WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 1936

ENROLLED

HOUSE BILL No. 1

(By Mr. Speaker McCutcheon)

PASSED June 20, 1936

In Effect July 1, 1936 Passage
ENROLLED

House Bill No. 1
(By Mr. Speaker, Mr. Pelter)

[Passed June 26, 1936; in effect July 1, 1936]

AN ACT relating to the public welfare services of the state and its subdivisions, providing, among other things, for public assistance to the aged, to the blind, to physically handicapped adult persons, and to dependent children; transferring the state veterans' service officer to the state department herein established, providing for general relief of needy persons in the several counties of the state; providing for crippled, neglected, and delinquent children; and repealing chapters nine and forty-nine and article six, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, chapters two and thirty-two, acts of the Legislature of West Virginia, one thousand nine hundred thirty-one, and chapters seventy-four and seventy-five, acts of the Legislature of West...
Virginia, one thousand nine hundred thirty-five; and enacting in lieu thereof new chapters nine and forty-nine and providing penalties for the violation thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. General Purposes. From the first day of its statehood the State of West Virginia has extended public assistance to those citizens who, for reasons beyond their control, were unable to care for themselves. The great economic disturbances of the past few years have emphasized this responsibility beyond all previous experience. The Legislature, therefore, declares itself eager to provide, so far as it is possible to do so, for the permanent protection of its citizens against the recurring misfortunes of life. To this end, it is the purpose of this act:

(1) To assemble the public welfare services of the state into a single integrated system,

(2) To modernize the statutory provisions pertaining to the welfare services to promote more effective activity,

(3) To add to this system certain public assistance services which shall conform to the requirements of the federal "Social Security Act."
Sec. 2. How Act Cited. This act may be cited as the "Public Welfare Law of 1936."

Sec. 3. Succession of Offices and Property. Persons holding office under provisions of law repealed by this act shall continue in office until the appointment and qualification of the successors to their duties under the provisions of this act, or until their duties are terminated by order of the state director, because of the adoption and operation of this act.

Upon the taking effect of this act, the state department shall have possession of the property, equipment, records and any unexpended funds of the state agencies repealed by or transferred to the state department by this act. The county council for a county shall have possession of the property, equipment, and records of county agencies repealed by or transferred to the county council by this act.

Sec. 4. Provisions Severable. The provisions of this act shall be construed as severable, and should any be held unconstitutional, or for any other reason invalid, the remaining provisions shall not be affected thereby.

Sec. 5. Acts Repealed. Acts or parts of acts general or special in conflict with or superseded by, the provisions of
this act are hereby repealed. But the enactment of this act shall not affect the operation of executive orders relating to the West Virginia Relief Administration dated April twenty-fifth, one thousand nine hundred and thirty-four and February thirteenth, one thousand nine hundred and thirty-five.

Sec. 6. Relief Administration. The West Virginia Relief Administration shall continue in effect until its operations are terminated by order of the governor. When the governor finds that the state department and county councils are prepared to discharge the duties of the relief administration, or any of them, or to discharge such duties in a particular county of the state, he shall transfer such duties and activities from the relief administration to the state department or county council, or both, as the case may be. He shall at the same time, transfer so much of the appropriation made by the legislature for emergency relief and applicable to the transferred activity, as may be necessary, to the state department to be administered for the purposes of the transferred activity in accordance with the provisions of this chapter.
Chapter IX

PUBLIC ASSISTANCE AND RELIEF

Article I. State Department of Public Assistance.

Section 1. Purpose. The intent of the legislature is to provide a permanent system of public assistance for the state of West Virginia, to the end that its citizens who are subject to the recurring misfortunes of life may have such aid and encouragement as the state is able to extend. The purpose of this chapter is, therefore:

(1) To create a state department of public assistance to administer the public welfare services of the state.

(2) To revise the laws relating to the care and treatment of indigent persons.

(3) To provide public assistance for the indigent aged, indigent blind, and dependent children, which shall conform to the requirements of the federal "Social Security Act."

(4) To provide for physical rehabilitation of physically handicapped adult persons who qualify to receive public assistance or general relief under the provisions of this chapter.

Sec. 2. The State Department of Public Assistance. To
accomplish the purpose of this chapter, there is hereby created
the State Department of Public Assistance.

Sec. 3. Acceptance of Federal Legislation. The state of
West Virginia assents to the purposes of the act of the Congress
of the United States, entitled the "Social Security Act,"
approved, August fourteenth, one thousand nine hundred and
thirty-five, and assents to such additional federal legislation
as is not inconsistent with the purposes of this chapter.
The state of West Virginia further accepts the appropria-
tions of money by Congress in pursuance of the "Social Secu-
rity Act" and authorizes the receipt of such money into the
state treasury for the use of the State Department of Public
Assistance in accordance with this chapter and the conditions
imposed by the "Social Security Act."

Sec. 4. To Become Inoperative. The provisions of article
five of this chapter, relating to public assistance for the
indigent aged, shall become inoperative in the event TITLE
I—GRANTS TO STATES FOR OLD-AGE ASSISTANCE,
of the "Social Security Act," is held unconstitutional, or for
any reason becomes void or inoperative.

Sec. 5. Definitions. For the purposes of this chapter:
Article II. State Advisory Board.

Section 1. The State Advisory Board. There is hereby created in the Department of Public Assistance, a "State Advisory Board" composed of five members.

The members and the director shall be appointed by the governor, by and with the advice and consent of the Senate.

The board shall select one of its members as chairman.

Sec. 2. Political Affiliations of Members. Not more than two of the members of the state board, other than the director, shall belong to the same political party.

Sec. 3. Term of Office. The term of office of the members of the state board shall be six years, except that the governor, upon the adoption of this chapter, shall appoint the members
upon the following basis: Two members for a term of six years; two members for a term of four years; and one member for a term of two years. As these appointments expire, all appointments shall be for six year terms. In case of a vacancy in the state board, the appointment shall be for the remainder of the unexpired term. An appointee shall be subject to removal at the will and pleasure of the governor.

Sec. 4. Qualifications of Members. The members of the state board shall be selected with special reference to their ability and fitness to effectuate the purposes of this chapter.

Sec. 5. Disqualification. No member shall be a candidate for, or hold, any other public office or trust, nor shall he be a member of any political committee, nor shall he serve as an election official, nor shall he engage in any political activity, other than to vote, in behalf of, or in opposition to, any candidate, political party or public issue involved in any election. Any violation by a member of the provisions of this section shall automatically vacate his membership on the state board.

Sec. 6. Oath of Office. Members of the state board shall take and subscribe to the oath prescribed by article four, section five, of the state constitution before entering upon
their duties. Their oaths shall be filed with the secretary of state.

Sec. 7. Honorarium and Traveling Expenses. Each member of the state board shall receive an honorarium of ten dollars for each day actually served in attendance at meetings of the board, and actual expenses incurred in the performance of his duties under the provisions of this chapter.

Sec. 8. Requisition for traveling expenses shall be accompanied by a sworn and itemized statement, which shall be filed with the auditor and permanently preserved as a public record.

Sec. 9. Offices. The offices and meeting place of the board shall be in the offices of the director.

Sec. 10. Meetings. The state board shall hold four regular meetings each year, as follows: On the first Monday in July, October, January, and April. Special meetings may be convened on the call of the director, the governor or a majority of the members.

Sec. 11. Quorum. A majority of the members of the state board shall constitute a quorum for the conduct of official business.

Sec. 11. Advisory Powers and Duties. The state board
shall be an advisory body to the director, and as such shall have the following advisory powers and duties; to:

1. Study and consider the entire field of legislation and administration concerning public assistance.

2. Advise the director concerning the organization and administration of the state department.

3. Recommend to the director policies and practices relative to his duties.

4. Advise and make recommendations to the governor or legislature relative to the public assistance policy of the state.

5. Advise the director with respect to the special problems of different regions of the state and different economic groups.

6. Advise the director with respect to the preparation and amendment of rules and regulations to give effect to the provisions of this chapter.

7. Exercise any other advisory powers necessary or reasonably implied within the provisions and purposes of this chapter.

Sec. 12. Powers and Duties. The state board shall, in
addition to its functions as an advisory body, have the following powers and duties; to:

1. Recommend to the governor persons to be appointed members of the county councils.

2. Prescribe the qualifications for county directors and their assistants.

3. Certify persons approved for appointment as county directors.

4. Promulgate reasonable regulations for the filing and consideration of applications for certification as approved county directors.

5. Prescribe a salary scale to govern compensation paid to appointees and employees in the state department and to county directors and their assistants and employees.

6. Keep minutes of the transactions of each session, regular or special, which shall be public records and filed with the state department.

Sec. 13. Appointment of County Councils. Immediately after the organization of the state board, the board shall prepare and submit to the governor a list of persons recommended for appointment to the county public assistance
councils. The state board shall submit the names of not less than seven nor more than ten persons, for each county council.

As soon as possible after the receipt of the recommendations, the governor shall appoint four of the persons recommended for each county to the county council, two members for a three year term, one member for a two year term, and one member for a one year term. He shall certify the appointment of the members of the county council to the state director.

As soon as a vacancy occurs in a county council, the state board shall recommend to the governor a list of persons to fill the vacancy. At least two persons shall be recommended for each vacancy.

The governor shall designate a person to fill the vacancy and shall certify the appointment to the state director.


The state board shall promulgate regulations prescribing the qualifications and compensation of appointees and employees in the state department and of county directors and their assistants. The board shall:
(1) Classify the different types of services to be performed.

(2) Prescribe the qualifications of education, training and experience for each class.

(3) Fix a salary scale for each class. The salary scale shall establish a maximum and minimum salary for each class. Except for county directors, the difference between the maximum and minimum shall not exceed one thousand dollars.

Sec. 15. Certification of Qualified County Directors. For the purpose of certifying persons as qualified for appointment as county directors, the state board shall:

(1) Prescribe required qualifications of education, training and experience.

(2) Prepare and distribute application forms.

(3) Examine by written or oral examination, or both, as the board may determine, persons applying for certification.

(4) Determine whether the applicant possesses the necessary qualifications.
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11a. (5) Issue to each approved applicant a certificate of qualification.

12 (6) Certify to the county councils a list of qualified persons for appointment as county directors.

