

1 House BILL NO. 421
2 INTRODUCED BY Hoffman

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
5 CERTIFICATION AND TRAINING REQUIREMENTS FOR JUDGES OF COURTS
6 OF LIMITED JURISDICTION; CLARIFYING THE QUALIFICATIONS FOR
7 OFFICE OF JUDGES OF COURTS OF LIMITED JURISDICTION;
8 REQUIRING THAT THE SUPREME COURT BE NOTIFIED OF THE ELECTION
9 OR APPOINTMENT OF A JUDGE OF A COURT OF LIMITED
10 JURISDICTION; AMENDING SECTIONS 3-1-1502, 3-1-1503, 3-6-202,
11 3-10-202, 3-10-231, AND 13-15-405, MCA; AND PROVIDING AN
12 IMMEDIATE EFFECTIVE DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 **Section 1.** Section 3-1-1502, MCA, is amended to read:
16 "3-1-1502. Training and certification of judges. Except
17 as provided in 3-1-1503, no judge selected for a term of
18 office commencing--on--or--after--January--67--1967 may assume
19 the functions of his office unless he has filed with the
20 county clerk and recorder in his jurisdiction a certificate
21 of completion of a course of education and training
22 prescribed by the commission."

23 **Section 2.** Section 3-1-1503, MCA, is amended to read:
24 "3-1-1503. Exception -- temporary certificate. (1)
25 Section 3-1-1502 does not apply to a judge who has received

1 a temporary certificate issued by the commission as provided
2 for in subsection (2).

3 (2) The commission may issue a temporary certificate
4 enabling a judge to assume the functions of his office
5 pending completion of a course as required by 3-1-1502. The
6 temporary certificate must be in a form and subject to the
7 terms and conditions prescribed by the commission.

8 (3) The commission may issue a temporary certificate
9 only if:

10 (a) the judge is appointed or elected for--his--first
11 term after the course is offered; or

12 (b) the commission grants an excuse because of a
13 personal illness, a death in the family, or other good
14 cause.

15 (4) The appointing authority for an appointed judge
16 shall notify the commission of the person appointed, and the
17 person appointed must be certified as provided in 3-1-1502
18 or this section prior to assuming office."

19 **Section 3.** Section 3-6-202, MCA, is amended to read:

20 "3-6-202. Qualifications -- certification -- training.

21 (1) A municipal court judge must have the same
22 qualifications as a judge of a district court, as set forth
23 in Article VII, section 9, of the 1972 Montana constitution,
24 except that a municipal court judge need only be admitted to
25 the practice of law in Montana for at least 2 years prior to

1 the date of appointment or election.

2 (2) A municipal court judge must be a resident and
3 voter in the city in which he is elected at the time of his
4 election.

5 (3) A municipal court judge must be certified as
6 provided in 3-1-1502 or 3-1-1503 prior to assuming office.

7 (4) There must be two mandatory annual training
8 sessions supervised by the supreme court for all elected and
9 appointed municipal court judges. One of the training
10 sessions may be held in conjunction with the Montana
11 magistrates' association convention. Actual and necessary
12 travel expenses, as defined and provided for in 2-18-501
13 through 2-18-503, and the costs of registration and books
14 and other materials must be paid to the elected or appointed
15 municipal court judge for attending the sessions by the city
16 in which he holds or will hold court and must be charged
17 against that city.

18 (5) Each municipal court judge shall attend the
19 training sessions provided for in subsection (4). Failure to
20 attend disqualifies a judge from office and creates a
21 vacancy in the office. However, the supreme court may excuse
22 a municipal court judge from attendance because of illness,
23 a death in the family, or any other good cause."

24 **Section 4.** Section 3-10-202, MCA, is amended to read:

25 "3-10-202. Oath -- qualifications proof of

1 certification. (1) Each justice of the peace, elected or
2 appointed, after he has received his certificate of election
3 or appointment, shall, before entering upon the duties of
4 his office, take the constitutional oath of office, which
5 must be filed with the county clerk.

6 (2) Before the county clerk may file the oath, the
7 elected or appointed justice must satisfy the clerk that he
8 is either:

9 ~~(a) an attorney at law authorized to practice law in~~
10 ~~the state of Montana;~~

11 ~~(b) a person who has held the office of justice of the~~
12 ~~peace within the preceding 5 years; or~~

13 ~~(c) a person who has completed the orientation course~~
14 ~~of study held under the direction of the supreme court or~~
15 ~~has been excused by the supreme court certified as provided~~
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17 ~~course is offered, he must agree to take the course at the~~
18 ~~next offering and failure to do so will disqualify him."~~

19 **Section 5.** Section 3-10-231, MCA, is amended to read:

20 "3-10-231. Circumstances in which an acting justice
21 called in -- by whom. (1) Whenever a justice of the peace is
22 disqualified from acting in any action because of the
23 application of the supreme court's rules on disqualification
24 and substitution of judges, subdivision 1, 2, or 3, he shall
25 either transfer the action to another justice's court in the

1 same county or call a justice from a neighboring county to
2 preside in his behalf.

