

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949

ENROLLED

SENATE BILL No. 126

(By Mr. Wyllie.....)

PASSED March 12..... 1949

In Effect July 1, 1949 Passage



126

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Senate Bill No. 126

(By MR. WYLIE)

[Passed March 12, 1949; in effect July 1, 1949.]

AN ACT to amend and reenact chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting sections one and two, article one; by amending and reenacting sections one and two, article two; and by repealing section seven of said article two; by amending the caption to article three and by amending and reenacting sections one, two, three, four, five, six, seven, eight, nine, ten, twelve and thirteen, of said article three; by amending and reenacting sections one, three, three-c, five, six, eight and nine, and by repealing sections three-a and three-b of article four; by amending the caption of article five; by amending the caption of ar-

ticle six, and by amending and reenacting sections one and two of said article six; by amending and reenacting section one, article seven; by amending and reenacting sections one and three, article eight; by amending and reenacting sections one, two, three and five, of article nine; by amending and reenacting section one, article ten; all relating to mentally diseased persons.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted by amending and reenacting sections one and two, article one; by amending and reenacting sections one and two, article two; and by repealing section seven of said article two; by amending the caption to article three and by amending and reenacting sections one, two, three, four, five, six, seven, eight, nine, ten, twelve and thirteen, of said article three; by amending and reenacting sections three, three-c, five, six, eight and nine, and by repealing sections three-a and three-b of article four; by amending the caption of article five; by amending the caption of article six, and by amending and reenacting sections one and two of said article six; by amending and reenacting

section one, article seven; by amending and reenacting sections one and three, article eight; by amending and reenacting sections one, two, three and five, article nine; by amending and reenacting section one, article ten, all to read as follows:

Article 1. Definitions.

Section 1. *What the Words "Mentally Diseased" to include.*—The words "mentally diseased", whenever they occur in this code, shall be construed as referring to any person who is mentally ill, feeble-minded, or epileptic. Whenever the terms "lunatic", "idiot", "imbecile", "mental defective", "insane", "moron", "senile dementia", "non compos", "deranged", "dotards", "mentally ill", or words of like import are used throughout this code, they shall be interpreted to mean persons mentally diseased.

Sec. 2. *Resident of State and County.*—For the purpose of this chapter no person shall be considered a resident of this state unless he is a citizen of the United States and has been a bona fide resident of this state for at least one year, and was not mentally diseased when he came into this State; and no person shall be considered a resident of a county who is not a resident of the state, as above de-

8 fined, and who has not been a resident of the county for
9 at least sixty days, and was not mentally diseased when
10 he came to the county.

Article 2. State Hospitals.

Section 1. *Locations; Continuation; Management.*—The
2 state hospitals for the mentally diseased, heretofore es-
3 tablished at Weston, Spencer, Huntington, and Lakin
4 shall be continued and known respectively, as the Weston
5 state hospital, Spencer state hospital, Huntington state
6 hospital, and Lakin state hospital, and there is hereby es-
7 tablished another and new hospital, for the mentally dis-
8 eased at Barboursville, Cabell county, which shall be
9 known as the Barboursville state hospital. Said hospitals
10 shall be managed, directed and controlled as prescribed
11 in article one, chapter twenty-five of the code, and further
12 as provided in this chapter.

Sec. 2. *Segregation of Races.*—The Weston, Spencer,
2 Huntington, and Barboursville state hospitals shall be
3 used for the care and treatment of white persons, and the
4 Lakin state hospital shall be used for the care and treat-
5 ment of colored persons.

Article 3. Determination of Mental Disease; Commitment.

Section 1. *County Mental Hygiene Commission.*—There shall be in each county a mental hygiene commission of three members, to be composed of any member of the county court, the prosecuting attorney and/or an assistant prosecuting attorney so designated by the prosecuting attorney and approved by the county court, and the clerk of the county court and/or a deputy clerk so designated by the clerk of the county court and approved by the county court, who shall serve as such without compensation, except for traveling or other necessary expenses incurred in the discharge of their duties as members of the commission, which expenses shall be audited by the county court and paid out of the county treasury. A member of the county court shall be the chairman of the commission. In the absence of a county court member, the prosecuting attorney and/or his designated assistant as herein provided, shall act as such chairman. The clerk of the county court and/or his designated deputy shall be the clerk of the commission and shall keep in a proper book provided for the purpose a full and careful record of all

21 the acts, orders and resolutions of the commission. Any
22 two members from different offices represented on the
23 commission shall be a quorum thereof. The county court
24 of each county shall at its first term of court of each year
25 enter an order designating the persons eligible to sit as
26 members of the county mental hygiene commission.