13 (7) Promulgate regulations prescribing the qualifications for county directors and the procedure of application, examination and certification.

Article III. The Director of Public Assistance.

Section 1. The governor, with the advice and consent of the senate, shall appoint a state director of public assistance.

The director shall hold office for a term of six years unless sooner removed at the will and pleasure of the governor.

He shall devote his entire time to the duties of his office.

Sec. 2. Qualifications. The director shall be selected with special reference to his training, experience, capacity, and interest in the activities embraced within this chapter.

The state director shall not be a candidate for, or hold, any other public office or trust, nor shall he be a member of any political committee, nor shall he serve as an election official, nor shall he engage in any political activity, other than to vote, in behalf of, or in opposition to, any candidate, politi-
9. No party or public issue involved in any election. Any
10. violation by the director of the foregoing provisions shall
11. automatically vacate his appointment as director.
12. The state director shall not, for a period of two years after
13. he ceases to act as director, be a candidate for or hold any
14. state or county elective office.

Sec. 3. Oath and Bond. The director, before entering
1. upon the duties of his office, shall take and subscribe to the
2. oath prescribed by article four, section five of the state con-
3. stitution. He shall execute a corporate surety bond in the
4. sum of fifteen thousand dollars for the faithful performance
5. of his duties. The bond shall be in a form prescribed by
6. the attorney general and approved by the governor. The
7. premiums upon the bond shall be paid out of the funds of
8. the department.
9. The bond and oath shall be filed with the secretary of
10. state.

Sec. 4. Offices. The offices of the director shall be located
1. at the state capitol. The director shall keep his offices open
2. at all reasonable times for the transaction of public business.

Sec. 5. Compensation. The director shall receive a yearly
2 salary of six thousand dollars, and, in addition, the neces-
3 sary traveling expenses incident to the performance of his
4 duties. Requisition for traveling expenses shall be accom-
5 panied by a sworn and itemized statement which shall be
6 filed with the auditor and preserved as a public record.

Sec. 6. **Powers and Duties.** The director shall be the
2 executive and administrative head of the department, and as
3 such shall have the power and duty; to:

4 (1) Exercise general supervision of, and make, and revise,
5 rules and regulations for the government of the department.
6 (2) Prescribe uniform regulations pertaining to investi-
7 gations, reinvestigations, and case supervision by county
8 councils and directors.
9 (3) Prescribe uniform methods of recording and account-
10 ing to be employed by the county councils and directors.
11 (4) Sign and execute, in the name of the state, by "The
12 State Department of Public Assistance", and by and with
13 a the consent and approval of the state board, any contract
14 or agreement with the federal government or its agencies,
15 other states, subdivisions of this state, corporations, associa-
16 tions, partnerships, or individuals.
16. (5) Supervise the fiscal affairs and responsibilities of the department.

18. (6) Organize the department so as to comply with the requirements of this chapter and standards required by the federal legislation.

21. (7) Order, with the approval of the state board, two or more counties to employ a single county director and a joint staff of assistants and employees.

24. (8) Make such reports as will comply with the requirements of the federal legislation and the provisions of this chapter.

27. (9) Cooperate with federal and state governments for the more effective attainment of the purposes of this chapter.

29. (10) Keep a complete and accurate record of all proceedings; record and file all bonds or contracts; and assume responsibility for the custody and preservation of all papers and documents pertaining to his office.

31. (11) Make an annual report to the governor of the condition, operation, and functioning of the department.

35. (12) Exercise any other powers necessary and proper to standardize state and county work, to expedite business, to
Sec. 7. Organization of Department. The director shall create such divisions of the department as will promote efficiency and economy in administration.

Sec. 8. Assistants and Employees. The director shall appoint the heads of the divisions of the department. He shall employ such assistants and employees as may be necessary to the efficient operation of the department and shall fix their compensation in accordance with regulations promulgated under section fourteen, article two of this chapter. Assistants and employees shall serve at the will and pleasure of the director.

Sec. 9. Compliance with Federal Methods and Standards
For the purpose of assuring full federal approval of the activities of the department and county councils, the state director shall comply with all federal requirements pertaining to methods and standards of administration. In the making of rules and regulations the state director shall include such methods and standards of administration for the conduct of the work of county councils as may be required for the receipt of grants-in-aid from the federal government.

Sec. 10. Supervision of County Councils and County Directors. The state director shall organize in the department a unit for the inspection, supervision and guidance of county councils and county directors. The state director, through this unit, shall maintain close contact with the work of county councils and county directors, to enforce standardized record keeping and accounting, adequate case investigation and case supervision, and to guide and instruct county officials in the performance of their duties.

Sec. 11. Training Periods. To insure adequate standards of public service, the state director shall establish regular
3. periods of technical and specialized instruction for employees
4. of the department, county directors and their assistants.
5. The state director shall designate the persons who shall
6. attend each period of instruction. Designated attendance
7. shall be compulsory and shall be compensated for as a part
8. of regular employment.

Sec. 12. Appeals from County Councils. The state
2. director shall organize within the department a board of
3. review, consisting of the director as chairman and as many
4. other members, not to exceed five, as may be necessary. The
5. board of review shall decide appeals from determinations of
6. a county council's granting or refusing to grant public
7. assistance under the provisions of this chapter. Hearings
8. may be held by individual board members in the counties,
9. but all decisions shall be by the board.

Sec. 13. Delegation of Duties. All powers and duties
2. vested in the director, except the power to sign contracts,
3. may be delegated by him to his appointees or employees;
4. but the director shall be responsible for their acts.

Sec. 14. Legal Assistance. The attorney general of the
2. state and his assistants, and the prosecuting attorneys of the
3 various counties shall render to the director, without addi-
4 tional compensation, such legal services as he shall require
5 of them in the discharge of his duties.

Article IV. County Public Assistance Council.

Section 1. County Public Assistance Councils. There
2 is hereby created in each county of the state a "County
3 Public Assistance Council". The council shall consist of five
4 citizens of the county, of whom four shall be appointed by
5 the governor upon recommendation of the state board. The
6 president of the county court shall be a member ex officio.
7 The president of the county court may appoint another mem-
8 ber of the court to serve in his place. The council shall desig-
9 nate one of the appointed members as chairman.
10 Not more than three members shall belong to the same
11 political party.

Sec. 2. Term of Office. Members of the council shall
2 serve for a term of three years, except that the first members
3 appointed after the adoption of this chapter shall serve as
4 specified by section thirteen, article two, of this chapter.
5 A member appointed to fill a vacancy occurring prior to
6 the expiration of a term shall serve for the unexpired term.
An appointee shall be subject to removal at the will and pleasure of the governor.

Sec. 3. 

Qualifications. The appointees members of the county council shall be selected with special reference to their experience, capacity, and fitness to perform the duties required of them by this chapter.

Sec. 4. 

Disqualification. No appointed member shall be a candidate for, or hold, any other public office, nor shall he be a member of any political committee, nor shall he serve as an election official. If an appointed member becomes a candidate for, or is appointed to, any other public office, or political committee, or serves as an election official, his office as a member of the county council shall, automatically, be vacated.

Sec. 5. 

Serve without Compensation. Members of the county council shall serve without compensation.

Sec. 6. 

Offices and Equipment. The office of the county council shall be at the county seat. The county court shall provide adequate office space and equipment. Offices shall be in the county courthouse if possible.

Sec. 7. 

Meetings and Proceedings. The county council shall hold regular meetings at such times as it shall determine
by formal order. Special meetings may be convened at the
call of the chairman, the state director, the county director
or a majority of the members.

A majority of the members shall constitute a quorum for
the conduct of official business.

The county council shall make all of its determinations
in the form of formal orders in which not less than a majority
of the members concur.

Sec. 8. Powers and Duties. The county council shall be
the administrative agency for the performance of public
assistance activities in the county, and, as such shall have
the following powers and duties; to:

(1) Receive and comply with the instructions and regu-
lations of the state board and the state director.

(2) Perform such duties as are required for the manage-
ment of specialized types of public assistance provided by this
chapter.

(3) Supervise the activities of the county director and the
members of his staff.

(4) Prepare and submit to the state board or the state
director reports and information at their request.
Cooperate with private charitable organizations or agencies operating within the county.

(6) Keep records of all transactions which shall be preserved as public records.

Sec. 9. County Director of Public Assistance. The county council shall appoint a "County Director of Public Assistance" from the list of persons certified by the state board as qualified to perform the duties of that office. The county director shall serve during the will and pleasure of the county council. The county council shall fix the compensation of the county director within the limits of the salary scale fixed by the state board.

The county director shall devote his entire time to the duties of his office.

The county director shall be the ex officio secretary of the county council.

Sec. 10. Assistants and Employees. The county council, upon the recommendation of the county director and with the approval of the state department, shall appoint or employ such assistants and employees as may be required, and in counties having a negro population of ten per cent or more
of the total county population, as determined by the last federal census, the county council shall appoint an assistant director from the negro race. A person appointed or employed by the county council shall be qualified in accordance with the regulations of the state board.

The compensation of appointees and employees of the county council shall be fixed by the county council within the limits of the salary scale adopted by the state board for the type of service rendered. In addition to their regular compensation, the county director and his subordinates shall be allowed their necessary traveling expenses. Requirements for traveling expenses shall be accompanied by a sworn and itemized statement which shall be filed with the county clerk and permanently preserved as a public record.

Sec. 11. Disqualification. No county director shall be a candidate for, or hold, any other public office, nor be a member of any political committee, nor shall he serve as an election official, nor shall he engage in any political activity, other than to vote, in behalf of, or in opposition to, any candidate, political party, or public issue involved in any election. The
Sec. 11. Discharge of Directors. The county council shall discharge any director who violates any provision of this section.

No appointee or employee of a county council shall be a candidate for, or hold, any other public office, nor be a member of any political committee, nor shall he serve as an election official, nor shall he engage in any political activity, other than to vote, in behalf of, or in opposition to, any candidate or political party; and any such appointee or employee of a county council who shall, in the judgment of said council, become politically active, contrary to the intent hereof, shall be dismissed by the council.

Sec. 12. County Director. Powers and Duties. The county director shall be the administrative officer in charge of, and responsible for, the county activities provided by this chapter and, as such, shall have the following powers and duties:

(1) Perform all duties imposed upon him by the provisions of this chapter.