3 (2) Within 30 days of taking office, a justice of the
4 peace shall provide a list of persons who are qualified to
5 hold court in his place during a temporary absence when no
6 other justice or city judge is available. The persons listed
7 must be of good moral character and have community support,
8 a sense of community standards, and a basic knowledge of
9 court procedure. The county commissioners shall administer
10 the oath of office to each person on this list ~~within the~~
11 ~~ensuing-30-days-or~~ as soon thereafter as possible after the
12 person has received a waiver of training from the supreme
13 court.

14 (3) Whenever a justice is sick, disabled, or absent,
15 the justice may call in another justice, if there is one
16 readily available, or a city judge or a person from the list
17 provided for in subsection (2) to hold court for the absent
18 judge until his return. If the justice is unable to call in
19 a substitute, the county commissioners shall call in another
20 justice, a city judge, or a person from the list provided
21 for in subsection (2).

22 (4) During the time when a justice of the peace is on
23 vacation or attending a training session, another justice of
24 the peace of the same county shall be authorized to handle
25 matters that otherwise would be handled by the absent

1 justice. When there is no other justice of the peace in the
2 county, the justice of the peace may designate another
3 person in the same manner as if the justice were sick or
4 absent.

5 (5) A justice of the peace of any county may hold the
6 court of any other justice of the peace at his request."

7 **Section 6.** Section 13-15-405, MCA, is amended to read:

8 "13-15-405. Declaration or certification of results.

9 (1) The board shall declare nominated or elected the
10 individuals having the highest number of votes cast for each
11 county and precinct office, except as provided in 13-10-204.

12 (2) The board shall proclaim the adoption or rejection
13 of a county ballot issue.

14 (3) The board shall certify the results of the canvass
15 of votes cast for individuals for political subdivision
16 offices and for and against political subdivision ballot
17 issues to the governing body of each political subdivision
18 participating in the election.

19 (4) If there is a tie vote for a county office, an
20 office of a political subdivision wholly within the county,
21 a precinct office, or a ballot issue voted on only in that
22 county or portion of that county, the board shall certify
23 the vote to the election administrator.

24 (5) The board shall certify the results of the canvass
25 of votes cast for justice of the peace, city judge, and

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1 municipal court judge to the supreme court in order to
2 ensure compliance with 3-1-1502 or 3-1-1503."

3 NEW SECTION. Section 7. Effective date. [This act] is
4 effective on passage and approval.

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APPROVED BY COMMITTEE
ON JUDICIARY

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18 office ~~commencing--on--or--after--January--6--1986,~~ may assume
19 the functions of his office unless he has filed with the
20 county clerk and recorder in his jurisdiction a certificate
21 of completion of a course of education and training
22 prescribed by the commission."

23 Section 2. Section 3-1-1503, MCA, is amended to read:

24 "3-1-1503. Exception -- temporary certificate. (1)
25 Section 3-1-1502 does not apply to a judge who has received

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2 for in subsection (2).

3 (2) The commission may issue a temporary certificate
4 enabling a judge to assume the functions of his office
5 pending completion of a course as required by 3-1-1502. The
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18 or this section prior to assuming office."

19 Section 3. Section 3-6-202, MCA, is amended to read:

20 "3-6-202. Qualifications -- certification -- training.

21 (1) A municipal court judge must have the same
22 qualifications as a judge of a district court, as set forth
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25 the practice of law in Montana for at least 2 years prior to

1 the date of appointment or election.

2 (2) A municipal court judge must be a resident and
3 voter in the city in which he is elected at the time of his
4 election.

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6 provided in 3-1-1502 or 3-1-1503 prior to assuming office.

7 (4) There must be two mandatory annual training
8 sessions supervised by the supreme court for all elected and
9 appointed municipal court judges. One of the training
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12 travel expenses, as defined and provided for in 2-18-501
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22 a municipal court judge from attendance because of illness,
23 a death in the family, or any other good cause."

24 **Section 4.** Section 3-10-202, MCA, is amended to read:

25 "3-10-202. Oath -- qualifications proof of

1 certification. (1) Each justice of the peace, elected or
2 appointed, after he has received his certificate of election
3 or appointment, shall, before entering upon the duties of
4 his office, take the constitutional oath of office, which
5 must be filed with the county clerk.

6 (2) Before the county clerk may file the oath, the
7 elected or appointed justice must satisfy the clerk that he
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19 **Section 5.** Section 3-10-231, MCA, is amended to read:

20 "3-10-231. Circumstances in which an acting justice
21 called in -- by whom. (1) Whenever a justice of the peace is
22 disqualified from acting in any action because of the
23 application of the supreme court's rules on disqualification
24 and substitution of judges, subdivision 1, 2, or 3, he shall
25 either transfer the action to another justice's court in the

1 same county or call a justice from a neighboring county to
2 preside in his behalf.

