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# **WEST VIRGINIA CODE CHAPTER 2**

*WV Legislature*

**§2-1-1. Common law.**

The common law of England, so far as it is not repugnant to the principles of the Constitution of this state, shall continue in force within the same, except in those respects wherein it was altered by the general assembly of Virginia before June 20, eighteen hundred and sixty-three, or has been, or shall be, altered by the Legislature of this state

WV Legislature

**§2-1-2. Ancient lights.**

The common law of England in regard to ancient lights is not in force in this state.

WV Legislature

**§2-2-1. Legal holidays; official acts or court proceedings.**

(a) The following days are legal holidays:

- (1) January 1 is "New Year's Day";
  - (2) The third Monday of January is "Martin Luther King's Birthday";
  - (3) The third Monday of February is "Presidents' Day";
  - (4) The last Monday in May is "Memorial Day";
  - (5) June 20 is "West Virginia Day";
  - (6) July 4 is "Independence Day";
  - (7) The first Monday of September is "Labor Day";
  - (8) The second Monday of October is "Columbus Day";
  - (9) November 11 is "Veterans' Day";
  - (10) The fourth Thursday of November is "Thanksgiving Day";
  - (11) The day after Thanksgiving Day is "Lincoln's Day";
  - (12) December 25 is "Christmas Day";
  - (13) Any day on which a general, primary or special election is held is a holiday throughout the state, a political subdivision of the state, a district or an incorporated city, town or village in which the election is conducted;
  - (14) General election day on even years shall be designated Susan B. Anthony Day, in accordance with the provisions of subsection (b), section one-a of this article; and
  - (15) Any day proclaimed or ordered by the Governor or the President of the United States as a day of special observance or Thanksgiving, or a day for the general cessation of business, is a holiday.
- (b) If a holiday otherwise described in subsection (a) of this section falls on a Sunday, then the following Monday is the legal holiday. If a holiday otherwise described in subsection (a) of this section falls on a Saturday, then the preceding Friday is the legal holiday: Provided, That this subsection (b) shall not apply to subdivisions (13), (14) and (15), subsection (a) of this section.
- (c) Any day or part thereof designated by the Governor as time off, without charge against accrued annual leave, for state employees statewide may also be time off for county

employees if the county commission elects to designate the day or part thereof as time off, without charge against accrued annual leave for county employees. Any entire or part statewide day off designated by the Governor may, for all courts, be treated as if it were a legal holiday.

(d) In computing any period of time prescribed by any applicable provision of this code or any legislative rule or other administrative rule or regulation promulgated pursuant to the provisions of this code, the day of the act, event, default or omission from which the applicable period begins to run is not included. The last day of the period so computed is included, unless it is a Saturday, a Sunday, a legal holiday or a designated day off in which event the prescribed period of time runs until the end of the next day that is not a Saturday, Sunday, legal holiday or designated day off.

(e) If any applicable provision of this code or any legislative rule or other administrative rule or regulation promulgated pursuant to the provisions of this code designates a particular date on, before or after which an act, event, default or omission is required or allowed to occur, and if the particular date designated falls on a Saturday, Sunday, legal holiday or designated day off, then the date on which the act, event, default or omission is required or allowed to occur is the next day that is not a Saturday, Sunday, legal holiday or designated day off.

(f) With regard to the courts of this state, the computation of periods of time, the specific dates or days when an act, event, default or omission is required or allowed to occur and the relationship of those time periods and dates to Saturdays, Sundays, legal holidays, or days designated as weather or other emergency days pursuant to section two of this article are governed by rules promulgated by the Supreme Court of Appeals.

(g) The provisions of this section do not increase or diminish the legal school holidays provided in section two, article five, chapter eighteen-a of this code.

**§2-2-1a. Special memorial days.**

(a) The Governor shall, by proclamation, declare the week beginning with the Sunday before Thanksgiving as a special memorial week to be known as Native American Indian Heritage Week.

