 each background check conducted in accordance with this section
21 shall be forwarded to the municipal court clerk or recorder whose
22 duty it is to review the results and confirm the eligibility of the
23 applicant or candidate to serve as a municipal judge. No person
24 convicted of a felony or any misdemeanor crime set forth in

1 articles eight, eight-a, eight-b, eight-c or eight-d, chapter
2 sixty-one, of this code is eligible to become a municipal judge.

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

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

1 ~~twelve~~ six members.

NOTE: The purpose of this bill is to decrease the number of jurors on a municipal jury in criminal matters from twelve to six.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.