

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2580

BY DELEGATES NESTOR, MCGEEHAN, FERRELL, FAST,
LONGANACRE, KIMES, FLUHARTY, D. KELLY, JENNINGS
AND QUEEN

[Introduced February 17, 2021; Referred to the Committee
on Political Subdivisions then the Judiciary]

1 A BILL to amend and reenact §8-11-1 of the Code of West Virginia, 1931, as amended, relating
 2 to ensuring that municipal officers adhere to the Model Rules of Judicial Conduct, to
 3 provide a means by which the integrity of the judicial system of the state is preserved, and
 4 to ensure that the constitutional rights of all people will be adequately protected by all
 5 courts of this state.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 11. POWERS AND DUTIES WITH RESPECT TO ORDINANCES AND
 ORDINANCE PROCEDURES.**

**§8-11-1. Ordinances to make municipal powers effective; penalties imposed under
 judgment of mayor or police court or municipal judge; right to injunctive relief; right
 to maintain action to collect fines; additional assessment of costs.**

1 (a) To carry into effect the powers and authority conferred upon any municipality or its
 2 governing body by the provisions of this chapter, or any past or future act of the Legislature of
 3 this state, the governing body has plenary power and authority to:

4 (1) Make and pass all needful ordinances, orders, bylaws, acts, resolutions, rules and
 5 regulations not contrary to the Constitution and laws of this state; and

6 (2) Prescribe reasonable penalties for violation of its ordinances, orders, bylaws, acts,
 7 resolutions, rules and regulations, in the form of fines, forfeitures and confinement in the ~~county~~
 8 ~~or~~ regional jail or the place of confinement in the municipality, if there is one, for a term not
 9 exceeding 30 days.

10 (b) The fines, forfeitures and confinement shall be recovered, imposed or enforced under
 11 the judgment of the mayor of the municipality or the individual lawfully exercising the mayor's
 12 functions, or the police court judge or municipal court judge of a city, if there is one, and may be
 13 suspended upon reasonable conditions as may be imposed by the mayor, other authorized
 14 individual or judge.

15 (c) Any mayor, any individual exercising the mayor's functions, any police court judge, or
16 any municipal judge of a city who engages in the exacting of fines, the levying of forfeitures, or
17 who orders the incarceration of persons for violations of the municipality's ordinances, orders,
18 bylaws, acts, resolutions, rules or regulations shall conform to the Model Rules of Judicial Conduct
19 as set forth by the Supreme Court of Appeals of this state.

20 ~~(c)~~ (d) Any municipality may also maintain a civil action in the name of the municipality in
21 the circuit court of the county in which the municipality or the major portion of the territory of the
22 municipality is located to obtain an injunction to compel compliance with, or to enjoin a violation
23 or threatened violation of, any ordinance of the municipality, and the circuit court has jurisdiction
24 to grant the relief sought. A certified transcript of a judgment for a fine rendered by a municipal
25 court may be filed in the office of the clerk of a circuit court and docketed in the judgment lien
26 book kept in the office of the clerk of the county commission in the same manner and with the
27 same effect as the filing and docketing of a certified transcript of judgment rendered by a
28 magistrate court as provided for in §50-6-2 of this code. The judgment shall include costs
29 assessed against the defendant.

30 ~~(d)~~ (e) In addition to any other costs which may be lawfully imposed, an additional cost
31 shall be imposed in an amount of not less than \$42 for a traffic offense constituting a moving
32 violation, regardless of whether the penalty for the violation provides for a period of incarceration,
33 and for any other offense for which the ordinance prescribing the offense provides for a period of
34 incarceration. Of the \$42 imposed as an additional cost, \$2 are administrative costs to be retained
35 by the municipality, and \$40 shall be paid into the regional jail and correctional facility
36 development fund in the State Treasury in accordance with section one-a of this article.

37 ~~(e)~~ (f) Execution shall be by fieri facias issued by the clerk of the circuit court in the same
38 manner as writs are issued on judgments for a fine rendered by circuit courts or other courts of
39 record under the provisions of §62-4-11 of this code.

NOTE: The purpose of this bill is to add language mandating that any judgment by a mayor, any individual exercising the mayor's functions, the police court judge, or municipal judge of city be obligated to the Model Rules of Judicial Conduct.

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