(b) The first Tuesday after the first Monday of November is designated Susan B. Anthony Day and shall only be a legal holiday in all years ending in an even number. The Governor shall annually issue a proclamation calling on all schools, civic organizations, government departments and citizens to undertake activities on the designated day and surrounding days to pay tribute to the accomplishments of Susan B. Anthony in securing the civil and political rights of all Americans, including securing equal voting rights for women.

(c) The Governor shall, by proclamation, declare the week during which December 7 falls to be a special memorial week, to be known as Pearl Harbor and Military Appreciation week, honoring all West Virginians who fought in World War II and all other military conflicts and shall encourage all municipalities in the state to do the same. The State Department of Education is directed to implement a program involving activities in which students shall participate which shall recognize the contributions West Virginians have made to their country through service in the United States Military.

(d) The Governor shall, by proclamation, declare March 30 as a special memorial day to be known as Vietnam Veteran Recognition Day honoring all West Virginians who served in the United States Armed Forces in the Republic of Vietnam during the period beginning February 28, 1961, and ending May 7, 1975, and shall encourage all counties and municipalities in the state to do the same.

(e) The Governor shall, by proclamation, declare August 7 as a special memorial day, to be known as Purple Heart Recognition Day, honoring all West Virginians who, while serving in the United States Armed Forces, have been wounded or killed in action and shall encourage all municipalities and counties in the state to do the same.

(f) The Governor shall, by proclamation, declare July 27 as a special memorial day to be known as Korean War Veteran Recognition Day honoring all West Virginians who served in the United States Armed Forces in the Korean War, and shall encourage all counties and municipalities in the state to do the same.

(g) The Governor shall, by proclamation, declare the first Thursday in May as the West Virginia Day of Prayer. The West Virginia Day of Prayer corresponds with the National Day of Prayer, 36 U.S.C. §119, on which the people of West Virginia may turn to God in prayer and meditation at churches, in groups, and as individuals.

(h) The Governor shall, by proclamation, declare November 14 as a special memorial day to be known as Marshall University 75 Memorial Day honoring the 75 persons who were killed in that tragic crash, and shall encourage all counties and municipalities in the state to do the

same.

WV Legislature

**§2-2-1b.**

Repealed.

Acts, 1982 Reg. Sess., Ch. 76.

WV Legislature

**§2-2-2. When acts to be done fall on Saturday, Sunday or legal holiday; adjournments from day to day.**

(a) When a proceeding is directed to take place or any act to be done on any particular day of the month or within any period of time prescribed or allowed, including those provided by article two, chapter fifty-five, of this code, if that day or the last day falls on a Saturday, Sunday, legal holiday, or a weather or other emergency day, the next day that is not a Saturday, Sunday, legal holiday, or a weather or other emergency day shall be deemed to be the one intended, and when the day upon which a term of court is directed by law to commence, falls on a Saturday, Sunday, legal holiday, or a weather or other emergency day, the following day that is not a Saturday, Sunday, legal holiday, or a weather or other emergency day shall be deemed to be the day intended. When an adjournment is authorized from day to day, an adjournment from Friday to Monday will be legal.

(b)(1) For purposes of this section, "weather or other emergency day" means a day designated for a county in accordance with the provisions of subdivision (2) of this subsection as a day upon which weather or other emergency conditions in that county prevent the general transaction of court business in that county.

(2) A weather or other emergency day is designated by order of the chief justice of the Supreme Court of Appeals or by order of the chief judge of the circuit court of the county in which the proceeding is directed to take place or in which the act is to be done.

**§2-2-3. Computation of time.**

The provisions of sections one and two of this article relating to the time or period prescribed or allowed within which an act is to be done shall not be deemed to change any rule of law applicable to bills of exchange or negotiable notes.

WV Legislature

**§2-2-4. Month; year; fiscal year.**

In a statute the word "month" shall mean a calendar month, and the word "year" a calendar year; and the word "year" alone shall be equivalent to the expression "year of our Lord." The fiscal year for the state, all counties, all districts, all municipalities, all school districts, all other political subdivisions, and all bodies or officers, collecting or disbursing public funds, shall begin on July 1, and end on June 30.

