

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1943



ENROLLED

HOUSE BILL No. 81

(By Mr. Janes)



PASSED March 1, 1943

In Effect ninety days from Passage

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House Bill No. 81

(BY MR. JAMES)

[Passed March 1, 1943: in effect ninety days from passage.]

AN ACT to amend and reenact section two, article six, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, and to further amend said article by adding thereto a new section to be designated section two-a, relating to when recognizances are required, the contents thereof, the duration and effect of such recognizances, and cash deposits as recognizance without surety.

Be it enacted by the Legislature of West Virginia:

That section two, article six, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted, and that said article be further amended by adding thereto a new section designated section two-a, all to read as follows:

Section 2. *When Recognizance Required; Contents.*—A

2 court, judge or justice letting any person to bail shall re-
3 quire a recognizance to be given.

4 Recognizances in criminal cases shall be payable to the
5 state of West Virginia. Every such recognizance shall be in
6 such sum and with such surety as the court or officer re-
7 quiring it may direct; and if it be a witness, it may be
8 with or without surety, as shall be deemed proper by the
9 court or officer taking it. The condition of such recog-
10 nizance shall be as follows, as the case may be:

11 (a) When it is taken of a person charged with a crim-
12 inal offense, that he appear before the court, judge or
13 justice, before whom the proceedings on such charge will
14 be, at such time as may be prescribed by the court or of-
15 ficer taking it, then and there to answer for the offense
16 with which such person is charged, and to any indict-
17 ment concerning any such offense that may be thereafter
18 returned, and then and there render himself amenable to
19 the order and process of the court, judge or justice,
20 and from term to term and time to time thereafter to
21 which the proceedings concerning such charge, and in-
22 dictment may be continued, until the matter is finally

23 terminated, and if convicted shall appear for judgment
24 and render himself in execution thereof upon such day
25 as the court, judge or justice may order;

26 (b) When it is taken of a witness in a case against any
27 person charged with an offense, that such witness will
28 appear at such time as may be prescribed by the court or
29 officer taking such recognizance, and give evidence on
30 such charge before the grand jury, court, judge or jus-
31 tice before whom such charge may be pending, and from
32 term to term and time to time thereafter until all mat-
33 ters concerning such charge shall be finally termina-
34 ted;

35 (c) And in either of the foregoing cases, that the per-
36 son so charged or said witness, as the case may be, shall
37 not depart thence without the leave of said grand jury,
38 court, judge or justice; and

39 (d) When taken for any other purpose than to appear
40 so to answer or give evidence, that the person of whom
41 it is taken shall keep the peace and be of good behavior
42 for such time, not exceeding one year, as the court or
43 officer requiring it may direct; and if such court or officer

44 directs, it may, when taken of a person charged with an
45 offense, be with condition for so keeping the peace and
46 being of good behavior, in addition to the other con-
47 ditions of his recognizance.

48 And when such recognizance is taken by a court or
49 justice of a person to answer a charge, or of a witness to
50 give evidence, it shall be sufficient for the order of the
51 court or justice taking said recognizance to state that
52 the person or persons recognized were duly recognized
53 in such sum as the court may have directed with such
54 surety as the court may have accepted for his or their
55 appearance before the court, judge or justice, at such
56 time as may have been prescribed by the court or justice,
57 to answer for the offense with which such person is
58 charged, or to give evidence, as the case may be.

Sec. 2-a. *Cash Deposits As Recognizance Without Sur-*
2 *ety.*—Whenever a person arrested on a criminal charge
3 has been admitted to bail by a court or an officer auth-
4 orized by law so to do, for his appearance before any
5 court, judge or justice, he may, instead of entering into
6 a recognizance with surety as required by law, give his

7 personal recognizance and deposit, or cause to be de-
8 posited for him, in cash, the amount of bail he is re-
9 quired to furnish, with the clerk of the circuit court of
10 the county, or with the clerk of any other court in which
11 he was admitted to bail, and the clerk with whom such
12 deposit is made shall give him a certificate thereof, and up-
13 on delivering said certificate to the court or officer admit-
14 ting him to bail, he shall be ordered to be released.

15 If there be no default in the observance of the con-
16 ditions of the recognizance, then, upon the termination of
17 the proceedings, the money so deposited, shall, by order
18 of the trial court or justice, be refunded to the defendant,
19 or upon his order; but if there be any such default, the
20 same action shall be taken, and the same proceedings
21 had, with like rules governing, so far as applicable, as
22 if the recognizance had been with surety instead of with
23 cash deposit aforesaid, and the clerk having the money
24 shall dispose of the same, if there be a judgment of
25 forfeiture, in the same manner as other money received
26 on account of forfeited recognizances is required to be
27 disposed of.

28 The defendant may surrender himself at any time be-
29 fore default in the same manner as sureties may surren-
30 der their principal, and the money so deposited shall
31 thereupon, by order of the court or officer to which or
32 to whom such surrender was made, be returned to the
33 defendant or on his order.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Kay Z. Jewison
Chairman Senate Committee

Erud H. Petroff
Chairman House Committee

Originated in the *House of Delegates*

Takes effect *ninety days from* passage.

Clerk of the Senate

R. Kliff
Clerk of the House of Delegates

James Paule
President of the Senate

John C. Amos
Speaker House of Delegates

The within *approved* this the *10*

day of *March*, 1943.

Matthew M. Neel
Governor.



Filed in the office of the Secretary of State
of West Virginia **MAR 10 1943**

Wm. S. O'BRIEN,
Secretary of State