(2) Execute in accordance with the provisions of this chapter, the instructions of the state board, the state director, and the county council.
(3) Supervise and direct the work of his subordinates and assistants.

(4) Prepare and submit such reports and information as may be required by the state board, the state director, or the county council.

(5) Observe standard administrative procedure and methods required by the state director.

(6) Cooperate with private charity and welfare agencies within the county.

Sec. 13. Inter-county Agreements. Upon approval by the state director, two or more county councils may enter into an inter-county agreement for the joint employment of a single county director and a joint staff of assistants and employees. The county councils of the counties desiring so to cooperate shall prepare an agreement in the form and to the effect approved by the state director. When adopted by formal order of each county council acting independently, the agreement shall be effective for the duration of the fiscal year, but shall automatically expire at the close of the fiscal year. Inter-county agreements may be renewed annually or amended at
any time by the formal order of the participating county

councils.

In case a single county director is designated and a joint

directors employed, each county council shall continue

to perform within its county the duties required by this

chapter.

Sec. 14. Joint County Units. The state director, with the

approval of the state board, may order two or more county

councils to employ a single county director and a joint staff of

assistants and employees. The order shall state the proportion

of the total expenses of the single county director and joint

staff of assistants, allocable to counties under the provisions

of this chapter, which shall be paid by each county. Each

county council shall continue to perform within its county

the duties required by this chapter.

Article V. Public Assistance.

Section 1. Purpose. The purpose of this article is to

provide public assistance for the indigent aged, the indigent

blind and dependent children, that will conform to the re-

quirements for federal grants-in-aid under the "Social

Security Act."
Public Assistance shall be granted only:

1. To the extent that funds are available for the purpose.
2. To those actually in need.
3. To the extent necessary to safeguard a decent and healthful subsistence.

Sec. 2. Definitions. Unless the context clearly requires a different meaning, when used in this article:

1. "Public Assistance" shall mean money payments to, or for the benefit of, aged persons, blind persons, or dependent children.
2. "Resources" shall mean all property, real and personal, tangible and intangible, and all income, whether in the form of money or otherwise.
3. "Applicant" shall mean the person for whose use and benefit application is made.
4. "Recipient" shall mean the person for whose use and benefit a grant of public assistance is made.

Sec. 3. Aged Persons. An aged person shall be eligible for public assistance who:

1. Has attained the age of sixty-five years.
2. Is a citizen of the United States.
(3) Has resided in the state for at least five years during the nine years immediately preceding application for assistance and for one year immediately preceding the application.

(4) Has not made an assignment or transfer of property for the purpose of qualifying for assistance, except as required by section twenty-nine of this article.

(5) Is not in need of continuing institutional care because of his physical or mental condition.

(6) Is not an inmate of a public or private institution. An inmate may apply for assistance to begin after the discharge from such institution.

(7) Is actually in need and has not sufficient income or other resources to provide a subsistence compatible with decency and health.

Sec. 4. Blind Persons. A blind person shall be eligible for public assistance who:

(1) Has vision in the better eye, with correcting glasses, of twenty-two-hundredths or less or a disqualifying field defect sufficient to incapacitate him for self-support.

(2) Has attained the age of twenty-one years.

(3) Is a citizen of the United States.
(4) Has resided in the state for at least five during the nine years immediately preceding application for assistance and for one year immediately preceding the application.

(5) Has not made an assignment or transfer of for the purpose of qualifying for assistance, except as required by section twenty-nine of this article.

(6) Is not an inmate of a public or private institution. An inmate may apply for assistance to begin after his discharge from such institution.

(7) Is actually in need and has not sufficient income or other resources to provide a subsistence compatible with decency and health.

Sec. 5. Dependent Children. A dependent child shall be eligible for public assistance who:

(1) Has not attained the age of sixteen years.

(2) Is deprived of parental support or care by reason of the death, continued absence from home, or physical or mental incapacity of a parent.

(3) Is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother,
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9. stepsister, uncle, or aunt in a place of residence maintained
10. by such relative as his own home.

11. (4) Has resided in the state for one year immediately pre-
12. ceding application for assistance, or was born, within one year
13. immediately preceding application, of a mother who resided
14. within the state for one year immediately preceding such
15. birth.

16. (5) Is living in a suitable family home conforming to the
17. standards of care and health fixed by this chapter and the
18. regulations of the state department.

19. (6) Is needy because the person caring for him is unable
20. to support him, and unless public assistance is granted will
21. become a public charge.

Sec. 6. Application. A person desiring public assistance,
2. or, in the case of a dependent child, the person having custody
3. of the child, shall apply to the county director of the county
4. in which he resides. Application shall be in writing, or shall
5. be reduced to writing, in the form prescribed by the regula-
6. tions of the state department. The application shall set forth
7. complete information pertaining to:
(1) The eligibility of the applicant as an aged person, a blind person, or a dependent child.

(2) Property owned by the applicant, or in which the applicant has an interest.

(3) Income from all sources including amounts contributed by relatives or other persons.

(4) Such other information as the regulations of the state department may require.

The person making application shall subscribe to an oath or affirmation attesting to the correctness and completeness of the information.

Sec. 7. Investigation. The county director shall, upon the receipt of the application, make an investigation to determine:

(1) The correctness and completeness of the statements contained in the application.

(2) The amount required to provide a subsistence for the applicant compatible with decency and health.

(3) The amount of assistance required, in addition to all other resources, to provide such a subsistence.

Sec. 8. Recommendation by County Council. Upon the completion of his investigation, the county director shall
submit to the county council the application, the results of his investigation, and his findings as to the eligibility of the applicant and the amount of public assistance required.

The county council shall proceed without delay to consider the application. It shall approve the application if it finds that:

(1) The applicant is eligible for public assistance in accordance with the provisions of this article.

(2) The resources of the applicant are insufficient to provide him with a subsistence compatible with decency and health.

(3) The applicant has no relatives or other persons financially able to support him and legally responsible for his support.

(4) Funds for the purpose of public assistance are available and may be expended under the provisions of this chapter.

Sec. 9. Approval of Application. If the county council approves an application, it shall determine the amount of aid per month required for a subsistence compatible with decency.
and health, having due regard for the resources of the applicant and his necessary expenditures.

Sec. 10. Denial of Application. If the county council finds that the applicant is not entitled to public assistance under provisions of section eight of this article, it shall deny the application.

Sec. 11. Dependent Child. Home Conditions. In considering an application for a dependent child, the county council shall determine whether the person having custody of the child is capable of properly caring for and educating the child, and whether the place of residence of the person is a suitable and proper place, taking into consideration the health and welfare of the child. The county council shall approve an application for aid for a dependent child only when it finds that the interests and welfare of the child can best be protected by granting public assistance.

A determination by the county council or by the state department that the home of the person having custody of a dependent child is no longer a suitable or proper place for the rearing of children shall constitute good reason for the revocation of a grant of public assistance.
Sec. 12. Blind Persons: Examination. A county council shall not approve an application for public assistance to a blind person until the applicant has been examined by an ophthalmologist or other qualified person designated by the state department to make such examinations. The examining person shall certify to the county council the diagnosis, prognosis, and visual acuity of the applicant. Certification shall be on forms prescribed by the state department.

Sec. 13. Notification and Certification. Immediately upon making its decision, the county council shall in writing,

(1) Notify the applicant of its decision.

(2) Certify its findings and the record of the application to the state department.

Sec. 14. Examination by State Department. Upon receipt of the record of an application approved by a county council, the state department shall examine the recommendation of the county council. The state department shall approve the recommendation if it finds:

(1) That the applicant is legally eligible for aid.

(2) That the resources of the applicant are insufficient to provide a subsistence compatible with decency and health.
(3) That the amount of public assistance determined as necessary by the county council is reasonable. If the amount is unreasonable, the state department may correct the amount.

(4) That an investigation was made by the county council in accordance with the provisions of this article.

(5) That sufficient evidence was considered by the county council to support its conclusion.

(6) That pertinent evidence was not excluded or overlooked.

(7) That the recommendations of the county council in all other respects conform to the requirements of this article and the rules and regulations of the department.

(8) That public funds are available for the payment of public assistance to the applicant.

Sec. 15. *Disposition of Application.* In addition to the disposition of an application under section fourteen, the state department may initiate an original investigation of any application; may remand an application for further investigation; or may increase or decrease the amount of public assistance determined by a county council as necessary.
Sec. 16. Amount of Grant. When the state department approves an application for public assistance, it shall fix the amount of monthly grant required for the needs of the applicant. Public assistance shall be paid monthly out of funds appropriated for the purposes of this article upon requisition of the director by means of a warrant signed by the auditor and treasurer.

Sec. 17. Limitation of Amount. The amount of public assistance granted from all sources, including funds received from the Federal government, shall not exceed in the case of:

1. An aged person, thirty dollars per month.
2. A blind person, thirty dollars per month.
3. A dependent child, twelve dollars per month. If more than one child is accorded public assistance in the same family, the amount granted for the first child shall not exceed twelve dollars per month and for each additional child after the first, shall not exceed eight dollars per month.

Sec. 18. Additional Aid. A recipient of public assistance under this article shall receive no other public aid, except
3. temporary medical or surgical care, without the approval of
4. the county council of the county where the recipient resides.
5. Such approval shall be subject to the rules and regulations of
6. the state departments.

Sec. 19. Aged and Blind Assistance not to be Paid to Same
2. Person. Public assistance shall not be granted to a blind
3. person with respect to any period in which he is receiving
4. public assistance as an aged person.

Sec. 20. Payment for Use of Recipient. Whenever an aged
2. or blind recipient of public assistance is, or becomes in the
3. judgment of the county council, incapable of managing his
4. own finances, the council may with the approval of the state
5. department designate a parent, the legal guardian, or another
6. responsible person to whom the installments of assistance
7. shall be paid for the benefit of the recipient. The person
8. designated and approved shall be responsible to the county
9. council for the use of all money paid to him under this
10. section.

The county council may, with the approval of the state
12. department, change its designation or make a new one when
13. such action is necessary.
Sec. 21. Reconsideration of Grant. A grant of public assistance shall be reconsidered as follows:

(1) The county director shall reinvestigate each grant of public assistance at least once every six months.

