WEST VIRGINIA CODE CHAPTER 62 ARTICLE 9

WV Legislature

§62-9-1. General form of indictments.

All indictments in this state, if procured, found and returned in all other respects as provided by law, shall be sufficient if in the following form:

State of West Virginia, County of ....., to wit:

The grand jurors of the State of West Virginia, in and for the body of the county of ....., upon their oaths present that A....., on the ..... day of ....., 19 ....., in the said county of ....., did unlawfully (or unlawfully and feloniously, as the case may be) (here describe the offense in the language, purport or tenor of the statute as near as may be), against the peace and dignity of the state.

Found upon the testimony of ....., duly sworn in open court to testify the truth and sent before the grand jury this the ..... day of ....., 19 .....

(Signed)

prosecuting attorney.

Said indictment shall have legibly indorsed on the reverse side thereof the words "State of West Virginia versus .....Indictment for a ..... (Felony or Misdemeanor, as the case may be).

Foreman of the Grand Jury

Attest:, prosecuting attorney of

....., county, West Virginia."

Of such indictment a true and complete record shall be made and kept by the clerk of the court in which the indictment is found and returned, and it shall be necessary to state thereon whether such indictment be for a felony or a misdemeanor.

WV Legislature

§62-9-2. Indictment for treason.

An indictment for treason shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one:

That A....., being a person owing allegiance to the State of West Virginia, on the ..... day of ....., nineteen ....., in the said county of ..... did then and there, in violation of his said duty of allegiance, maliciously and traitorously counsel and abet, and combine, confederate and agree together with B..... and C..... (and any other persons) (or all such persons, if known, may be made joint defendants and jointly indicted), and divers other persons to the number of ..... (or to a number unknown), whose names are to the jurors unknown, all of whom, both said known and unknown persons, were then and there owing allegiance to the State of West Virginia, did then and there maliciously and traitorously (here state the acts or treason, such as gathering together men for war, collecting munitions, counseling the same, giving aid and comfort to the enemy of the state, etc.), and the said A..... (or together with B..... and C....., etc., as the case may be) did then and there maliciously and traitorously, and contrary to his said duty of allegiance to the State of West Virginia, (here set out the act done, such as command or lead the army, etc., according to the facts of the case), against the peace and dignity of the state.

WV Legislature

§62-9-3. Indictment for murder.

An indictment for murder shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one:

That A ....., on the ..... day of ....., nineteen ....., in the said county ....., feloniously, wilfully, maliciously, deliberately and unlawfully did slay, kill and murder one B....., against the peace and dignity of the state.

Upon the trial of such indictment the accused may be convicted of either murder of the first degree, murder of the second degree, voluntary manslaughter, or involuntary manslaughter, as the evidence may warrant.

WV Legislature

§62-9-4. Indictment for voluntary manslaughter.

A grand jury may, in a case of homicide, which in their opinion amounts to manslaughter only, and not to murder, find an indictment against the accused for manslaughter, and in such case the indictment shall be sufficient, if it be in form, tenor or effect as follows (after following the form in section one:

That A....., on the ..... day of ....., nineteen ..... in the said county of ..... feloniously and unlawfully did kill and slay one B....., against the peace and dignity of the state.

Upon the trial of such indictment the accused may be convicted of either voluntary or involuntary manslaughter, as the evidence may warrant.

WV Legislature

§62-9-5. Indictment for abortion.

An indictment for abortion shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):

That A....., on the ..... day of ....., nineteen ....., in the said county of ....., did feloniously, wilfully and unlawfully administer to and cause to be taken by one B....., a female person, who was then and there pregnant with child, a certain drug (or thing) commonly called (name the drug or thing) ..... (or the name and character of which is to the grand jurors aforesaid unknown) (or did feloniously, wilfully and unlawfully employ and use upon the body and womb of one B....., a female person, who was then and there pregnant with child, a certain instrument called .....) (or the name and character of which instrument is to the grand jurors aforesaid unknown) (or did feloniously, wilfully and unlawfully employ and use upon the body of one B....., a female person, who was then and there pregnant with child, certain means (describe the means used) (or the character and description of which are to the grand jurors aforesaid unknown), with intent then and there to destroy such unborn child of the said B....., and to produce the abortion and miscarriage of the said B.....; and that the said A....., then and there and by the means aforesaid did feloniously, wilfully and unlawfully destroy such unborn child and produce such abortion and miscarriage of the said B....., the same not being then and there done by the said A....., in good faith with the intention of saving the life of said B..... or that of her said unborn child, against the peace and dignity of the state.