Sec. 2 *Meetings*.—All meetings of the commission shall
2 be held at the county seat, unless it shall be thought best
3 by the commission to meet at some other place, as in the
4 case of a mentally diseased person whose condition makes
5 it advisable to meet at or near his residence.

Sec. 3. *How Proceedings Originated; Complaint; War-*
2 *rant*.—If any resident of the county reasonably suspect
3 any person therein to be mentally diseased, he may make
4 complaint under oath to the clerk of the county court,
5 giving such information and stating such facts therein as
6 may be required, and deliver the same to the clerk of the
7 county court, whose duty it shall be to issue a warrant
8 ordering the person suspected and named in such com-
9 plaint to be brought before the commission at a time and
10 place named therein that his mental condition may be in-

11 quired into. If the clerk of the county court does not deem
12 such suspicion to be reasonable, he may require such
13 complainant to furnish the certificate of a reputable phy-
14 sician showing the suspected person's condition, before
15 issuing a warrant. Any member of the commission with-
16 out such complaint may have such warrant issued for any
17 person found in his county, whom he shall suspect to be
18 mentally diseased. All such warrants shall be signed by
19 the clerk of the county court and have impressed thereon
20 the seal thereof; and may be addressed to the sheriff of
21 the county or to any constable of any district thereof, or
22 to a special constable appointed for the purpose and named
23 therein; but if any relative or friend of the person so
24 suspected will serve such warrant and cause such suspect-
25 ed person to be brought before the commission, he may be
26 allowed to do so. The officer or person to whom the war-
27 rant is addressed shall take the suspected person into
28 custody and bring him before the commission at the time
29 and place named therein.

30 Whenever a person apparently mentally diseased is so
31 violent as to endanger his own safety or the safety of

32 others, any law-enforcement officer may, with or without
33 a warrant, take such person into protective custody.

Sec. 4. *Guardian ad Litem for Suspected Person.*—Be-
2 fore proceeding with the hearing of the matter, the com-
3 mission shall appoint a guardian ad litem, who shall be a
4 competent attorney, for such suspected person, and such
5 guardian shall be present at the hearing and manage the
6 case on behalf of the person suspected. Such attorney
7 shall be paid by the county court. Such suspected person
8 and his counsel shall have the right to cross examine any
9 witnesses.

Sec. 5. *Witnesses; Physicians; Evidence to be reduced*
2 *to writing.*—Among the witnesses there shall be included
3 two reputable physicians, duly authorized to practice
4 medicine in this state, who shall separately or together,
5 make a physical and mental examination of the suspected
6 person, and each physician shall make out a certificate of
7 the result of such examination in the form required by
8 the board of control, which certificate shall be signed and
9 sworn to by each physician and shall be considered as
10 evidence by the commission. Not more than one phy-

11 sician of any firm or association of physicians practicing
12 medicine together, shall sign any such certificate respect-
13 ing the mental or body condition of any person suspected
14 of being mentally diseased.

Sec. 6. *Hearing; Disposition of Mentally Diseased Per-*
2 *son.*—If the commission finds as a result of the hearing
3 that the person suspected is a mentally diseased person
4 and should be confined in a hospital, and that he is not a
5 resident of another county of this State, it shall order him
6 to be committed to the nearest state hospital unless some
7 relative or friend of such person will agree to take care of
8 him, in which case the commission may deliver him to
9 such person, and take from such relative or friend a bond
10 in the penalty of at least five hundred dollars, with suf-
11 ficient security, to be approved by the commission, payable
12 to the state of West Virginia, with condition to restrain
13 and take proper care of such mentally diseased person
14 until the cause of confinement shall cease, or until he is
15 delivered to the commission to be proceeded with accord-
16 ing to law; but if the person found to be a mentally dis-
17 eased person is not dangerous to himself or to the lives or

18 property of others, or is found harmless and incurable, he
19 may be delivered to any relative or friend who will agree
20 to take proper care of him, without such bond, if in the
21 judgment of the commission in any case the same may be
22 proper.