(2) Whenever there is reason to believe that the conditions governing a grant of public assistance have changed so as to affect the eligibility of a recipient or the amount of assistance required, or that a recipient is wasting his allowance, a reinvestigation may be undertaken by the county director, the county council, or the state department either directly or by the county director upon the order of the state department.

If, as the result of the reinvestigation, the county council or the state department finds that the recipient is not entitled to public assistance or that the amount granted is insufficient, excessive, or unnecessary, it shall proceed to revoke the grant or to adjust the amount in the manner provided by this article for the determination and fixing of the amount of an original grant. Before a grant of public assistance is revoked or reduced, the recipient shall be notified in writing and shall be given an opportunity for a hearing in his behalf.
Sec. 22. Reexamination of Eyesight. A recipient of public assistance for the blind shall submit to such reexaminations of his eyesight as the rules of the state department shall prescribe.

Sec. 23. Appeal to State Department. An applicant for or a recipient of public assistance under this article may appeal to the board of review of the state department when:

(1) His application is denied.

(2) His application is not acted upon for sixty days after filing with the county director.

(3) He deems the grant inadequate.

(4) The grant is revoked.

(5) The grant is reduced.

The appeal shall be by petition setting forth the reasons for appeal.

Sec. 24. Hearing of Appeal. Upon receipt of the petition the board of review shall set a time for hearing at a convenient place in the county in which the petitioner resides. Hearing shall be held in not less than ten nor more than thirty days. The petitioner may appear and be heard in person or may designate another person to represent him.
7 Hearing may be before a single member of the board of
8 review, but the appeal shall be decided by the board.

Sec. 25. Disposition of Appeal. The state board of review,
2 on appeal, may reverse, affirm, or modify the determination
3 of the county council. It may remand the matter to the
4 county council for further investigation and consideration
5 or refer the matter to the state department for an original
6 investigation and determination.
7 The state board of review shall notify the county council
8 and the person appealing of its decision in writing. Its
9 decisions shall be binding upon the county council.

Sec. 26. Complaint by Citizens: Appeal. A citizen or
2 group of citizens of the county may file with the county
3 council objections to a grant or the continuance of a grant
4 of public assistance made by the council. The council shall,
5 upon request, afford opportunity for a hearing of such ob-
6 jections.
7 If, after hearing, the complainants are dissatisfied, they
8 may appeal to the board of review of the state department.
9 The appeal shall be heard and decided in the manner provided
by sections twenty-three, twenty-four and twenty-five of this article.

Sec. 27. Exemptions. Public assistance received under the provisions of this article shall be exempt from levy of execution, garnishment, or any other legal process.

Sec. 28. Enforcement of Relatives' Liability. The county council may proceed by motion in the circuit court of the county against one or more of the relatives of an applicant for, or recipient of, public assistance who are of sufficient financial ability and are legally liable for the support of such applicant or recipient under the provisions of article eleven of this chapter.

Sec. 29. Agreement to Reimburse. As a condition of receiving public assistance, an aged person shall submit to the county council a properly acknowledged agreement granting to the state a lien upon all or any part of his real or personal property including that subsequently acquired, as may be required by the rules of the state department. The lien shall be effective from the date of its recordation in the county wherein said property is situate, and
shall be for the total amount of public assistance paid to the person.

The clerk of the county court shall enter without fee the agreement in a book known as "Reimbursement Agreements", and containing a complete alphabetical index. The county council shall enter with the clerk of the county court an acknowledgement of the amount of reimbursement received.

Upon reimbursement made to the state because of public assistance granted, the county council shall file with the clerk of the county court, of the county where the reimbursement agreement was filed, a release to the amount of reimbursement received, in the manner and form and with the acknowledgement prescribed by article twelve, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one.

Sec. 30. Lien Against Assets. The lien provided for by section twenty-nine shall extend to assets accruing to the estate of a recipient of old age assistance.

Sec. 31. Insurance Policies. As a condition of receiving public assistance, an aged person shall assign to the state
3. To present to the department any insurance policy held by him carrying death benefits, as security for the amount of public assistance granted to him.

Sec. 32. Certificate of Amount of Assistance Paid. Under the rules and in the form prescribed by the state department, the county council shall execute and file with the clerk of the county court of the county where the recipient resides, or owns property, a certificate showing the amount of public assistance paid to an aged person. The certificate when filed shall be a legal claim of the state against the recipient and his estate, which claim shall have the force and effect of a judgment at law with priority over all unsecured claims except funeral expenses for such recipient, which expenses shall not exceed one hundred dollars.

Sec. 33. Lien Against Real Estate. A lien given under this article shall not be enforced against real estate occupied by the surviving spouse of a recipient unless:

1. Such person is a widow who remarries.
(2) There is a threatened or actual sale or transfer of the property.

Sec. 34. Liability of Blind Persons. The total amount of public assistance granted to a blind person shall be allowed as a claim of the state against the recipient and his estate, but the lien shall not be enforced against real estate of the recipient occupied by a surviving spouse unless such spouse is a widow who remarries.

Sec. 35. Power of County Council. A county council shall receive all assignments and perform all acts necessary to protect the financial interests of the state in the assets of recipients of public assistance. All liens and claims under this article shall be enforced by the county council as the agent and in the name of the state, and all money reclaimed shall be paid by the council into the state treasury.

Sec. 36. Exemptions. If the enforcement of a lien or claim held by the state under this article, real property to the value of fifteen hundred dollars and personal property to the value of two hundred dollars shall be exempt. The value of the exemptions shall be determined in the
same manner as exemptions claimed in pursuance of section forty-eight, article six of the state constitution.

Sec. 37. Reimbursement to Federal Government. One half of the net amount collected from the estate of a recipient of public assistance under the provisions of this article shall be reimbursed to the federal government. At such times as the federal government may require, the state director shall draw his requisition upon the state auditor in favor of the treasurer of the United States for the amount of such funds in the state treasury which are payable to the federal government. The reimbursement shall be paid out of the state treasury as other claims against the state are paid.

Sec. 38. Notice of Change in Resources. A recipient of public assistance shall notify immediately the county director of any increase in his resources. If a recipient fails to notify the county director of any such increase, the amount of aid paid to him in excess of his actual needs, shall be recoverable in the name of the state as a debt.

Sec. 39. Grants Conditional. A grant of public assistance shall be subject to:
Article VI. General Relief.

Section 1. Purpose. The purpose of this article is to provide for the administration of general relief. The primary financial responsibility for such relief shall remain in the counties of the state.

Sec. 2. General Relief: Definition. “General relief” shall mean care and assistance to an indigent person who is a resident of the county and who is in fact:

(1) A public charge, or in danger of becoming a public charge, or

(2) In need of continuing institutional care because of his physical or mental condition, or

(3) In need of medical or surgical care whether in an institution or in his home.

A person financially able to maintain himself under ordinary conditions, but unable to provide necessary medical
Sec. 3. **Legal Residence.** For the purpose of this article, a person shall be a resident of a county if he actually resides therein and has resided in the state for the year next preceding application.

Whenever funds are specifically made available for that purpose, the state department may extend the authority of a county council to grant general relief to include persons who have not been residents of the state for one year.

Sec. 4. **Care to be Given.** A county council shall administer, within its county, general relief provided for in this article. The council shall, insofar as funds are available for the purpose, provide for persons eligible for general relief.

The council shall, whenever possible, administer such care and assistance as may restore such persons to a condition of complete self-support and independence.

Sec. 5. **Application.** A person, or another in his behalf, may make application for general relief to the county director of the county in which the applicant resides.
Sec. 6. Investigation. Upon receipt of an application, or of information that a person is in need of general relief, the county director shall investigate and prepare a record of the circumstances. He shall ascertain, so far as possible, the resources, ability for labor of all members of the family, willingness and ability of other persons to assist, the cause of the present condition, and such other information as may be pertinent in determining the treatment applicable to the case and the amount of relief required.

The director shall submit the record and his determination to the county council.

Sec. 7. Disposition by County Council. The county council shall consider the record and the determination of the county director. The council shall either grant or refuse relief. If it grants relief it shall specify the type and amount of relief to be given.

Sec. 8. Temporary Relief. Under the direction and supervision of the county council, the director shall grant such temporary relief as the exigency of the case requires.

Sec. 9. Order of County Council. If a county council determines that general relief is necessary, it may:
3. (1) Fix the amount or value of a monthly or weekly grant, in money, food, or other necessities, to the needy person or to another for his use and benefit.

4. (2) Commit the person to the county infirmary for continuing care.

5. (3) Order temporary medical or surgical treatment.

6. (4) Instruct the county director to accord such aid as may be appropriate to the case.

7. (5) Order any other appropriate assistance or care.

Sec. 10. Family not to be Separated. So far as possible, the county council shall extend general relief to persons in their homes. The members of a family shall not be separated for reasons of poverty alone.

Sec. 11. Visitation by County Employees. Health officers, physicians, and nurses employed by the county shall, at the request of the county council, make home visits to indigent persons.

Sec. 12. Hospitalisation. A county council shall, under the rules and regulations of the state department, designate one or more public or private hospitals, approved by the
state department, for the medical and surgical care of indigent persons in the county.

Except as provided in section thirteen of this article, the payment of hospital costs shall be authorized by a county council only when the indigent person is admitted upon order of the council or of the county director.

Sec. 13. Emergencies. If, in an emergency, an indigent person is admitted to a hospital without order of the county director, the hospital shall not receive payment for the services rendered unless the hospital, within forty-eight hours after the admission, sends to the county council of the county in which the person resides a report of the facts of the case, including a statement of the physician in attendance as to the necessity of immediate admission of the person to the hospital; and then, only if the county council assumes the cost of the services rendered.

If the hospital does not know the residence of the indigent person, the county council of the county where the person resides, when such residence is finally determined, may assume the cost of services rendered, although the report required by this section was not made.
Sec. 14. **Supervision.** For the purpose of assuring that general relief is continued no longer than necessary, and of rendering guidance and assistance leading to self-support, the county director shall:

1. Visit, at least once each month, a person receiving general relief in his own home or in another place other than an institution.

2. Visit, as often as the case requires, persons receiving institutional care or treatment.

3. Reinvestigate, and place before the county council for review, a case of continued general relief at least once each year, or more often as the county council may direct.

