HOUSE BILL NO. 421

INTRODUCED BY HOFFMAN

IN THE HOUSE

JANUARY 28, 1991

INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.

JANUARY 29, 1991 FIRST READING.

FEBRUARY 25, 1991

FEBRUARY 26, 1991

FEBRUARY 27, 1991

MARCH 4, 1991

MARCH 19, 1991

THIRD READING, PASSED. AYES, 100; NOES, 0.

PRINTING REPORT.

ENGROSSING REPORT.

COMMITTEE RECOMMEND BILL

SECOND READING, DO PASS.

DO PASS. REPORT ADOPTED.

TRANSMITTED TO SENATE.

IN THE SENATE

INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.

FIRST READING.

COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

MARCH 20, 1991 SECOND READING, CONCURRED IN.

MARCH 21, 1991 THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 22, 1991

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

52nd Legislature

LC 1630/01

INTRODUCED BY Hoffman 1 2 ٦

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

13

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

Section 1. Section 3-1-1502, MCA, is amended to read: 15 *3-1-1502. Training and certification of judges. Except 16 as provided in 3-1-1503, no judge selected for a term of 17 office commencing--on--or-after-January-67-19867 may assume 18 the functions of his office unless he has filed with the 19 county clerk and recorder in his jurisdiction a certificate 20 of completion of a course of education and training 21 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)

Section 3-1-1502 does not apply to a judge who has received



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1 i 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 certificate9 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 <u>-- certification -- training</u>.
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

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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.

(4) There must be two mandatory annual training 7 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 magistrates' association convention. Actual and necessary 11 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 16 in 3-1-1502 or 3-1-1503. ff-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-disgualify-him-" Section 5. Section 3-10-231, MCA, is amended to read: 19 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

25 either transfer the action to another justice's court in the

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and substitution of judges, subdivision 1, 2, or 3, he shall

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

(2) Within 30 days of taking office, a justice of the 3 peace shall provide a list of persons who are qualified to 4 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.

(3) Whenever a justice is sick, disabled, or absent, 14 15 the justice may call in another justice, if there is one readily available, or a city judge or a person from the list 16 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).

(4) During the time when a justice of the peace is on
vacation or attending a training session, another justice of
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justice. When there is no other justice of the peace in the county, the justice of the peace may designate another person in the same manner as if the justice were sick or 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 rejection13 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
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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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52nd Legislature

APPROVED BY COMMITTEE ON JUDICIARY

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15 Section 1. Section 3-1-1502, MCA, is amended to read: "3-1-1502. Training and certification of judges. Except 16 17 as provided in 3-1-1503, no judge selected for a term of office commencing-on-or-after-January-67-1986; may assume 18 the functions of his office unless he has filed with the 19 20 county clerk and recorder in his jurisdiction a certificate of completion of a course of education and training 21 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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15 (4) The appointing authority for an appointed judge
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SECOND READING *HB 421*

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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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certification. (1) Each justice of the peace, elected or 1 2 appointed, after he has received his certificate of election or appointment, shall, before entering upon the duties of 3 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 elected or appointed justice must satisfy the clerk that he 7 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 16 in 3-1-1502 or 3-1-1503. ff-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-disgualify-him:" 19 Section 5. Section 3-10-231, MCA, is amended to read: 20 "3-10-231. Circumstances in which an acting justice called in -- by whom. (1) Whenever a justice of the peace is 21 22 disgualified from acting in any action because of the 23 application of the supreme court's rules on disqualification

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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 other justice or city judge is available. The persons listed 6 must be of good moral character and have community support, 7 a sense of community standards, and a basic knowledge of 8 9 court procedure. The county commissioners shall administer the oath of office to each person on this list within-the 10 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.

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(4) During the time when a justice of the peace is on vacation or attending a training session, another justice of the peace of the same county shall be authorized to handle matters that otherwise would be handled by the absent justice. When there is no other justice of the peace in the county, the justice of the peace may designate another person in the same manner as if the justice were sick or absent.

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

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Montana Legislative Council

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THIRD READING

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2	appointed, after he has received his certificate of election
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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-

HB 0421/02

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,

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20 "3-6-202. Qualifications <u>-- certification -- training</u>.
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

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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
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(2) A municipal court judge must be a resident and

the date of appointment or election.

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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	<pre>(a)anattorneyatlaw-authorized-to-practice-law-in</pre>
10	the-state-of-Montana;
11	<pre>(b)a-person-who-has-held-the-office-of-justice-ofthe</pre>
12	peace-within-the-preceding-5-years;-or
13	<pre>(c)apersonwho-has-completed-the-orientation-course</pre>
14	of-study-held-under-the-direction-of-thesupremecourtor
15	hasbeen-excused-by-the-supreme-court certified as provided
16	in 3-1-1502 or 3-1-1503. If-a-person-is-appointed-afterthe
17	courseisoffered7-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

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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).

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

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justice. When there is no other justice of the peace in the county, the justice of the peace may designate another person in the same manner as if the justice were sick or 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 hallot issue

3 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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