Sec. 7. *Disposition of Mentally Diseased Person Who*
2 *is Nonresident of County; Expenses.*—If a person found to
3 be mentally diseased by the commission is a resident of
4 another county of this state, a transcript of the evidence
5 adduced at the hearing of such person, properly certified
6 by the clerk of the county court, shall be forthwith for-
7 warded to the clerk of the county court of the county of
8 which such person is a resident, who shall immediately
9 present such transcript to the mental hygiene commission
10 of said county. Such commission shall give full faith and
11 credit to the evidence contained in such transcript, and, if
12 satisfied that such person is mentally diseased, shall order
13 the person to be committed to one of the state hospitals
14 for the mentally diseased, as though the person had been
15 brought before it in the first instance. This order shall
16 be transmitted forthwith to the county clerk of the county

17 in which the examination was held, who shall execute said
18 order promptly. All expenses incurred in this proceeding,
19 as well as for the hospitalization of the mentally diseased
20 person, shall be borne by the county of which he is a
21 resident.

Sec. 8. *Commission to Inquire into Residence.*—In the
2 examination of a person before them, suspected of being
3 mentally diseased, the county mental hygiene commis-
4 sion, if it appear that he is not a resident of this State,
5 shall make diligent inquiry to ascertain his residence,
6 and if it be ascertained that he is a resident of another
7 state, the clerk of the mental hygiene commission shall
8 immediately inform the board of control, which shall
9 thereupon instruct said clerk what disposition is to be
10 made of the suspected person.

Sec. 9. *Arrangements Preparatory to Transfer of Men-
2 tally Diseased Person to Hospital; Expenses of Commit-
3 ment and Transfer.*—When a person has been committed
4 to a hospital as hereinbefore provided, the clerk of the
5 commission shall immediately communicate with the
6 superintendent of the proper hospital, and forward to

7 him the commitment papers. In the meantime the com-
8 mission may deliver such mentally diseased person into
9 the custody of the sheriff for safe keeping until he is
10 taken to the hospital, or may provide for his safe keeping
11 for such time by any relative or friend who may agree
12 to do so, upon such terms as may be agreed upon. No
13 such mentally diseased person shall be confined in any
14 jail, lockup, or other similar place, unless by reason of
15 his violent or dangerous condition the same shall be
16 necessary; and it shall be the duty of the commission
17 to have all such persons admitted to a hospital where
18 they can receive proper treatment, as speedily as pos-
19 sible. In any case the clerk of the county court may
20 communicate with the superintendent of the hospital
21 by telegraph or telephone. All expenses incurred in the
22 arrest, hearing, and transportation of any mentally dis-
23 eased person to a hospital, including any such telegraph-
24 ing or telephoning, shall be certified to the county court
25 by the clerk thereof, and shall be paid out of the county
26 treasury.

Sec. 10. *Compensation of Physicians, Witnesses, and*

2 *Others.*—The county court of any county may contract
3 with two or more competent physicians respecting the
4 compensation to be paid to them for their services in
5 examining mentally diseased persons and other persons
6 brought before the mental hygiene commission of the
7 county, the county court, or the circuit court, or con-
8 fined in jail. The compensation of physicians, of all wit-
9 nesses, and of all other persons and officers whose com-
10 pensation is not fixed in this chapter or by any other
11 law, employed in examination of such persons, or for
12 their care and maintenance, or for other services in
13 connection therewith, unless the same shall have been
14 agreed upon before or at the time such service was per-
15 formed, or is fixed by law, shall be such as may be pre-
16 scribed by the county court of the county, and shall be
17 paid out of the county treasury.

Sec. 12. *When Officer Not to be Compensated for Trans-*
2 *fer to Hospital.*—No officer shall be allowed anything for
3 carrying a mentally diseased person or other person to
4 or from a hospital, whether for himself, his guard, or
5 the mentally diseased person, unless he shall have previ-

6 ously ascertained that there is room therein for such
7 mentally diseased person.