Sec. 15. **Interment.** A county director shall have decently interred the remains of persons who die in the county, and who, at the time of death, do not possess money or property sufficient to pay the expense of such burial. If the deceased is, or has been, in the military service of the United States, or of the Confederacy, interment shall not be made in a cemetery or cemetery plot used exclusively for the burial of indigent persons.

Sec. 16. **Regulations by State Department.** The power
and duties conferred by this article upon the county council and the county director shall be exercised by them in accordance with the regulations prescribed by the state department.

**Article VII. County Infirmaries.**

Section 1. *County Infirmary.* A county court may, in its discretion, maintain an existing county infirmary or other institution for the care of persons requiring general relief as defined by section two, article six, of this chapter.

The control and business management of the county infirmary or other institution shall be the responsibility of the county court.

The commitment of persons to and the release from the county infirmary or other institution shall be the responsibility of the county council.

Sec. 2. *Lands and Property.* A county court may:

1. Hold and convey land used as a site for a county infirmary or other institution, and for farms in connection therewith.

2. Use and dispose of property received as a gift, grant, devise, or bequest for the purpose of a county infirmary.
Sec. 3. **Two or More Counties.** The county courts of two or more adjoining counties may jointly establish an institution for general relief, and contribute to the expense of establishing and maintaining it in the proportions and under the regulations agreed upon. The management shall be in the county court of the county where the institution is situated, unless otherwise agreed by the county courts concerned.

Sec. 4. **Superintendent and Staff.** A county court may appoint a superintendent in charge of its infirmary and of similar institutions, and may appoint necessary assistants and employees.

The superintendent shall execute a bond to the county court in the penalty and with the sureties required by the county court, conditioned as required by article two, chapter six of the official code, one thousand nine hundred thirty-one.

Sec. 5. **Compensation and Tenure.** The superintendent, assistants, and employees shall receive the salaries and compensation provided by the county court, and shall hold their positions at the pleasure of the county court.
Sec. 6. Management: Regulations. The county court shall manage and control the institutions provided for by this article. It may make necessary rules and regulations for the management of such institutions, including matters of government and discipline.

Sec. 7. Duties of Superintendent. Under the direction of the county court, the superintendent, with regard to an institution of which he has charge, shall:

1. Be directly responsible for the management and care of persons committed.
2. Purchase equipment and supplies.
3. Keep a complete and accurate record of all receipts and expenditures.
4. Make a detailed report to the county court, annually, and at such other times as the county court may request.
5. Recommend to the county court improvements in method or plan of operation.

Sec. 8. Admission. The superintendent shall receive persons committed by order of the county council.

Sec. 9. Labor. Persons committed to a county infirmary or similar institution may be required to perform certain
duties and labor, but only to the extent reasonably permitted by their physical and mental condition.

Sec. 10. Records and Reports of Admissions. The superintendent shall:

1. Keep a register of all persons admitted, showing their name, age, date of, and reason for admission.
2. Record all discharges, removals, escapes, and deaths.
3. Report quarterly, or more often if requested, to the county court and the county council, the above and such other information as the court or council may require.

Sec. 11. Inspection. The county court shall make a quarterly inspection of an institution provided for by this article. It may request the county or a municipal health officer, or any qualified physician to assist in or make an independent inspection.

Sec. 12. Services Rendered by County Director. At the request of the county court, the county director shall advise and consult with the county court with respect to the management and control of the infirmary or other institution, and shall make such visitations and inspections as the county court may request.
Sec. 13. Records and Accounts. Records and accounts required by this article shall be preserved for not less than five years as public records.

Article VIII. State Veterans' Service Office.

Section 1. State Veterans' Service Officer. There shall be in the state department the office of a state veterans' service officer.

The officer shall be a citizen of this state, entitled to vote, and a veteran of the World War.

Sec. 2. Duties. The state veterans' service officer shall:

1. Assist all veterans honorably discharged from the armed forces of the United States of America, in properly presenting their claims before the United States Veterans' Administration, or before any bureaus or departments of the United States government, the state of West Virginia, or any of the several states of the United States, when the claims arise out of service with such armed forces.

2. Contact all veterans' organizations which are engaged in welfare and relief work in the state.

3. Render all possible assistance to veterans and families of veterans within the state, and furnish to the veterans and
their families information on compensation, insurance, rehabilitation, hospitalization, and allowances provided by the United States government, by this state, and by other states. (4) Make careful inquiry into all claims presented for payment to the state treasurer from any appropriation hereafter made for the relief of sick, disabled, or indigent soldiers, sailors, or marines residing in this state, who served in the armed forces of the United States.

Article IX. Physical Rehabilitation of Adult Persons.

Section 1. Purpose. The purpose of this article is to provide for the development within the state of adult physical rehabilitation for the physically handicapped.

Sec. 2. Definitions. For the purpose of this article:

1. "A physically handicapped person" means a person who, by reason of a physical defect or infirmity, whether congenital or acquired by accident, injury, or disease, is or may be expected to be totally or partially incapacitated for remunerative occupation.

2. "Adult person" means any individual who:

(1) Has attained the age of eighteen years.

(2) Is a citizen of the United States.
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(3) Has resided in the state for at least one year immediately preceding application for rehabilitation aid.

"Adult physical rehabilitation" mean the fitting by surgical or medical treatment and hospitalization of physically handicapped adult persons for remunerative occupations.

Sec. 3. State Department. The state department shall administer the adult physical rehabilitation program throughout the state.

Sec. 4. Eligibility. A physically handicapped adult person shall be eligible for aid under the provisions of this article if:

(1) He is not eligible for physical rehabilitation by some other department or agency of the federal or state government or any political subdivision thereof.

(2) He is receiving, or is eligible to receive, public assistance or general relief under the provisions of this chapter.

Sec. 5. Powers of State Department. In the administration of adult physical rehabilitation, the state department shall:

(1) Supervise the treatment of physically handicapped adult persons during the period of treatment.
6. (2) Provide surgical and medical treatment and hospitalization as may be necessary for physically handicapped adult persons in the state.

9. (3) Procure and furnish to a physically handicapped adult person artificial limbs and other orthopedic and prosthetic appliances needed. The department shall collect the cost price of appliances furnished when the recipient thereof is of sufficient financial ability.

(4) Cooperate with governmental, public, and private institutions, and agencies engaged in activities relating to or connected with adult physical rehabilitation.

(5) Exercise such other powers as may be necessary to the effective operation of this article.

Sec. 6. Duty of County Council. A county council shall render to the state department such assistance under this article as the department may request.

Article X. Fiscal Provisions.

Section 1. Responsibility. The support of public assistance is hereby declared to be the responsibility of the state. The support of general relief is hereby declared to be the responsibility of the county. To the extent that a county is
5.unable because of constitutional restrictions to meet reasonable costs of general relief as required by this article, the responsibility of the state is hereby recognized.

Sec. 2. Allocation Among Counties. At the beginning of each fiscal year the state board shall budget, upon the recommendation of the director, an allocation of available funds for paying public assistance among the counties of the state. The state board may also, upon the recommendation of the director, change an allocation whenever such action is found necessary. The allocation made for a county shall be based upon:

1. The relative number of known eligible cases within the county.

2. The relative costs per case of assuring a subsistence compatible with decency and health.

3. Such other factors as may be appropriate to assure a reasonable distribution of public assistance throughout the state.

The state director shall notify each county council of the budget made for its county by the state board and the number
of cases and average grant per case estimated to be reasonable for that county.

Sec. 3. General Relief. For the purpose of this article general relief shall mean cash or its equivalent in services or commodities expended upon the order of the county council or county director for general relief other than for care in a county infirmary, child shelter, or similar institution.

Sec. 4. County General Relief Fund. A county court shall include as a separate item within its levy estimate and within the amount levied for current purposes a fund to be known as the "General Relief Fund of County". This fund, hereinafter referred to as the "county fund", shall be used for general relief and for no other purpose.

General relief shall be paid as follows: The county council shall draw its requisition upon the county court. The county court shall honor the requisition and, forthwith, shall issue its order upon the county fund for payment as other county orders are paid. Orders shall be delivered to the county director for distribution to recipients.

Sec. 5. County Funds. The amount of the county fund
provided each year by a county court shall not be less than fifteen percentum of the total which the county court is legally authorized to levy for current purposes by section ten, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, plus, if available, any other levy or portion of levy specifically allocated by law to the purpose of the county fund.

If a county court finds that expenditures mandatory under other provisions of law aggregate in excess of eighty-five percentum of the total amount which the county court is authorized by law to levy for current purposes, the court may petition the tax commissioner for authority to provide an amount less than that required by this section. If the tax commissioner finds that other mandatory expenditures for the county will exceed eighty-five percentum of the authorized total levy for current purposes, he may authorize the county court to provide a lesser amount than that required by this section, but he shall require the maximum amount possible under the circumstances.

Sec. 6. Transfers. A transfer from the county fund to
any other fund shall not be made without the prior approval of the state department.

Sec. 7. State General Relief. There is hereby created a "State General Relief Fund", hereinafter referred to as the "state fund", to be administered by the state department for the purpose of supplementing the county fund for the support of general relief.

Sec. 8. Application for Grant. If the amount required by section five of this article is insufficient to pay for general relief in a county, the county council and the county court may apply to the state department for a grant from the state fund. The application shall be in such form and shall be submitted at such time as the state department shall prescribe. It shall set forth:

(1) The actual cost of general relief in the county for the preceding fiscal year, and the estimated cost for the ensuing fiscal year.

(2) The levies and expenditures of the county showing the rate of tax delinquency, amounts provided for various county activities, expenditures made mandatory by law, and amounts allocated to the county fund.
15 (3) Such other information as the state department or
16 state board may require.

Sec. 9. Investigation by Director. Upon receipt of an
1 application for a grant from the state fund the director shall
2 examine the application and shall make such other investiga-
3 tion as may be appropriate to determine whether the county
4 has allocated every resource available for general relief
5 during the ensuing year to the general relief fund. The
6 director shall prepare a report and recommendation for sub-
7 mission to the state board.