WV Legislature

§62-9-6. Indictment for robbery.

An indictment for robbery shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one:

That A ....., on the ..... day of ....., nineteen ....., in the said county of ....., being armed with a dangerous and deadly weapon (if not armed, leave out allegation of being armed), in and upon one B..... an assault did feloniously make, and him the said B.....did then and there feloniously put in bodily fear, and (here set out the articles of money stolen, as the case may be), all the property of the said B....., and lawfully in his control and custody, from the person of the said B....., and against his will, then and there feloniously and violently did steal, take and carry away, against the peace and dignity of the state.

WV Legislature

§62-9-7.

Repealed.

Acts, 1976 Reg. Sess., Ch. 43.

WV Legislature

§62-9-8. Indictment for arson.

An indictment for arson shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):

That A....., on the ..... day of ....., nineteen ....., in the said county of ....., in the nighttime (or daytime), did feloniously, maliciously and unlawfully set fire to and burn (or, by the use of dynamite, nitroglycerine, or other explosive or inflammable chemical or substance, did destroy in whole or in part), the dwelling house of another, to wit, the dwelling house of ....., (or any jail or prison, or any hotel, asylum, hospital, or other building in which persons usually dwell or lodge, or any railroad car, boat, or other car or vessel, or any tent or temporary dwelling, in which persons usually travel, dwell or lodge), or did feloniously, maliciously and unlawfully set fire to anything (naming the thing fired), by the burning whereof such dwelling house (jail, prison, hotel, asylum, etc.) was burned, in the nighttime, against the peace and dignity of the state.

WV Legislature

§62-9-9. Indictment for burglary.

An indictment for burglary shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):

That A....., on the ..... day of ....., nineteen ....., about the hour of ....., in the night of the same day, in the said county of ....., the dwelling house of one B....., there situate, feloniously and burglariously did break and enter, with intent the goods and chattels of ....., in the said dwelling house then and there being, then and there feloniously and burglariously to steal, take and carry away; and then and there in the said dwelling house, ... (here name the property, money or goods), of the value of ..... (describing each article stolen and the value thereof and the total value), of the goods and chattels (or money) of the said B....., (or whoever the goods or money belonged to), in the said dwelling house then and there found, then and there feloniously and burglariously, did steal, take and carry away, against the peace and dignity of the state.

And instead of describing burglary with intent to commit larceny, the indictment may charge any other felony thus: Burglary with intent to commit sexual assault or sexual abuse as, after the form herein is followed to the charge of the offense, "with intent in the said dwelling house feloniously and burglariously to sexually assault, (or sexually abuse) "one C....., forcibly and against his will," and "then and there in the said dwelling house did feloniously and burglariously sexually assault (or sexually abuse)" the said C....., forcibly and against his will, against the peace and dignity of the state." And burglary with intent to commit any felony may be charged in the same count.

An indictment for entering a dwelling house or an outhouse adjoining thereto, of another, in the nighttime without breaking, or in the daytime by breaking and entering, may be in the following form, tenor or effect (after following the form in section one):

That A ....., on the ..... day of ....., nineteen ....., in the said county of ....., in the nighttime of said day, the dwelling house (or outhouse, etc., describing the same) of one

B ..... then and there found, did feloniously and burglariously enter without breaking (or, if it be in the daytime, use the words "in the daytime of said day," etc., "did feloniously and burglariously break and enter," etc.), with intent the goods and chattels of B ..... therein found, feloniously and burglariously to take, steal and carry away; and then and there in the said dwelling house (or outhouse, etc.), one ..... and one ..... and ..... dollars in money, etc., of the value of ..... dollars, goods, chattels and money of the said B ..... then and there found, did feloniously and burglariously take, steal and carry away, against the peace and dignity of the state.

And for entering without breaking, in the daytime, the same form shall be sufficient, without alleging therein that the act was done "burglariously."

§62-9-10. Indictment for larceny.

An indictment for larceny shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):

That A ....., on the ..... day of ....., nineteen ....., in the said county of ....., one (here describe the property or articles stolen, giving value of separate items) of the value of ..... dollars, of the money, goods, effects and property of B....., feloniously did steal, take and carry away, against the peace and dignity of the state.

And if the offense be petit larceny, the word "unlawfully" shall be substituted for the word "feloniously" in the form aforesaid, and after the word "aforesaid" the words "and within one year before the finding of this indictment" shall be inserted.