3 (2) Within 30 days of taking office, a justice of the
4 peace shall provide a list of persons who are qualified to
5 hold court in his place during a temporary absence when no
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22 (4) During the time when a justice of the peace is on
23 vacation or attending a training session, another justice of
24 the peace of the same county shall be authorized to handle
25 matters that otherwise would be handled by the absent

1 justice. When there is no other justice of the peace in the
2 county, the justice of the peace may designate another
3 person in the same manner as if the justice were sick or
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6 court of any other justice of the peace at his request."

7 **Section 6.** Section 13-15-405, MCA, is amended to read:

8 "13-15-405. Declaration or certification of results.

9 (1) The board shall declare nominated or elected the
10 individuals having the highest number of votes cast for each
11 county and precinct office, except as provided in 13-10-204.

12 (2) The board shall proclaim the adoption or rejection
13 of a county ballot issue.

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15 of votes cast for individuals for political subdivision
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19 the functions of his office unless he has filed with the
20 county clerk and recorder in his jurisdiction a certificate
21 of completion of a course of education and training
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23 **Section 2.** Section 3-1-1503, MCA, is amended to read:
24 "3-1-1503. Exception -- temporary certificate. (1)
25 Section 3-1-1502 does not apply to a judge who has received

1 a temporary certificate issued by the commission as provided
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21 (1) A municipal court judge must have the same
22 qualifications as a judge of a district court, as set forth
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25 the practice of law in Montana for at least 2 years prior to

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24 **Section 4.** Section 3-10-202, MCA, is amended to read:

25 "3-10-202. Oath -- qualifications proof of

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2 appointed, after he has received his certificate of election
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9 ~~(a) an attorney at law authorized to practice law in~~
 10 ~~the state of Montana;~~

11 ~~(b) a person who has held the office of justice of the~~
 12 ~~peace within the preceding 5 years; or~~

13 ~~(c) a person who has completed the orientation course~~
 14 ~~of study held under the direction of the supreme court or~~
 15 ~~has been excused by the supreme court certified as provided~~
 16 ~~in 3-1-1502 or 3-1-1503. If a person is appointed after the~~
 17 ~~course is offered, he must agree to take the course at the~~
 18 ~~next offering and failure to do so will disqualify him."~~

19 **Section 5.** Section 3-10-231, MCA, is amended to read:

20 "3-10-231. Circumstances in which an acting justice
 21 called in -- by whom. (1) Whenever a justice of the peace is
 22 disqualified from acting in any action because of the
 23 application of the supreme court's rules on disqualification
 24 and substitution of judges, subdivision 1, 2, or 3, he shall
 25 either transfer the action to another justice's court in the

1 same county or call a justice from a neighboring county to
2 preside in his behalf.

3 (2) Within 30 days of taking office, a justice of the
4 peace shall provide a list of persons who are qualified to
5 hold court in his place during a temporary absence when no
6 other justice or city judge is available. The persons listed
7 must be of good moral character and have community support,
8 a sense of community standards, and a basic knowledge of
9 court procedure. The county commissioners shall administer
10 the oath of office to each person on this list ~~within the~~
11 ~~ensuing-30-days-or~~ as soon thereafter as possible after the
12 person has received a waiver of training from the supreme
13 court.

14 (3) Whenever a justice is sick, disabled, or absent,
15 the justice may call in another justice, if there is one
16 readily available, or a city judge or a person from the list
17 provided for in subsection (2) to hold court for the absent
18 judge until his return. If the justice is unable to call in
19 a substitute, the county commissioners shall call in another
20 justice, a city judge, or a person from the list provided
21 for in subsection (2).

22 (4) During the time when a justice of the peace is on
23 vacation or attending a training session, another justice of
24 the peace of the same county shall be authorized to handle
25 matters that otherwise would be handled by the absent

1 justice. When there is no other justice of the peace in the
2 county, the justice of the peace may designate another
3 person in the same manner as if the justice were sick or
4 absent.

5 (5) A justice of the peace of any county may hold the
6 court of any other justice of the peace at his request."

7 **Section 6.** Section 13-15-405, MCA, is amended to read:

8 "13-15-405. Declaration or certification of results.

9 (1) The board shall declare nominated or elected the
10 individuals having the highest number of votes cast for each
11 county and precinct office, except as provided in 13-10-204.

12 (2) The board shall proclaim the adoption or rejection
13 of a county ballot issue.

14 (3) The board shall certify the results of the canvass
15 of votes cast for individuals for political subdivision
16 offices and for and against political subdivision ballot
17 issues to the governing body of each political subdivision
18 participating in the election.

19 (4) If there is a tie vote for a county office, an
20 office of a political subdivision wholly within the county,
21 a precinct office, or a ballot issue voted on only in that
22 county or portion of that county, the board shall certify
23 the vote to the election administrator.

24 (5) The board shall certify the results of the canvass
25 of votes cast for justice of the peace, city judge, and

1 municipal court judge to the supreme court in order to
2 ensure compliance with 3-1-1502 or 3-1-1503."

3 NEW SECTION. Section 7. Effective date. [This act] is
4 effective on passage and approval.

-End-