Sec. 10. Determination by State Board. The director
2 shall submit his recommendations to the state board. The
3 state board shall determine as to each county whether:
4 (1) A grant from the state fund is required to pay the
5 reasonably estimated cost of general relief during the ensuing
6 fiscal year.
7 (2) The estimated cost of general relief for the ensuing
8 fiscal year is reasonable, both as to total cost and estimated
9 cost per case.
10 (3) Every fiscal resource available to the county court
11 for general relief has been allocated to the county fund.
If the state board determines that a grant from the state fund should be made to a county, it shall fix the proportion of the total cost of general relief in the county that shall be paid from the state fund. It shall set as total amount which the total of state grants to the county during the fiscal year shall not exceed.

The state board may hold a hearing upon the application of a county at which the county council, the county court, citizens of the county, and other interested parties may be heard.

Sec. 12. Redetermination of Grant. If the state board finds that a grant allocated to a county is either excessive, or insufficient, the board may, after ten days' notice to the county council and county court of the county, proceed to redetermine the proportion of payment as provided by section ten of this article.

Sec. 13. Monthly Report. The county council for a county for which a grant from the state fund has been
made shall prepare and submit to the state director a
monthly report showing the number and kind of cases main-
tained under general relief and the amount expended. The
report shall be authenticated by the county court as to the
amounts disbursed for the purposes stated.

Sec. 14. Determination by Director. Upon receipt of the
monthly report the state director shall determine whether:
(1) The cases for which cost is certified were properly
general relief cases.
(2) The cost of care was reasonable.
If the state director finds that payment should be made,
he shall determine in accordance with the proportion of
payment fixed by the state board the amount due to the
county for that month. He shall draw his requisition for
the amount upon the state auditor in favor of the sheriff of
the county. The payment shall be disbursed as provided
by law for other payments out of the state treasury. The
sheriff, upon receipt of said payment, shall place the same to
the credit of the general relief fund of the county.

Sec. 15. Review by State Director. If the state director
finds that cases for which cost is certified by a county were
3. not properly general relief cases, that the cost per case was
4. excessive, or that a disproportionate amount of relief was
5. disbursed during the month as compared with actual or
6. anticipated needs for the month, he may reduce the amount
7. of state payment accordingly.

Sec. 16. Non-County Residents. The county council
2. shall certify separately the number of cases and the amount
3. expended per case for general relief of residents of the state
4. who at the time of relief granted had resided in the county
5. for less than one year.
6. Upon approval of the certification by the state director,
7. the amount so expended shall be reimbursed to the county
8. from the state fund.

Sec. 17. Suspension of Payment. The state director may
2. suspend the payment of a state grant if he finds that:
3. (1) Relief is being granted to ineligible persons.
4. (2) Funds dedicated for general relief have not actually
5. been made available for expenditure by the county council,
6. or are being diverted for other purposes.
7. (3) The provisions of this chapter and the rules and
8 regulations of the department with respect to general relief
9 are not being complied with.

Sec. 18. Records and Reports. The state director, with
2 the approval of the state board may prescribe forms and
3 methods of records and accounts, the form and content of
4 reports to the state department, and such methods and pro-
5 cedures of administration as may be necessary for the effective
6 administration of this article.

Sec. 19. Review by State Board. A determination made
2 under this article by the state director shall be subject to
3 review by the state board upon the petition of the county
4 council, or the county court of the county, or any interested
5 party.

Sec. 20. Administrative Expenses. The state board, upon
2 the recommendation of the state director, shall prescribe a
3 specific amount from the county fund of each county to be
4 applied to the administrative expenses of the county council.
5 The state board may likewise take necessary administrative
6 expenses into consideration in determining the proportion
7 payment from the equalization fund to a county, and may
designate an additional amount of monthly payment for administrative expenses.

9 The state board may also, upon the recommendation of the state director, reimburse the several counties, on the basis of the expense to the county of administering public assistance, from any funds available to the department to pay such expense.

10 A payment or reimbursement for administrative expense shall be contingent upon the maintenance by the county council and the county court of adequate local administration and the fulfillment by the county of any agreement made with the state department with respect to the maintenance and compensation of local administration.

Sec. 21. Audits. Financial records and accounts kept for the purposes of this chapter shall be audited in accordance with article nine, chapter six of the code of West Virginia, one thousand nine hundred thirty-one.

Article XI. General Provisions.

Section 1. Continuation of Present Aid. Except as otherwise provided in this chapter, aid or assistance rendered under existing law shall not be deemed to be discontinued.
Sec. 2. Grants Conditional. The grant of public assistance or of general relief under the provisions of this chapter shall be conditional, and a person shall have no claim as of right to such assistance or relief.

Sec. 3. Recipient not a Pauper. A recipient of public assistance or of general relief shall not be deemed a pauper by reason of the receipt of such assistance or relief.

Sec. 4. Bringing Indigent Persons into State. If an indigent person, not having a legal residence in any county of this state, is brought into and left in the state with intent that he should become a public charge, the person who brought or caused to be brought, or counseled or aided in bringing the indigent person into the state, with such intent, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars, or imprisoned in the county jail not more than sixty days, or both.

Sec. 5. Liability of Relatives for Support. The relatives of an indigent person, who are of sufficient ability, shall be liable to support such person in the manner required by the county council of the county in which the person may be,
and to pay the expenses of burial when he dies, in the following order:

1. The children.
2. The father.
3. The brothers and sisters.
4. The mother.

If a relative so liable does not reside in this state and has no estate or debts due him within the state by means of which the liability can be enforced against him, the other relatives shall be liable as provided by this section, but a relative shall not be compelled to receive the indigent person in his own home.

Sec. 6. Enforcement of Liability. The county council of the county in which the indigent person may be, may proceed by motion in the circuit court of the county, against one or more of the relatives liable as provided in section five of this article.

The court shall hear, in a summary manner, the allegations and proofs of the parties, and assess upon the relatives notified of the proceeding and appearing to be liable for the support, a sum sufficient to reimburse the county
court for the expense incurred by the county council in the
support or burial of the indigent person up to the time of
the assessment, with interest and costs.
The court shall further, as the case requires, assess upon
the relative such sums, to be payable quarterly thereafter
to the county court until the further order of the court, as
will be sufficient for the future support of the indigent
person.
Payment of the support provided for by this section may
be enforced by execution.

Sec. 7. Jury Trial; Modification of Judgment. In a
proceeding under this article, the defendant may demand,
or the court, of its own motion, may order any question of
the fact to be tried by jury. The court may, from time to
time, upon motion of the county council, or of a relative
affected, vary the judgment or order so far as it relates to the
future support of the indigent person.
A jury fee shall not be taxed in a proceeding under this
section.

Sec. 8. Payment in Part for Support. If it appears that
a relative liable for the support of an indigent person is
unable wholly to support him, but is able to contribute toward
his support, the court may assess upon the relative the pro-
portion which he shall be required to contribute either to the
past expense incurred by the county council, or to the future
support. The court may assess the residue upon the relatives
in the order of their liability.
Payment with interest and costs may be enforced by
execution.

Sec. 9. Investigation. In all investigations, authorized by
this chapter, the testimony of witnesses and the production
of evidence may be required at any designated place of
hearing and summons may be issued. In case of disobedience
to a summons or other compulsory process, the county council,
or the state department, as the case may be, may invoke the
aid of the circuit court in requiring the evidence and testi-
mony of witnesses and the production of papers, books, and
documents. Upon proper showing, the circuit court shall
issue an order requiring a witness to appear and to produce
all books and papers and give evidence touching the matter
in question. A person who fails or refuses to obey the order
of the circuit court may be punished by the court as for
contempt.

A claim that any such testimony or evidence may tend to
incriminate the person giving the testimony shall not excuse
the person from testifying, but such testimony or evidence
shall not be used against such person in any criminal
prosecution under the laws of this state.

In an investigation conducted under the provisions of this
chapter, technical rules of evidence shall not apply.

Sec. 10. No Fees to be Charged. A person shall not
charge a fee, or receive a payment, gratuity, or thing of value
for representing an applicant for or recipient of public
assistance or general relief whether from the applicant or
recipient or from another person, in any matter concerning
the application for or receipt of such assistance or relief,
except in proceedings brought against an applicant or
recipient for violation of the provisions of this chapter.

A person who violates the provisions of this section shall
be guilty of a misdemeanor and upon conviction shall be
fined not less than fifty nor more than five hundred dollars or
imprisoned not less than ten nor more than ninety days, or
both, in the discretion of the court.

The violation of this section by an attorney at law shall
constitute grounds for disbarment.

Sec. 11. Obtaining Aid Fraudulently. It shall be a mis-
demeanor to obtain or attempt to obtain, or aid or abet
an applicant or recipient in obtaining or attempting to obtain,
by means of a wilfully false statement or misrepresentation
or by impersonation or any other fraudulent device:

(1) Public assistance or general relief to which the ap-
plicant or recipient is not entitled.

(2) Public assistance or general relief in excess of that
to which the applicant or recipient is justly entitled.

(3) Payment of a forfeited installment grant of public
assistance or general relief.

A person who violates this section shall, upon conviction,
be fined not more than five hundred dollars, or imprisoned not
longer than six months, or both, in the discretion of the court.

Sec. 12. Fraudulent Acquisition or Disposition of Prop-
erty. A person who aids or abets in buying or in any way
disposing of the property of an applicant for or a recipient
of public assistance or general relief for the purpose of conceal- 5 6 7 8 ing or dissipating the resources of the applicant or recipient shall be guilty of a misdemeanor and upon con- viction shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both, in the discretion of the court.

Sec. 13. **Penalties.** A person who violates an order or regulation made under the authority of this chapter, or who violates a provision of this chapter for which punishment has not been specifically provided, shall be guilty of a mis- demeanor, and upon conviction shall be fined not less than ten nor more than one hundred dollars or confined in jail not less than five days nor more than six months, or both such fine and imprisonment.

Sec. 14. **Duty of Prosecuting Attorney.** The prosecuting attorney shall without additional compensation render to the county council such legal services as the council may request.

Sec. 15. **Duty of County Superintendent of Schools.** The superintendent of schools of the county shall without additional compensation cooperate with and render such assistance to the county council as the council may request.
Sec. 16. Public Records. All reports, and applications received by the county council and the record of all proceedings shall be preserved as public records.

Sec. 17. Rules and Regulations. The state director shall prepare and promulgate rules and regulations to give effect to the provisions of this chapter.

Sec. 18. Proceedings by the County Council. A county council shall have authority to institute, in the name of the state, proceedings incident to the performance of its duties under the provisions of this chapter.