WV Legislature

§62-9-11. Indictment for embezzlement.

An indictment for embezzlement shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):

That A....., on the ..... day of ....., nineteen ....., in the said county of ....., did feloniously embezzle, fraudulently convert to his own use and steal certain bullion, money, bank notes, drafts, securities for money and other effects and property of and belonging to B ....., to wit: (here describe the property if it can be done, if not state "the description, name, denomination or title of said bank notes, etc., drafts, securities for money or other effects and property of the said B ..... are to the grand jurors unknown"), of the value of ..... dollars, he the said A ....., having then and there in his possession such bullion, money, bank notes, drafts, securities for money and other effects and property by virtue of a certain office, place and employment, to wit: (here describe the office, place or employment), against the peace and dignity of the state.

And it shall not be necessary to describe in the said indictment, or to identify on the trial, the particular money, bullion, note, draft, bill or security for money, which is so taken and embezzled.

WV Legislature

§62-9-12. Indictment for false pretenses.

An indictment for false pretenses shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):

That A ....., on the ..... day of ....., nineteen ....., in the said county of ....., did unlawfully, fraudulently, designedly and feloniously falsely pretend to one B ..... that (here set out the fraudulent misrepresentations), by means of which fraudulent and false pretenses the said A ..... did then and there feloniously and unlawfully obtain (here state the money or property obtained) of the property, goods and chattels of B ....., against the peace and dignity of the state.

And where goods which may be the subject of larceny are obtained on credit by false pretenses by the representation by the accused that there is money due or to become due him and he shall assign the claim for such money in writing to the person from whom such money, goods or other property is obtained, and shall afterwards collect the same without the consent of the assignee, with intent to defraud the indictment shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):

That A ....., on the ..... day of ....., nineteen ....., in the said county of ....., did unlawfully, fraudulently, designedly and feloniously falsely pretend and represent to one B ..... that there was a certain sum of money due to him the said A ....., from one C ....., and then and there assign in writing to the said B ..... the said sum of money so claimed to be due him from the said C ....., whereupon and by means of which, the said A ..... did then and there obtain, falsely, fraudulently and feloniously, from the said B ..... (here state and describe the money, goods and property of the said B ....., so obtained, and the value thereof), of the money, goods and property of the said B ....., and the said A ..... afterwards, to wit, on or about the ..... day of ....., nineteen ....., did fraudulently stop, and feloniously collect from said C ..... the money so assigned to the said B ....., without the consent of the said B ..... first obtained, against the peace and dignity of the state.

WV Legislature

§62-9-13. Indictment for taking, injuring or destroying property.

An indictment for taking and carrying away, injuring, destroying or defacing real and personal property, shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):

That A ....., on the ..... day of ....., nineteen ....., in the said county of ....., and within one year before the finding of this indictment, did unlawfully, but not feloniously,* take and carry away, destroy, injure and deface the following personal property, not his own, to-wit: (here describe the property; or if it be real property, after the star, state "destroy, injure and deface the following real property, not his own, to wit:" here describe it), against the peace and dignity of the state.

WV Legislature

§62-9-14. Indictment for false statement of financial condition.

An indictment for obtaining credit, loan, etc., by false statement in writing, shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):

That A ....., on the ..... day of ....., nineteen ....., in the said county of ....., and within one year before the finding of this indictment, with intent to cheat and defraud B ....., then and there knowingly, unlawfully, designedly and falsely did make a certain statement in writing (or cause the same writing be relied upon, which said statement in writing was as follows to be made, as the case may be), with intent that the said statement in (here copy, or set forth the full intent and meaning of said statement in writing), (or state that he made said writing on behalf of any person, firm, or corporation in whom or in which he was interested), and which said statement was with respect to the financial condition, means and ability of himself (or of the person, firm or corporation in whom or which he was interested or for whom he was acting), by which false, unlawful and designed statement in writing, he the said A ....., did obtain from the said B ..... a certain (here state what the credit obtained was, such as the extension of credit, or the making of a loan, discount of account receivable, indorsement of the note, etc., as the case may be), which said statement in writing the said A ..... then and there knew to be false and untrue, and which said false statement was relied on by the said B ....., by reason of which the said A .....did obtain from the said B ..... the (here describe the credit or other thing obtained), unlawfully, against the peace and dignity of the state.

WV Legislature

§62-9-15. Indictment for giving worthless check.

