

Rec., Mar. 11, 1933

247

# ENROLLED BILL

(REGULAR SESSION, 1933)

House Bill No. 247

(By Mr. Thomas)

Passed March 8, 1933

In Effect from Passage

Passage

Takes effect

Originated in the

Clerk of the House of Delegates

Clerk

CORRECTLY ENROLLED

Chairman Senate Committee

Chairman House Committee

## ENROLLED BILL

(H. B. No. 247)

[Passed March 8, 1933; in effect from passage.]

AN ACT to amend and reenact section twenty-two, article eleven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, and to amend said section in such manner as to repeal the portion thereof providing for the appointment of some person other than the sheriff as probation officer in counties having a population of one hundred thousand or more, as provided therein, and as enacted by chapter twenty-nine, acts of the West Virginia legislature, regular session, one thousand nine hundred twenty-nine.

*Be it enacted by the Legislature of West Virginia:*

That section twenty-two, article eleven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 22. Whenever, in any court of this state having

CORRECTLY ENROLLED

*James A. Smith*

*James E. Smith*

*Chairman Senate Committee.*

*Chairman House Committee.*

2 original jurisdiction of criminal actions, except a justice of the  
3 peace, a person under the age of twenty-one years is convicted  
4 of or pleads guilty to any offense not capital, or a person of any  
5 age is convicted of or pleads guilty to a misdemeanor, such  
6 court, whenever it shall appear to the satisfaction of the court  
7 that the ends of justice and the best interest of the public, as  
8 well as of the defendant, will be subserved thereby, shall have  
9 power to suspend the imposition or execution of sentence and to  
10 place the defendant upon probation for such period and upon  
11 such terms and conditions as it deems best; or the court may  
12 impose a fine and may also place the defendant upon probation  
13 in the manner aforesaid. The court may revoke or modify any  
14 condition of probation; or may change the period of probation,  
15 provided that the period of probation, together with any exten-  
16 sion thereof, shall not exceed five years.

16-a Whenever any person stands convicted, before a justice of  
17 the peace or the mayor of any incorporated city or town, acting  
18 as ex officio justice of the peace as provided by statute, either  
19 upon his own plea of guilty or after trial, and upon whom  
20 either a fine or jail sentence has been imposed, such person may  
21 file in any court to which an appeal would lie in such case, or

CORRECTLY ENROLLED

*James L. Smith*  
*James A. Rogers*

*Chairman House Committee.*

*Chairman Senate Committee.*

Enrolled H. B. No. 247]

3

22 with the judge thereof in vacation, his petition in writing  
23 seeking to be placed upon probation and accompanying such  
24 petition with a transcript of the docket of such justice or mayor.  
25 Whereupon the court shall have power to act upon such peti-  
26 tion and suspend the execution of such sentence, and otherwise  
27 deal with the petitioner in accordance with the provisions of  
28 this section as fully and completely as if conviction had been  
29 had in any court of said county having general criminal juris-  
30 diction.

31 While on probation the defendant may be required to pay,  
32 in one or several sums, a fine imposed at the time of being  
33 placed on probation, and may also be required to make restitu-  
34 tion or reparation to the aggrieved party or parties for actual  
35 damages or loss caused by the offense for which conviction was  
36 had, and may also be required to provide for the support of  
37 any person or persons for whose support he is legally respon-  
38 sible.

39 The sheriff of each county shall be and is hereby made the  
40 probation officer for such county.

41 It shall be the duty of a probation officer to investigate any  
42 case referred to him for investigation by the court in which he

CORRECTLY ENROLLED

*James L. Smith*  
*James A. Hays*

*Chairman Senate Committee.*

*Chairman House Committee.*

43 is serving and to report thereon to the court. The probation  
44 officer shall furnish to each person released on probation under  
45 his supervision a written statement of the conditions of proba-  
46 tion and shall instruct him regarding the same. Such officer  
47 shall keep informed concerning the conduct and condition of  
48 each person on probation under his supervision and shall report  
49 thereon to the court placing such person on probation. Such  
50 officer shall use all suitable methods, not inconsistent with the  
51 conditions imposed by the court, to aid persons on probation and  
52 to bring about improvements in their conduct and condition.  
53 Each officer shall keep records of his work; shall keep accurate  
54 and complete accounts of all moneys collected from persons under  
55 his supervision, and shall give receipts therefor, and shall make  
56 at least monthly returns thereof; shall make such reports to the  
57 prosecuting attorney as he may at any time require; and shall  
58 perform such other duties as the court may direct.

58-a On January first and July first of each year, and at such  
59 other times as the court may direct, the probation officer shall  
60 make a written report to the court giving the names of all per-  
61 sons placed on probation during the previous year, together  
62 with a brief statement of the conduct of each person while so on

CORRECTLY ENROLLED

James L. Smith  
Henry A. Byrnes

Enrolled H. B. No. 247]

5

63 probation. A copy of all such reports to the court shall also be  
64 filed with the pardon attorney of the state not later than ten  
65 days after such report shall have been filed with the court as  
66 shall seem advisable.

67 At any time within the probation period the probation officer  
68 may arrest the probationer without warrant, or the court may  
69 issue a warrant for his arrest. Thereupon such probationer  
70 shall forthwith be taken before the court. At any time after  
71 the probation period, but within the maximum period for which  
72 the defendant might originally have been sentenced, the court  
73 may issue a warrant and cause the defendant to be arrested  
74 and brought before the court. Thereupon the court may re-  
75 voke the probation or the suspension of sentence, and may im-  
76 pose any sentence which might originally have been imposed.

77 Nothing herein contained shall be construed to authorize a  
78 justice of the peace to release any prisoner on probation, or as  
79 affecting the provisions of chapter forty-nine of this code.

Chairman Senate Committee.

Chairman House Committee.

CORRECTLY ENROLLED

*James O. Hyle*  
Chairman Senate Committee.

*R. M. Shiner*  
Speaker of the House of Delegates.

*Geo. S. Hall*  
Clerk of the House of Delegates.

*Wm. M. Mauney*  
President of the Senate.

*Wm. R. Riley*  
Clerk of the Senate.

*James L. Smith*  
Chairman House Committee.

The within is.....

this.....day of....., 1933.

.....  
Governor.

Filed in the office of the Secretary of State  
of West Virginia. **MAR 18 1933**

Wm. S. O'BRIEN,  
Secretary of State