Sec. 13. *How and When Circuit Court to Inquire into a*
2 *Person's Sanity.*—If a person residing in this State be
3 suspected to be mentally diseased but has not been
4 found to be a mentally diseased person by the county
5 mental hygiene commission, the circuit court of the
6 county of which such person is an inhabitant shall, upon
7 the application of any person interested, and after five
8 days's notice to the person suspected, proceed to examine
9 into his state of mind, and if satisfied that he is a men-
10 tally diseased person, shall so find. If a person residing
11 out of this state, but having property herein, be suspected
12 to be a mentally diseased person, the circuit court of
13 the county wherein the property or a greater part of it is
14 shall, upon like application and being satisfied that he
15 is a mentally diseased person, so find. Such finding, in
16 either case, shall be authority for the appointment of a
17 committee for such person by the county court.

**Article 4. Patients In Hospitals; Restoration To Sanity And
Discharge.**

Section 1. *Admission to Hospital of Committed Persons.*

2 —The superintendent of the hospital to whom application
3 is made as hereinbefore provided, shall, on receipt of
4 such application, carefully consider the same, and if he
5 be of the opinion that the person named is a proper one
6 to be admitted to his institution, and there is room for
7 him therein, he shall, without delay, cause such person
8 to be brought to his hospital by one of the attendants
9 thereof, the actual expenses whereof shall be paid out
10 of the proper fund of the hospital, and repaid to the
11 State by the county as hereinafter provided. If there
12 be no room in the hospital to which the application is
13 made, the superintendent thereof shall immediately com-
14 municate the fact to the board of control, which he may
15 do when deemed necessary by telegraph or telephone,
16 and transmit the commitment papers to the board of
17 control, whose duty it shall be to ascertain whether there
18 is room in any one of the other hospitals, and if there is,
19 to cause such person to be admitted thereto, and the
20 superintendent thereof to send an attendant for such
21 person: *Provided*, That any reputable and trustworthy

22 relative or friend of such person may be allowed by the
23 county mental hygiene commission to deliver him to the
24 hospital, if such relative or friend will do so without
25 expense to the county or state.

Sec. 5. *Voluntary Admission.*—Any person, a resident
2 of this State, who desires the benefit of institutional
3 treatment, may be admitted to one of the State mental
4 hospitals on his own written application, or upon the
5 application of a reputable physician, providing such
6 person is willing to enter the hospital. Such admissions
7 shall be subject to the rules and regulations of the board
8 of control. Such a voluntary patient may at any time
9 request his discharge by giving to the superintendent
10 notice in writing of his desire to leave. The superin-
11 tendent shall, within fifteen days after the receipt of
12 this notice, grant the request unless upon examination,
13 as provided in section two of this article, the examining
14 board has determined that the patient is mentally dis-
15 eased and requires further hospitalization. If such de-
16 termination is made the examining board shall forthwith
17 forward to the clerk of the county court of the county

18 in which such a person is a resident, a detailed report
19 of their examination, on forms provided by the board
20 of control, which report shall immediately be presented
21 to the mental hygiene commission of said county. Such
22 commission shall give full faith and credit to this report,
23 and if satisfied that such person is mentally diseased,
24 shall issue an order legally committing the mentally
25 diseased person to the hospital making the report, as
26 though the person had been brought before it. All ex-
27 penses incurred in this proceeding, as well as the hos-
28 pitalization of the mentally diseased person, shall be
29 borne by the county of which he is a resident.

Sec. 3-C *Report of Admissions; Registration by the*
2 *Board of Control.*—The superintendent of each state men-
3 tal institution shall, within ten days after the admission
4 of any patient, report the admission to the board of con-
5 trol together with any other information the board of
6 control may require. A copy of said report shall be
7 sent to the state health commissioner. He shall make a
8 similar report of the discharge or death of any patient.

9 From such reports and other sources the board shall

10 prepare and keep current a register of persons in this
11 state who are suffering from mental disease.

12 The name of a person so registered shall not be made
13 public nor shall the register be accessible to anyone
14 except by order of the board of control or by order of
15 the judge of a court of record.

Sec. 5. *Commitment and Admission of Criminal Men-*
2 *tally Diseased Person.*—If any person charged with or
3 convicted of crime be found, in the court before which
4 he is so charged or was convicted, to be mentally dis-
5 eased, and if such report shall order him to be confined
6 in one of the state hospitals, he shall be received and con-
7 fined in it if there be room therein for him. The sheriff
8 or other officer of the court by which the order is made
9 shall immediately proceed in the manner directed by
10 section seven, article four of this chapter, to ascertain
11 whether such vacancy exists in a state hospital; and
12 until it is ascertained that there is a vacancy, such person
13 shall be kept in the jail of the county of such court.