WV Legislature

**§2-2-5. Acts by agent or deputy.**

When a statute requires an act to be done by an officer or person, it shall be sufficient if it be done by his agent or deputy, unless it be such as cannot lawfully be done by deputation.

WV Legislature

**§2-2-6. Seals.**

When the seal of the state, or of a court, officer or corporation is to be affixed to any paper, an impression of such seal upon the paper shall be sufficient. When the seal of a natural person is required to a paper, he may affix thereto a scroll by way of seal, or adopt as his seal any scroll, written, printed or engraved, made thereon by another.

WV Legislature

**§2-2-7. Affirmation equivalent to oath.**

A solemn affirmation shall be equivalent to an oath in all cases, unless otherwise expressly provided, and the word "oath" shall be deemed to include an affirmation and the word "swear" or "sworn" to be complied with if the person referred to make solemn affirmation.

WV Legislature

**§2-2-8. Effect of repeal or expiration of law.**

The repeal of a law, or its expiration by virtue of any provision contained therein, shall not affect any offense committed, or penalty or punishment incurred, before the repeal took effect, or the law expired, save only that the proceedings thereafter had shall conform as far as practicable to the laws in force at the time such proceedings take place, unless otherwise specially provided; and that if any penalty or punishment be mitigated by the new law, such new law may, with the consent of the party affected thereby, be applied to any judgment pronounced after it has taken effect.

**§2-2-9. Repeal of repealing act.**

When a law which has repealed another is itself repealed, the former law shall not be revived without express words for the purpose.

WV Legislature

**§2-2-10. Rules for construction of statutes.**

(a) The following terms are defined for this code:

- (1) "Convict" means a person confined in a penitentiary or correctional facility of this or any other state, or of the United States;
- (2) "County court" includes any existing tribunal created in lieu of a county commission; the words "commissioner of the county court" and "county commissioner" mean, and have reference to, the commissioners, or one of them, composing a county commission in pursuance of section nine, article IX of the Constitution, as amended, or any existing tribunal created in lieu of a county commission;
- (3) "The Governor" is equivalent to "the executive of the state" or "the person having the executive power";
- (4) "Judgment" includes decrees and orders for the payment of money, or the conveyance or delivery of land or personal property, or some interest therein, or any undertaking, bond or recognizance which has the legal effect of a judgment;
- (5) "Land" or "lands" and the words "real estate" or "real property" include lands, tenements and hereditaments, all rights thereto and interests therein, except chattel interests;
- (6) "Laws of the state" includes the Constitution of the State of West Virginia and the Constitution of the United States, and treaties and laws made in pursuance thereof;
- (7) "Minor" mean persons under the age of 18 years;
- (8) "Offense" includes every act or omission for which a fine, forfeiture, or punishment is imposed by law;
- (9) "Person" or "whoever" includes corporations, societies, associations and partnerships, and other similar legal business organizations;
- (10) "Personal estate" or "personal property" includes goods, chattels, real and personal, money, credits, investments, and the evidences thereof;
- (11) "Property" or "estate" embraces both real and personal estate;
- (12) "Railroad" and "railway" mean the same thing in law; and, in any proceeding in which a railroad company or a railway company is a party, it is not an error to call a railroad company a railway company or vice versa; nor may any demurrer, plea or any other defense be set up to a motion, pleading, or indictment in consequence of the misdescription;
- (13) "State", when applied to a part of the United States and not restricted by the context, includes the District of Columbia and the several territories, and the words "United States"

also include the said district and territories;

(14) "Town" includes a city, village or town, and the word "council", any body or board, whether composed of one or more branches, which is authorized to make ordinances for the government of a city, town, or village;

(15) "Written" or "in writing" includes any representation of words, letters, or figures, whether by printing, engraving, writing, or otherwise. But when the signature of any person is required, it must be in his or her own proper handwriting, or his or her mark, attested, proved, or acknowledged. Unless a provision of this code specifically provides otherwise, an electronic signature satisfies this signature requirement if the electronic signature meets the requirements of §39A-1-2 of this code;

