

Senate Bill No. 272

(By Senator Karnes)

[Introduced January 21, 2015; referred to the Committee on Government Organization; and then
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 forth in section one of this article and similar or
related judicial powers, authority and duties enumerated in any applicable charter provisions, as set

1 forth in the charter or ordinance. Additionally, ~~any~~ a city may provide by charter provision and ~~any~~
2 a municipality may provide by ordinance, that in the absence of or ~~in the case of~~ the inability of the
3 municipal court judge to perform his or her duties, the municipal court clerk or other official
4 designated by charter or ordinance may act as municipal court judge: *Provided*, That the municipal
5 court clerk or other official designated by charter or ordinance to act as municipal court judge shall
6 comply with the requirements set forth in subsections (b) and (c) of this section, as well as any other
7 requirements that the city by charter provision or the municipality by ordinance may require.

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

16 (c) ~~Any~~ A person who assumes the duties of municipal court judge who has not been
17 admitted to practice law in this state shall attend and complete the next available course of
18 instruction in rudimentary principles of law and procedure. The course shall be conducted by the
19 municipal league or a like association whose members include more than one half of the chartered
20 cities and municipalities of this state. The instruction must be performed by or with the services of
21 an attorney licensed to practice law in this state for at least three years. ~~Any~~ A municipal court judge
22 ~~shall, additionally, be~~ is required to attend a course on an annual basis for the purpose of continuing

1 education. ~~Provided, That the forgoing~~ This additional education requirement does not apply to
2 municipal judges who are attorneys admitted to practice in this state. The cost of any course referred
3 to in this section shall be paid by the municipality that employs the municipal judge.

4 (d) Only a defendant who has been charged with an offense for which a period of
5 confinement in jail may be imposed is entitled to a trial by jury. If a municipal court judge
6 determines, upon demand of a defendant, to conduct a trial by jury in a criminal matter, it shall
7 follow the procedures set forth in the rules of criminal procedure for magistrate courts promulgated
8 by the Supreme Court of Appeals, except that the jury in municipal court shall consist of ~~twelve~~ six
9 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.