Sec. 6. *Disposition of Mentally Diseased Person*
2 *Who Is Nonresident of State.*—When a person who is a

3 nonresident of the State is committed to, or detained as
4 an inmate of, a state hospital, the superintendent thereof
5 shall immediately report the fact to the board of con-
6 trol. The board shall take proper steps to cause such
7 person to be deported, if an alien; or, if otherwise a non-
8 resident of this State, to be taken to the state, territory
9 or place of his residence and delivered to the proper
10 authorities thereof.

Sec. 8. *Return of Criminal Mentally Diseased Person*

2 *Upon Restoration.*—When any person confined in a state
3 hospital charged with crime and subject to be tried
4 therefor, or convicted of crime and subject to be pun-
5 ished therefor, shall be restored to sanity, the superin-
6 tendent shall give notice thereof to the clerk of the
7 court by whose order he was confined, and deliver him
8 to the proper officer upon the order of the court.

Sec. 9. *Discharge by Court Proceedings of Persons Un-*

2 *lawfully Detained.*—Any person who has been found
3 mentally diseased by a county mental hygiene commis-
4 sion or any other board or tribunal other than a circuit
5 court, and any person who is confined in any hospital

6 or other place of confinement or otherwise restrained of
7 his liberty in violation of law, or a patient who has
8 been restored to sanity and to whom the superintendent
9 of the hospital refuses to give certificate of restoration
10 and discharge, may present his petition, or any relative
11 or friend may present a petition in his behalf, to the
12 circuit court of the county in which the hospital is lo-
13 cated in case of a patient denied the certificate of restora-
14 tion, and in other cases to the circuit court of the county
15 in which the person is confined or is in custody, stating
16 facts. The courts shall treat such petition as an appli-
17 cation for a writ of habeas corpus, so far as applicable
18 and necessary, and cause such process to issue as the
19 court may deem proper, and fix a time for the hearing of
20 the case, which may be heard by the court either with or
21 without a jury, as the court may order; and if the per-
22 son is found sane, or it is found that he is held in custody
23 in violation of law, he shall be discharged. In cases of
24 patients who have been denied certificates of restoration
25 and discharge by the superintendent of a hospital, or in
26 which it is alleged that a patient is held in custody il-

27 legally in any state hospital, the superintendent shall
28 have at least five days' notice of the time and place of
29 the trial in the circuit court. In all such cases the prose-
30 cuting attorney shall represent the sheriff or other
31 county officer or the commission who shall be a de-
32 fendant in such proceedings; and the attorney general
33 shall represent the superintendent of any hospital who
34 is a defendant. In case the decision shall be against the
35 applicant, he or his bondsman (if any), or the person
36 signing the petition, shall pay the costs of the proceed-
37 ings. In any case in which a court may find a person
38 sane upon an inquest or trial respecting his sanity, he
39 shall be discharged and be entitled to a certified copy
40 of the order of the court made in the case. Nothing in
41 this section shall be construed as applying to patients
42 charged with or convicted of crime.

Article 5. Maintenance of Certain Mentally Diseased Patients.

Article 6. Mentally Diseased Persons in County Jails.

Section 1. *Report to County Court; Provision for Main-
2 tenance; When Not to be Paid to Jailer.*—When any per-
3 son is confined in any jail as a mentally diseased person,

4 the jailer shall certify the fact to the county court of the
5 county at the next ensuing term, and the court shall then
6 make such provision for the care and maintenance of such
7 person, while in jail as it may deem proper: *Provided,*
8 *however,* That the allowance to the jailer for such care
9 and maintenance shall not exceed one dollar per day, ex-
10 cept in special and extraordinary cases when the court
11 may allow a larger sum. A reasonable allowance may be
12 made for clothing for such person. No such allowances
13 shall be ordered or paid, unless it appear in the certificate
14 that the jailer proved to the court that, immediately after
15 the commitment of such person, and at least once in each
16 ten days thereafter, application was made to a state hos-
17 pital for admission, and that such application was refused
18 for want of room, or that applications were not continued
19 because the admission of such person had been refused
20 for some other cause than want of room, and unless it
21 further appears in such certificate that the jailer made
22 report in due time to the county court of the county, as
23 provided, in the first part of this section.