(b) The following rules shall be observed in the construction of statutes unless a different intent on the part of the Legislature is expressed:

(1) A word importing the singular number only may be applied to several persons or things, as well as to one person or thing; a word importing the plural number only may be applied to one person or thing as well as to several; and a word importing the masculine gender only may be applied to females as well as males;

(2) Words purporting to give joint authority to three or more persons confers authority upon a majority of them, and not upon any less number;

(3) The sectional headings or headlines of the several sections of this code printed in black-faced type are intended as mere catchwords to indicate the contents of the section and are not titles of the sections, or any part of the statute, and, unless expressly so provided, they are not part of the statute when the sections, including the headlines, are amended or reenacted;

(4) When a council of a town, city, or village, or any board, number of persons, or corporations, are authorized to make ordinances, bylaws, rules, regulations, or orders, the same must be consistent with the laws of this state;

(5) An officer has qualified when he or she has done all that is required by law to be done before proceeding to exercise the authority and discharge the duties of his or her office;

(6) A statute is presumed to be prospective in its operation unless expressly made retrospective;

(7) Unless there is a provision in a section, article, or chapter of this code specifying that its provisions are not severable, the provisions of every section, article, or chapter of this code, whether enacted before or subsequent to the effective date of this subdivision, are severable so that if any provision of any section, article, or chapter is held to be unconstitutional or void, the remaining provisions of the section, article, or chapter remain valid, unless the court finds the valid provisions are so essentially and inseparably connected with, and so

dependent upon, the unconstitutional or void provision that the court cannot presume the Legislature would have enacted the remaining valid provisions without the unconstitutional or void one, or unless the court finds the remaining valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent. The provisions of this subdivision are fully applicable to all future amendments or additions to this code, with like effect as if the provisions of this subdivision were set forth in extenso in every amendment or addition and were reenacted as a part thereof;

(8) A reference to any section, article, or chapter of this code applies to all reenactments, revisions, or amendments thereof;

(9) If a statute refers to a series of numbers or letters, the first and the last numbers or letters in the series are considered to be included;

(10) No legislative enactment of a regulatory, noncriminal nature may be construed to prohibit a lawful business or business structure in existence and operating in this state prior to the effective date of the enactment of legislation prohibiting the operation of such business or business structure absent an express legislative declaration in the enactment that the existing business or business structure is prohibited from continuing after the effective date of the enactment.

(11) Statutes are construed to avoid absurd results;

(12) Statutes are to be read as a whole, in context, and, if possible, the court is to give effect to every word of the statute; and

(13) When two or more bills amending the same statute are passed during the same session of the Legislature, the form of the statute in the enrolled bill passed latest in time shall control.

**§2-2-11. Repeal of validating statutes; effect.**

The repeal by any provision of this code of a statute validating previous acts, contracts or transactions shall not affect the validity of such acts, contracts or transactions, but the same shall remain as valid as if there had been no such repeal, but no further.

WV Legislature

**§2-2-12. Headlines, etc., not part of act; notes, etc., attached to bills not to be construed as expressing legislative intent.**

Chapter, article, or section headings, headlines or headnotes of any act of the Legislature, whether in the act at the time of passage or inserted by the Clerk of the House of Delegates in editing, compiling and publishing the acts of the Legislature, are mere catchwords and shall not be deemed or construed to be titles of such chapters, articles, or sections, or as any part thereof, or as indicating or expressing legislative intent or purpose.

Abstracts of bills or of changes proposed in existing statutes, explanatory notes, and declarations of purpose accompanying bills at the time of introduction in the Legislature or appended or attached thereto after introduction, and included with copies of such bills printed or otherwise reproduced by the Legislature or either house thereof, are not to be a part of such bills or of reports of committees thereon, and shall not be construed or interpreted as indicating or expressing legislative intent.