Chapter 49

CHILD WELFARE

Article I. Purposes; Definitions.

Section 1. Purpose. The purpose of this chapter is to provide a comprehensive system of child welfare throughout the state. The child welfare services of the state shall be administered by the state department of public assistance and the several county councils in accordance with the provisions of this chapter.

Said department of public assistance is designated as the
9. agency to cooperate with the children’s bureau of the United
10. States Department of Labor in extending and improving child
11. welfare services, to comply with regulations of the children’s
12. bureau, and to receive and expend federal funds for these
13. services.

Sec. 2. Children. “Child” means a person under the age
2. of eighteen years.

Sec. 3. Neglected Child. “Neglected Child” means a boy
2. under the age of sixteen years or a girl under the age of
3. eighteen years who comes within any of the following classes:
4. (1) Is destitute, homeless, or abandoned.
5. (2) Has not proper parental care or guardianship.
6. (3) Habitually begs or receives alms.
7. (4) By reason of neglect, cruelty, or disrepute on the part
8. of parents, guardians, or other persons in whose care the
9. child may be, is living in an improper place.
10. (5) Is in an environment warranting the appointment of
11. a guardian under this article.

Sec. 4. Delinquent Child. “Delinquent child” means a
2. person under the age of sixteen years who commits any of the
3. following:
4. (1) Violates a law or municipal ordinance.

5. (2) Commits an act which if committed by an adult would be a crime not punishable by death or life imprisonment.

6. (3) Is incorrigible, ungovernable, or habitually disobedient and beyond the control of his parent, guardian, or other custodian.

7. (4) Is habitually truant.

8. (5) Without just cause and without the consent of his parent, guardian, or other custodian, repeatedly deserts his home or place of abode.

9. (6) Engages in an occupation which is in violation of law.

10. (7) Associates with immoral or vicious persons.

11. (8) Frequents a place the existence of which is in violation of law.

12. (9) Deports himself so as to wilfully injure or endanger the morals or health of himself or others.

Sec. 5. Crippled Child. "Crippled child" means a person under the age of eighteen years who, by reason of physical defect or infirmity, is, or may be expected to be, totally or partially incapacitated for education or for re-

umerative occupation.
Sec. 6. Definitions. For the purpose of this chapter:

(1) "State Department" means the State Department of Public Assistance.

(2) "State Board" means the State Advisory Board.

(3) "Director" means the Director of the State Department of Public Assistance.

(4) "County Council" means a county public assistance council.

(5) "County Director" means a director appointed by a county council.

(6) "Children's Institution" means an institution other than a state or educational institution, providing for persons under the age of eighteen years:

(a) Continuing care, custody or training as its primary purpose; or

(b) Temporary or continuing medical or surgical hospitalization.

(7) "Children's organization" means an organization having for its object the prevention of cruelty and distress among children, finding homes for children, and assuming temporary custody of children for these purposes.
Article II. Neglected Children.

Section 1. Neglected Children: Petition to Juvenile Court.

2. If the state department, or a reputable person, believes that a child is neglected, the department or person may present a petition setting forth the facts to the court having juvenile jurisdiction in the county in which the child resides or to the judge in vacation. The petition shall be verified by oath of some credible person having knowledge of the facts.

3. Upon the filing of the petition, the court or the judge shall set a time and place for a hearing upon the facts.

Sec. 2. Hearing. Notice of time and place of hearing shall be served upon the person having custody of the child and shall be given to the state department. The person having custody of the child, a parent or other person standing in loco parentis, a relative, or any other person having knowledge of the circumstances may appear and be heard.

Sec. 3. Commitment to State Department. If the court or judge finds that the interests and welfare of the child require that custody be changed, the court or judge may commit the child to the custody of the state department.

Sec. 4. Temporary Custody. Until a hearing can be held
upon the petition, the court or judge may order that the child
be delivered into the custody of the state department, or into
such other custody as the court or judge may deem proper.

Sec. 5. Information Supplied to State Department. At
the time of commitment, the court or judge shall supply to
the state department all information before the court or judge
regarding the history and situation of the child, its parents
and forebears. The information shall be upon the form
provided by the state department.

Sec. 6. Physical and Mental Examination. Before being
committed to the state department, a neglected child shall be
given a physical and mental examination. The result of the
examination shall be reported to the state department upon
blank forms prepared and furnished by the department.

After considering the results of the examination, the state
department may accept or refuse to accept a child for
commitment.

Sec. 7. Mentally Defective Children. The state depart-
ment may return a mentally defective child committed to it
to the county from which the child was committed, to be
dealt with by the county mental hygiene commission.
Sec. 8. Duration of Custody. A neglected child committed to the state department shall remain in the custody of the department until he attains the age of twenty-one years or is married, whichever occurs first, unless:

1. Upon proper showing the court or judge by whom the child was committed returns the child to his parents or other guardian.

2. The child is legally adopted by a person approved by the state department.

Sec. 9. Disposition Other Than Commitment to State Department. The court or judge may:

1. Allow a neglected child to remain at its home subject to the supervision of the state department.

2. Appoint a reputable person of good moral character as guardian of the person of the child.

3. Commit the child to a suitable state institution caring for neglected children.

4. Commit the child to a school, home, or organization which cares for or obtains homes for neglected children and which has been approved under section seventeen of this article.
Sec. 10. Private Homes. When it appears proper, the state department may place a child in its custody in a suitable private home. The person with whom the child is placed shall observe and be governed by the provisions of law concerning the placing of children in private homes, and the rules and regulations of the state department.

When necessary, the state department may place a child in a private boarding home.

Sec. 11. Placement in Children's Homes. The state department may place a neglected child in its custody in an orphan asylum or children's home incorporated under the laws of the state and approved by the department.

With respect to a child so placed, the orphan asylum or children's home shall have the same rights, powers, privileges, and authority, and be subject to the same duties, requirements, and responsibilities, as in the case of children placed under its care and management in any other manner allowed by law.

Sec. 12. Religious Belief of Parents to be Observed. The court in committing any child, or the state department in placing any child, shall place such child as far as practicable
in the care and custody of an individual holding the same religious belief as the parents or relatives of the child, or with some institution or organization that is controlled by persons of the same religious belief as that of the parents or relatives of the child.

Sec. 13. Case Work: Mentally Defective Children. The state department shall, upon request of the state board of control, make family case work investigations of children who are mentally defective.

Sec. 14. Parole to State Department. Children paroled from the state industrial homes for girls and the state industrial school for boys shall be paroled to the state department.

Sec. 15. Admission to Schools for Deaf and Blind Children. The state department shall investigate applications for admission to the state schools for the deaf and blind, and applications for admission to a state hospital for orthopedic treatment. For the purposes of this section the state department shall have authority to procure proper medical and surgical examinations. The expenses of examinations and of the trans-
portation of an applicant to and from the hospital shall be
paid by the county in which the applicant resides, upon
submission of an itemized statement of expenses, verified by
affidavit of an agent of the state department.

If the state department finds that the child should be ad-
mitted to the state school, it shall certify the case to the
principal for admission. The principal shall admit a child
to such school only upon the certification of the state de-
partment.

Sec. 16. Services Rendered by County Council and Direc-
tor. A county council and a county director shall perform
for the state department such services in locating and in
making visitations and reports concerning cases of neglected
children as the state department may require.

Sec. 17. Authority Over Institutions Caring for Children.
The state department shall supervise children's institutions,
and organizations receiving children for the purpose of care,
training, or placing in other institutions or in private homes,
except state institutions under the management of the board
of control. The state department shall annually visit and
inspect a children's institution or organization and shall
determine the fitness of the institution or organization to provide care or training for children.

If the state department approves the institution or organization, it shall issue a certificate of approval which shall continue in force for one year unless sooner revoked for cause. The certificate of approval shall be a license to operate the institution or organization. A person shall not operate or maintain such institution or organization unless licensed under this section.

Sec. 18. Reports by Institutions and Organizations. A children's institution or organization shall make an annual report showing its condition, management, and competence to care for or to train children, together with such other information as the state department may require. The report shall be in such form and shall be submitted at such time as the department may determine.

Sec. 19. Inspection. If the state department finds that a children's institution or organization is of such a character, or is so equipped, managed, or financed that the interests and welfare of a child are not served by entrusting his care or training to the institution or organization, it shall notify
the institution or organization, stating the reasons for its
decision and designating the measures to be taken to correct
the conditions causing disapproval.

A failure or refusal to correct conditions causing dis-
approval shall be sufficient reason for a revocation of or a
refusal to issue a certificate of approval.

Sec. 20. Approval of Articles of Incorporation. A chil-
dren's institution or organization shall not be incorporated
in this state unless the proposed articles of incorporation
have first been examined and approved by the state depart-
ment. Proposed amendments to such articles of incorpora-
tion shall likewise be subject to the examination and approval
of the state department.

Sec. 21. Placement by Foreign Organization. An in-
stitution or organization incorporated under the laws of an-
other state shall not place a child in a private home in this
state without the approval of the state department.

Article III. Private Institutions and Organizations.

Section 1. What Children Admitted. A children's in-
stitution established under the laws of this state, or of the
...
Sec. 3. Officers of Institutions may Petition for Custody of Child. An officer of a children's institution or organization may petition the court, or judge having juvenile jurisdiction, for the purpose of obtaining custody of a neglected child in the manner provided by section one of article two of this chapter.

Sec. 4. Provisions Applicable. The provisions of article two of this chapter shall apply in all respects to the commitment, care, and custody of neglected children by a children's institution or organization.

Sec. 5. Supervision and Control of Children. A child placed in the care or committed to the custody of a children's organization shall be under its supervision and control until the child is received into a children's institution or private home, or until otherwise ordered by the court or judge by whom the child was committed.
A children's organization may place a child in an approved children's institution established under the laws of this state, or the state of Virginia prior to the formation of this state, which will receive the child.

Sec. 7. Guardians for Children. At the time of commitment the court or judge shall appoint the person in charge of the children's institution or organization to which the child is committed, as the guardian of the person of the child.

Sec. 8. Placing in Private Homes. If the state department consents and approves, a children's institution or organization may place a child in a suitable private home, having regard for the religious and moral character of those with whom the child is placed, in order to secure to the child the benefits of good example and wholesome instruction.