Sec. 2. How Discharge of Such Mentally Diseased Per-

2 *son Obtained.*—If any reputable person present to the
3 clerk of the county court of a county wherein a person is
4 confined as a mentally diseased person, other than one
5 charged with or convicted of crime, or other than one
6 confined in a state hospital, or a duly licensed private hos-
7 pital, an application in writing for the discharge of such
8 mentally diseased person on the ground that he has been
9 restored to sanity, the mental hygiene commission for the
10 county shall consider the same and may proceed to make
11 an inquest upon such mentally diseased person as is pro-
12 vided in article three of this chapter. If the commission
13 find that such person has been restored to sanity, they
14 shall set him at liberty, if they have authority to do so;
15 and if they have not such authority, they shall give a
16 certificate of their finding to the person making the ap-
17 plication, who may present it to the proper court.

Article 7. Private Hospitals.

Section 1. *Permit from Board of Control; Regulations.*

2 —No private hospital for the care and treatment of men-
3 tally diseased persons for compensation shall be estab-
4 lished unless a permit therefor shall be first obtained from

5 the board of control. The application for such permit
6 shall be accompanied by the plan of the premises to be
7 occupied, and with such other data and facts as the board
8 may require. The board of control may make such terms
9 and regulations in regard to the conduct of such hospital
10 as it may think proper and necessary. The board of con-
11 trol, or any member thereof, or any person authorized by
12 the board to do so, shall have full authority to investigate
13 and inspect such private hospital; and the board of con-
14 trol may revoke the permit of any such hospital for good
15 cause, after reasonable notice to the superintendent or
16 other person in charge thereof.

Article 8. West Virginia Training School.

Section 1. *Management; Superintendent.*—For the
2 treatment and training of mentally diseased persons there
3 shall be a state institution to be known as the “West Vir-
4 ginia Training School.” It shall belong to that class of
5 institutions mentioned in section three, article one, chap-
6 ter twenty-five of this code, and shall be managed and
7 controlled as provided in said chapter, all the provisions
8 whereof shall be applicable to said school except as in this

9 article provided. The chief executive officer thereof shall
10 be a superintendent, who shall be a legally qualified phy-
11 sician, scientifically trained in mental medicine and of not
12 less than five years' experience in the treatment and care
13 of mentally diseased persons, and who shall be appointed
14 by the governor with the advice and consent of the senate.

Sec. 3. *Persons Who May Be Admitted.*—There shall
2 be admitted to said school any person mentally diseased
3 from birth or from an early age, so pronounced that he or
4 she is unable to care for himself or herself and manage his
5 or her affairs, with ordinary prudence, and who, because
6 of such mental disease, is a menace to the happiness and
7 welfare of himself or herself or of others in the com-
8 munity, and requires care, training or control for the pro-
9 tection of himself or herself or of others, and yet who is
10 not mentally ill. This type of person is classed as feeble-
11 minded, including idiots, imbeciles or morons. Should
12 the school at any time not be able to accommodate all per-
13 sons of such class offered for admission, preference in ad-
14 mission shall be given to children between the ages of
15 seven and fourteen years, inclusive, of the moron type

16 who are capable of being trained and of attending to their
17 own ordinary physical needs. No person suffering from
18 tuberculosis or leprosy shall be admitted, nor shall any
19 deaf or blind person be admitted.

Article 9. Committees; Disposition of Property.

Section 1. *To be Appointed by County Court.*—When
2 a person is found to be mentally diseased by any court or
3 by the county mental hygiene commission, or is commit-
4 ted to a state hospital by the county court, the county
5 court shall appoint a committee for him.