An indictment for giving a worthless check shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):

That A ....., on the ..... day of .....,nineteen ....., in the said county of ....., did unlawfully and feloniously (if for a felony, or "did unlawfully," if for a misdemeanor) issue and deliver unto B ....., for value, with intent to defraud the said B ....., his certain check (or draft) of the words and figures following: (here copy check or draft), when he the said A ....., knowingly did not have sufficient funds on deposit in or credit with the said ..... bank of ..... with which to pay said check (or draft), against the peace and dignity of the state.

WV Legislature

§62-9-16. Indictment for the forgery of writings.

An indictment for the forgery of any writing shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):

That A ....., on the ..... day of .....,nineteen ....., in the said county of ....., did falsely and feloniously forge a writing on paper (here describe it, such as "a promissory note of the words and figures following;" copying the note, or fully describe the paper and the signature forged, or indorsed, as the case may be), to the prejudice of another's right, and with intent to defraud, and the said A ..... then and thereafterward, with the intent to defraud one B ....., feloniously did utter and attempt to employ the same as true, to the prejudice of another's right and knowing the same to be forged, against the peace and dignity of the state.

WV Legislature

§62-9-17. Indictment for perjury.

An indictment for perjury shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):

That on the ..... day of ....., nineteen ....., in the said county of ....., before the ..... court of said county of ....., on an issue within the jurisdiction of the said court duly joined, and trial thereof before a jury of the county, between the State of West Virginia, plaintiff, and D ....., the defendant, for a felony, A ..... was in due form of law sworn by said court (or clerk or whoever administered the oath to the witness), having competent authority to administer to him the oath to speak the truth, the whole truth and nothing but the truth, touching the matters then and there in controversy between the State of West Virginia and the said D ..... Whereupon, and upon said trial for a felony, it became then and there a material question to said issue upon said trial, whether (here say what the material question was in detail), and to this material matter the said A .....then and there willfully, falsely, corruptly and feloniously did testify and say, in substance and effect, that (here set out the testimony of A ..... on said material issue as nearly exact as the same can be done); whereas, the said A ....., in truth and in fact, well knew that the said statement and testimony (here state clearly the proper denial of the truth, stating the allegation to suit the particular case), against the peace and dignity of the state.

WV Legislature

§62-9-18. Indictment for disturbing religious worship.

An indictment for disturbing religious worship shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):

That A ....., on the ..... day of .....,nineteen ....., in the said county of ....., and within one year before the finding of this indictment, did willfully interrupt, molest and disturb an assembly of people then and there met for the worship of God, against the peace and dignity of the state.

WV Legislature

§62-9-19. Indictment for bigamy.

An indictment for bigamy shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):

That A ....., on the ..... day of ....., nineteen ....., in ..... county in the state of ....., did intermarry with, in due form of law, one B ....., and have her for his wife (or him for her husband), and afterward, while he (or she) was so lawfully married to the said B ....., the said A ..... did feloniously and unlawfully marry and take to wife (or husband) one C ....., on the ..... day of ....., nineteen ....., in the county of ..... in the State of West Virginia, the said B ..... being still alive, against the peace and dignity of the state.

And if the bigamous marriage took place out of the state and parties thereafter cohabit in this state, the indictment should so allege that fact.

WV Legislature

§62-9-20. Indictment for adultery.

An indictment for adultery and fornication shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):

That A ....., on the ..... day of ....., nineteen ....., in the said county of ....., and within one year before the finding of this indictment, did commit adultery and fornication with one B ....., against the peace and dignity of the state.

WV Legislature

§62-9-21. Indictment for keeping house of ill fame.

An indictment for keeping a house of ill fame, assignation house or house of like character, shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):

That A ....., on the ..... day of ....., nineteen ....., in the said county of ....., and within one year before the finding of this indictment, did unlawfully keep and maintain a certain house of ill fame, assignation house or house of like character, resorted to for the purposes of prostitution and lewdness, against the peace and dignity of the state.

And for letting a house for like purposes, the indictment shall be sufficient if it be in the following form, tenor or effect (after following the form in section one):

That A....., on the ..... day of ....., nineteen ....., in the said county of ....., and within one year before the finding of this indictment, being the owner of a certain house then and there situate in said county at ....., did then and there unlawfully and knowingly lease, let, rent and permit the same to be rented, leased and used , unlawfully and knowingly, by B ..... for the purpose of prostitution and lewdness, against the peace and dignity of the state.

WV Legislature