

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935



ENROLLED

HOUSE BILL No. 56

(By Mr. Committee on
the Judiciary)



PASSED March 9th 1935

In Effect from Passage

56

ENROLLED
COMMITTEE SUBSTITUTE FOR
House Bill No. 56

[Originating in the Committee on the Judiciary.]

[Passed March 9, 1935; in effect from passage.]

AN ACT to amend chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, by amending and reenacting section one, article eighteen, relating to the criminal jurisdiction of justices, and by amending and reenacting section eleven, article seventeen, as last amended by house bill number sixty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to fees of justices in criminal cases, and by amending and reenacting section fourteen, article seventeen, as last amended by house bill number thirty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to recovery of justices' fees.

Be it enacted by the Legislature of West Virginia:

That chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted by amending and reenacting section one, article eighteen; by amending and reenacting section eleven, article seventeen, as last amended by house bill number sixty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, and by amending and reenacting section fourteen, article seventeen, as last amended by house bill number sixty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, to read as follows:

ARTICLE XVIII.

Section 1. A justice shall have jurisdiction of the following
2 offenses committed in his county, or on any river or creek ad-
3 joining thereto:

4 (a) In cases of assault and battery, unless the offense was
5 committed on a sheriff or other officer or justice, or riotously, or
6 with intent to commit a felony; and no compromise with the
7 party injured shall affect or prevent the trial of such offense
8 by the justice; and if a defendant be convicted of such offense
9 he shall be fined not less than five nor more than fifty dollars;

10 (b) In cases of trespass to personal property; and, if a de-
11 fendant be convicted of such offense, he shall be fined not less
12 than five nor more than fifty dollars;

13 (c) In cases for the violation of section fourteen, article six,
14 chapter sixty-one of this code; and, upon the conviction of a de-
15 fendant for a violation of any of the provisions of said section,
16 he shall be punished as therein provided;

17 (d) In cases of adultery and fornication; and, if a defen-
18 dant be convicted of such offense, he shall be fined twenty dol-
19 lars;

20 (e) In cases of petit larceny; and, if a defendant be con-
21 victed of such offense, he shall be fined not less than ten nor
22 more than thirty dollars, and may, at the discretion of the jus-
23 tice or jury trying the case, be imprisoned in the county jail not
24 exceeding thirty days;

25 (f) In cases for the violation of article seven, chapter sixty-
26 one of this code; and upon the conviction of a defendant for
27 a violation of any of the provisions of said section, he shall be
28 punished as therein provided;

29 (g) In any case where the punishment is limited to a fine not

30 exceeding ten dollars, or to imprisonment for not more than
31 ten days;

32 (h) In all misdemeanor cases for the violation of the pro-
33 visions of chapter sixty of said code as amended by house bill
34 number one hundred nineteen, acts of the Legislature of West
35 Virginia, regular session, one thousand nine hundred thirty-
36 five. *Provided, however,* That whenever a person has been
37 convicted in the municipal or police court of any incorporated
38 town or city, such conviction shall be a bar to any criminal pro-
39 ceeding before a justice for the same offense.

ARTICLE XVII.

Sec. 11. Every justice shall be entitled to a fee of three dol-
2 lars in each criminal case and proceeding before him, which fee
3 shall constitute his compensation for all official services per-
4 formed by him in connection with any single case, including
5 affidavit for warrant, warrant of arrest, trial, examination, re-
6 cognizance, issuing subpoenas and copies thereof, warrants sum-
7 moning and swearing a jury when required, swearing and cer-
8 tifying attendance of witnesses, entering judgment and taxing
9 costs, issuing execution and any return thereon, granting an
10 appeal, including the taking of bond or recognizance, and all

11 other acts in connection therewith. Except, that he shall be
12 allowed an additional fee of fifty cents for making and certify-
13 ing a transcript of his docket in any particular case and trans-
14 mitting the same to the clerk of the circuit court, the state road
15 commission, or any other office to which he may be by law re-
16 quired to certify such transcript. The fees herein provided
17 shall cover any particular case and all proceedings there~~in~~,
18 whether there be one defendant or more than one defendant.
19 And no other fees shall be taxed or charged by any justice in
20 such cases and proceedings: *Provided, however,* That the pro-
21 visions of this section shall not apply to the fees of justices
22 earned by them prior to the seventeenth day of January, one
23 thousand nine hundred thirty-five, but the justices shall be
24 entitled to such fees theretofore earned as were authorized by
25 law at the time said fees were earned, and the prosecuting at-
26 torneys, county courts and sheriffs may approve and pay such
27 accrued costs in the same manner as was provided by the code
28 of West Virginia, one thousand nine hundred thirty-one, prior
29 to the enactment of house bills numbers sixty-four and sixty-
30 five, acts of the Legislature of West Virginia, regular session,
31 one thousand nine hundred thirty-five.

Sec. 14. In all cases and proceedings before a justice in relation to both felonies and misdemeanors, not triable on the merits of the case, the fees provided by section eleven shall be audited and paid by the county court as other claims against the county. Fees in misdemeanor cases, triable on the merits thereof, may be paid as provided by section fifteen, article five, chapter seven of the code.

The justice may issue executions for all fines and costs imposed by him in criminal proceedings which are not paid by the parties, and shall deliver such executions to a constable of his district of the county and such constable shall collect the same by levy or otherwise if the same can be collected, and shall return such executions to the justice issuing the same, showing how he has executed the same, and the justice shall note such returns on his docket. All costs collected by the justice by executions or otherwise shall be paid by him to the sheriff in like manner as the justice is required by section fifteen of this article to pay to the sheriff all fines collected by him; *Provided, however,* That the justice need not pay to the sheriff but may pay direct to any constable, any member of the department of public safety on account of the department of public

22 safety, and to any witness such lawful fees as he may have col-
23 lected on their behalf and which they are lawfully entitled to
24 receive.

25 No payment of fees or costs shall be made to any justice as
26 provided herein until the claim shall have been submitted to
27 the prosecuting attorney and the approval or disapproval of the
28 prosecuting attorney shall have been noted thereon.

I certify that the foregoing act,
having been presented to the Governor for
his approval, and not having been returned
by him to the House of the Legislature in
which it originated within the time pre-
scribed by the constitution of the state, has
become a law without his approval.

This the 15th day of March,
1935.



SECRETARY OF STATE

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

Clinton L. Howard

Chairman Senate Committee

Arnold M. Tickers

Chairman House Committee

Originated in the *House*

Takes effect *from* passage.

Alvin C. Bland

Clerk of the Senate

W. S. Hall

Clerk of the House of Delegates

Chas. E. Hodge

President of the Senate

John H. Peltier

Speaker House of Delegates.

The within this the

day of, 1935.

Filed in the office of the Secretary of State
of West Virginia. **MAR 15 1935**

Wm. S. O'BRIEN,
Secretary of State

Governor.