Sec. 2. *Bond; Refusal to Act or Failure to Qualify; Ap-*
2 *pointment of Another; Committal to Sheriff.*—The county
3 court, when making the appointment of such committee,
4 shall take from him a bond in such penalty and with such
5 surety as it shall deem sufficient, with condition that the
6 person so appointed will well and truly account for any
7 (and) pay over to the person entitled thereto all property
8 and moneys which may come into his hands by virtue of
9 such appointment, and with such other conditions as the
10 court may require. If any person so appointed as com-
11 mittee refuse the trust or shall fail for ten days succeeding

12 his appointment to give bond as aforesaid, the court, on
13 the motion of any party interested, or at its own instance,
14 may appoint some other person as committee, taking from
15 him bond as above provided, or may commit the estate of
16 such mentally diseased person to the sheriff of the county,
17 who shall act as such committee without giving any bond
18 as such, and he and the sureties on his official bond shall
19 be liable for the faithful performance of the trust.

Sec. 3. *Appraisement of Estate.*—The county court,
2 whenever any committee is appointed for a mentally dis-
3 eased person, shall appoint appraisers and cause to be
4 made, returned and recorded an appraisement of the
5 property, both real and personal, of any such person in
6 the same manner, to the same extent, within the same
7 time, and subject to the same regulations and conditions
8 as required by law for the estate of a deceased person.

Sec. 5. *Mortgage, Lease or Sale of Realty.*—If the per-
2 sonal estate of such mentally diseased person be insuf-
3 ficient for the discharge of his debts, or if such estate or
4 the residue thereof after payment of the debts, and the
5 rents and profits of his real estate, be insufficient for his

6 maintenance and that of his family, if any, the commit-
7 tee of such mentally diseased person may proceed, as pro-
8 vided in article one, chapter thirty-seven, of this code, to
9 obtain authority to mortgage, lease or sell so much of the
10 real estate of such mentally diseased person as may be
11 necessary for the purposes aforesaid, or any of them; set-
12 ting forth in the bill or petition the particulars and the
13 amount of the estate, real and personal, the application
14 which may have been made of any personal estate, and
15 an account of the debts and demands existing against the
16 estate.

Article 10. Offenses.

Section 1. *Malicious Making of Medical Certificate or*
2 *Complaint as to Sanity.*—Any physician who shall sign
3 a certificate respecting the sanity of any person without
4 having made the examination as provided for by this
5 chapter, or shall make any statement in any such certifi-
6 cate maliciously for the purpose of having such person
7 declared mentally diseased, and any person who shall
8 maliciously make application to any mental hygiene com-
9 mission or other tribunal for the purpose of having an-

10 other person declared mentally diseased, shall be fined
11 not exceeding five hundred dollars, or imprisoned not ex-
12 ceeding one year, or both fined and imprisoned at the dis-
13 cretion of the court.

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


Chairman Senate Committee

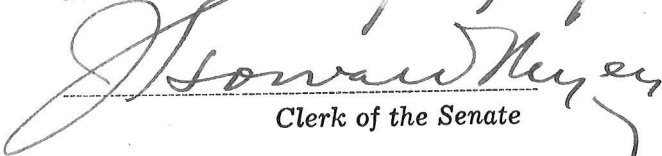

Chairman House Committee


Originated in the Senate.

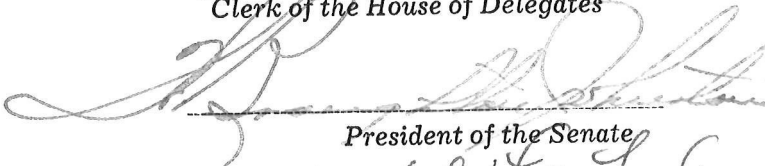
Takes effect

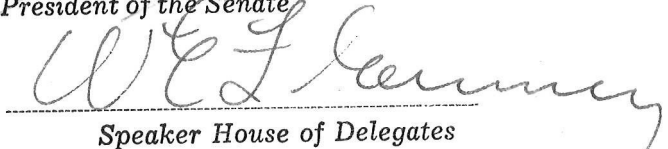
July 1, 1949

passage.


Clerk of the Senate

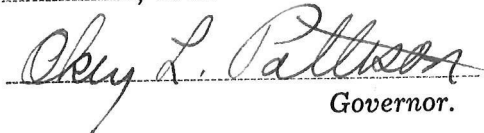

Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within APPROVED this the 18TH

day of MARCH, 1949.


Governor.



Filed in the Office of the Secretary of State
of West Virginia

MAR 18 1949
D. PITT O'BRIEN,
SECRETARY OF STATE