

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2550

By Delegates Funkhouser, Anders, and Ridenour

[Introduced February 18, 2025; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §8-10-2 of the Code of West Virginia, 1931, as amended, relating to
2 municipal courts; establishing when a defendant is entitled to a trial by jury.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10. POWERS AND DUTIES OF CERTAIN OFFICERS.

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

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

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

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

32 (d) Only a defendant who has been charged with an offense for which a period of
33 confinement in jail may be imposed, or a fine of more than \$5,000 may be imposed, is entitled to a
34 trial by jury. If a municipal court judge determines, upon demand of a defendant, to conduct a trial
35 by jury in a criminal matter, it shall follow the procedures set forth in the rules of criminal procedure
36 for magistrate courts promulgated by the Supreme Court of Appeals, except that the jury in
37 municipal court shall consist of twelve members.

NOTE: The purpose of this bill is to establish that a defendant who may be fined \$5,000 or more is entitled to a trial by jury.

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