**§2-2-13. Official business and records of the state to be in English; exceptions; definition.**

(a) All official business of this state shall be conducted in the English language. All official records, documents, rules, orders, and publications shall be printed in English and all official programs, meetings, transactions, and actions conducted by or on behalf of the state and all its political subdivisions shall be in English.

(b) Other languages may be used by government officials, and in official documents, whenever necessary to:

(1) Protect public health and safety;

(2) Teach or study other languages;

(3) Protect the rights of criminal defendants or victims of crime;

(4) Promote trade, tourism or commerce;

(5) Facilitate activities pertaining to the compilation of any census;

(6) Comply with the federal Individuals with Disabilities Education Act, PL 101-476;

(7) Use proper names, terms of art, legal terms or phrases from languages other than English; or

(8) Comply with the Constitution and laws of the United States of America or the Constitution of West Virginia. Except in exigent circumstances, when an official government document is translated into any language other than English under this section, an English translation shall also be provided in the same document, appearing in such a manner as to afford the reader the opportunity to observe the English translation of all phrases used.

(c) This section may not be construed to:

(1) Diminish the usage of, prevent the study or development of, or discourage the use of, any Native American language in any context or for any purpose;

(2) Prohibit an elected official from speaking to any person in a language other than English while campaigning or providing constituent services. However, those officials are encouraged to use English as much as possible to promote fluency in English;

(3) Disparage any language or discourage any person from learning or using any language; or

(4) Prohibit informal and nonbinding translations or communications among or between representatives of government and other persons if the activity does not affect or impair

supervision, management, conduct, or execution of official actions and if the representatives of government make clear that these translations or communications are unofficial and not binding on the state or any political subdivision of the state.

(d) Any examination related to employment administered by any state, municipal or county entity may be administered in a language other than English if the test is available in that language.

(e) As used in this section, "official" means any government action or document that binds the government, is required by law, or is authorized by law.

**§2-3-1. Legal capacity; saving provisions.**

On and after June 9, 1972, except as otherwise specifically provided in this code, no person who is eighteen years of age or older shall lack legal capacity, by reason of his age, to enter into contracts, sell or purchase real or personal property, create a lien, execute any legal or other written instrument, prosecute or defend legal actions, assert claims or deal in his own affairs in any manner whatsoever.

The provisions of this section, and the provisions of chapter sixty-one, acts of the Legislature, regular session, 1972, reducing various prescribed age requirements to eighteen years of age, shall not, however, by operation of law affect any rights, duties, obligations or interests accruing or vesting by virtue of any statute, act, event, transaction, order, judgment or decree prior to June 9, 1972, or any cause of action which arose or any civil action or claim instituted or asserted prior to such date, and any such right, duty, obligation, interest, cause of action, civil action or claim may be enforced, exercised, enjoyed, terminated, discharged, consummated, prosecuted, maintained or asserted with like effect as if said chapter sixty-one had not been enacted: Provided, That any person who has attained the age of eighteen years shall have full power and authority to exercise any and all of the rights, privileges and powers granted to him in the first paragraph of this section with respect to any legal or equitable interest acquired by or which vested in such person before he became eighteen years of age: Provided, however, That under no circumstances whatever shall any of the changes made by said chapter sixty-one have any effect upon any of the terms or provisions of or any conditions imposed by any last will and testament, trust agreement or any other written instrument of any kind or character executed prior to such date of June 9, 1972: Provided further, That any order or mandate providing for payment of child support for any person up to the age of twenty-one years contained in any decree or order of divorce or separate maintenance or in any order in any nonsupport or bastardy proceeding, which decree or order was entered prior to June 9, 1972, may by order of the court be terminated as to such person upon such person attaining the age of eighteen years. Moreover, the provisions of this section shall not affect any acts performed or transactions entered into by a person under the age of twenty-one years prior to June 9, 1972. No change in the general age of legal capacity or in the definitions of the words "under disability," "infant" or "minor" contained in section ten, article two of this chapter shall alter any statute of limitations as to causes of action arising before such date of June 9, 1972.