Sec. 9. Bond by Person Receiving Child. When a child is placed in a private home, the state department may, in its discretion, order the children's institution or organization to require a bond, payable to the state department, to be entered into by the person receiving the child. The bond shall be in
6. a penalty of not less than one thousand dollars, conditioned
7. upon furnishing to the child good and sufficient clothing,
8. food, and medical attention, and causing it to receive a
9. common school education.

Sec. 10. Assignment of Services of Such Children. A
2. person receiving a child under the provisions of this article
3. shall not assign or transfer its services for any period without
4. the written consent of the children’s institution or organiza-
5. tion, as the case may be, and of the state department.
6. If the person taking charge of a child, desires to be released
7. from the agreement, the children’s institution or organiza-
8. tion may in its discretion cancel the agreement and resume
9. custody of the child.

Sec. 11. Removing Children from Private Home. The
2. children’s institution or organization shall remove a child
3. from a private home in which the child was placed by it,
4. when, in its judgment, or in the judgment of the state depart-
5. ment, the home has become an improper place. In case of
6. removal, the children’s institution or organization shall re-
7. sume custody of the child.

Sec. 12. Returning Child to its Parents or Guardian. A
children's institution or organization may, in its discretion, and, if the child was committed to it by the order of a court, with the consent of the court or judge, return the child to the parents, surviving parent, or guardian.

Article IV. Crippled Children.

Section 1. Purpose. The purpose of this article is to provide for the continuation and development of services for crippled children. The state department shall formulate and apply administrative policies coordinating the care, treatment, and education of physically handicapped children. In the development of administrative policies, the state department shall cooperate with the children's bureau of the United States Department of Labor and shall comply with the regulations of the children's bureau prescribed under the authority of the "Social Security Act," and is hereby authorized to receive and expend federal funds for these services.

Sec. 2. What Children are Included. It is the intention of this article that services for crippled children shall be extended only to those children for whom adequate care,
treatment and rehabilitation is not available from other than public sources.

Sec. 3. Powers of State Department. In the care and treatment of crippled children the state department shall, so far as funds are available for the purpose:

1. Locate crippled children requiring medical, surgical, or other corrective treatment and provide competent diagnosis to determine the treatment required.
2. Supply to crippled children treatment, including hospitalization, and after-care leading to correction and rehabilitation.

Sec. 4. Advisory Board of Orthopedic Surgeons. The state director shall designate a board of three orthopedic surgeons, of recognized ability, to be selected from a list recommended by the state medical association, to serve in an advisory capacity in giving effect to the provisions of this article. The surgeons shall serve without pay, except for actual expenses incurred.

The board of surgeons shall:
(1) Consult with the state board and state director with respect to the plans, policies and methods of the state department for giving effect to this article.

(2) Examine the credentials and recommend the appointment of orthopedic surgeons to be employed by the state department.

(3) Examine the facilities and recommend the institutions in which crippled children may be hospitalized by the state department.

Sec. 5. Birth of a Crippled Child. Within thirty days after the birth of a child with a congenital deformity, the physician, midwife, or other person attending the birth shall report the deformity upon a form prescribed to the state department. The report shall be solely for the use of the state department and shall not be open for public inspection.

Sec. 6. County Council and County Director to Render Services. A county council and county director shall cooperate with the state department in rendering the services provided by this article. They shall perform for the state
Sec. 7. *Other Agencies to Assist.* So far as practicable, the services and facilities of the state department of health, of the state department of education and the state board of control shall be available to the state department for the purposes of this article.

Sec. 8. *Cooperation with Private Agencies.* The state department shall cooperate with private agencies and organizations engaged in rendering similar services to crippled children.

**Article V. Juvenile Courts.**

Section 1. *What Courts have Juvenile Jurisdiction.* The circuit court of the county shall have original jurisdiction in proceedings brought by petition under this article. If, however, a court, in addition to the circuit court, has been or is subsequently created in a county, proceedings under this article shall be held in the additional court with right of appeal to the circuit court as follows:

1. The domestic relations court, or if there is none,
(2) The court of common pleas, or intermediate court
having chancery jurisdiction, or if there is none,
(3) The criminal court.

Sec. 2. Jurisdiction of Juvenile Court. The juvenile court
shall have exclusive jurisdiction to hear and determine all
proceedings concerning delinquent children under the pro-
visions of this article.

Sec. 3. Criminal Jurisdiction. Except as to a violation of
law which if committed by an adult would be a capital
offense, the juvenile court shall have exclusive jurisdiction to
hear and determine criminal charges, including a charge of
violation of a municipal ordinance, against a person who was
under sixteen years of age at the time of the alleged offense.

If during the pendency of a criminal proceeding against a
person in a court other than a juvenile court, it shall be ascer-
tained that the person was under the age of sixteen years at
the time of the alleged offense, the court, judge, or magistrate
shall immediately transfer the case with all the papers,
documents, and testimony connected therewith to the juvenile
court having jurisdiction. The juvenile court shall proceed

to hear and dispose of the case in the same manner as if it
had been instituted in that court in the first instance.

Sec. 4. *Children Wards of Court.* A person under the
age of sixteen years who appears before the juvenile court in
any capacity shall be deemed to be a ward of the court, and
protected accordingly.

Sec. 5. *Juvenile Record.* The court shall, for the purposes
of this article, be called the "Juvenile Court." The findings
and orders of the court shall be entered in a book, kept by
the clerk of the court for that purpose, known as the
"Juvenile Record."

Sec. 6. *Trial by Jury.* In a proceeding under this article,
an interested person may demand, or the judge of his own
motion, may order a jury of twelve persons to try any question
of fact.

Sec. 7. *Delinquent Child; Petition to Juvenile Court.* If
the state department or a reputable person believes that a
child is delinquent, the department or person may present a
petition setting forth the facts to the court or judge having
jurisdiction in the county where the child may be.

The petition may set forth that it is for the interest of
the child and of the state that the child be taken from its
parent, guardian, or other custodian and placed under another
guardianship or custody as determined by the court; and
that the parent, guardian or other custodian is unfit properly
to care for, protect, train, educate, control or discipline the
child, or that the parent, guardian, or other custodian con-
sents that the child may be taken from him.

The petition shall be verified by oath, and shall set forth
the name and address of the parent, guardian, or other person
having custody and control of the child if such name and
address are known to the petitioner.

Upon the filing of the petition, the court or judge shall set a
time and place for a hearing and proceedings upon the facts.

Sec. 8. Service of Summons. A person named in the
petition shall be made a defendant and shall be notified of
the proceedings by personal service of summons, which shall
require the person to appear with the child at the time and
place set for the proceedings. If the defendant cannot be
found, service may be by publication made twice in a news-
paper of general circulation published in the county; or
Section 9. Answer. A defendant, duly summoned, shall appear and answer, in open court or before the judge in vacation, on the return day of the summons, or if the summons is served less than one day prior to the return day, then on the following day.

A defendant notified by publication shall appear and answer in open court or before the judge in vacation within twenty days after the date of the first publication.

The answer shall have as evidence no greater weight than the petition.

Section 10. Default of Answer. In default of answer, the petition may be taken as confessed.

Section 11. Temporary Disposition. The court or judge may, before the proceedings, make temporary disposition of the child in the manner provided in article two of this chapter, or may order the child to be placed in the custody of a probation officer.

Section 12. Warrant. The court or judge may, if he deems such action necessary, order the issuance of a warrant against
the person having custody and control of the child, to bring
the person into court or before the judge; or a warrant
against the child to bring the child into court or before the
judge.

Sec. 13. Counsel for Child. In a proceeding under this
article, the court or judge may, upon request of the child or
of the person named in the petition, appoint counsel to rep-
resent the child.

Sec. 14. Disposition by Court. With a view to the welfare
and interest of the child and of the state, the court or judge
may, after the proceedings, make any of the following dis-
positions:

(1) Treat the child as a neglected child, in which case the
provisions of article two of this chapter shall apply.

(2) Order the child placed under the supervision of a
probation officer.

(3) Permit the child to be proceeded against in accordance
with the laws of the state governing the commission of crimes
or violations of municipal ordinances.

(4) Commit the child to an industrial or correctional in-
stitution for minors.
Sec. 15. *Child not committed to Jail.* A child under sixteen years of age, whether delinquent or otherwise, shall not be committed to a jail or police station.

Sec. 16. *Duty of Clerk.* The clerk of the juvenile court shall promptly notify the state department of delinquent children brought before the court or judge and of delinquency proceedings pending.

Sec. 17. *Probation Officers.* The county director shall be ex-officio probation officer of the juvenile court and of the county. He may, with the approval of the juvenile court, designate one or more of his assistants or other employees of the county council to assist him in his duties as probation officer or to act in his stead.

Sec. 18. *Duty of Probation Officer.* The clerk of a court shall notify, if practicable, the chief probation officer of the county when a child is to be brought before the court or judge. When notified, or if the probation officer otherwise obtains knowledge of such fact, he or one of his assistants shall:

1. Make investigation of the case.
2. Be present in court, or before the judge, to represent the interests of the child when the case is heard.
(3) Furnish such information and assistance as the court or judge may require.

(4) Take charge of the child before and after the trial, as may be directed by the court or judge.

Sec. 19. Powers of Probation Officer. A probation officer is hereby vested with the power and authority of a peace officer to make arrests and perform any other duties ordinarily performed by a peace officer, incident to his office, or necessary or convenient to the performance of his duties.

Article VI. Child Shelter.

Section 1. County Court may establish. A county court, in its discretion, may establish, equip, and maintain a home for the temporary detention of children, separated entirely from a place of confinement of adults, to be known as 'The Children’s Shelter of .... County.' An existing detention home may be continued as a children’s shelter to be conducted as provided in this article.

Sec. 2. Purpose. A children’s shelter shall be conducted for the purpose of providing temporary care for neglected children and custody of children whose cases are pending before the juvenile court.
Sec. 3. Management and Commitment. The control and business management of a children’s shelter shall be the responsibility of the county court.

The commitment of persons to and the release from the children’s shelter shall be by the county council or the juvenile court.

Sec. 4. Lands and Property. A county court may:

(1) Hold and convey land used as a site for a children’s shelter.

(2) Use and dispose of property received as a gift, grant, devise, or bequest for the purpose of a children’s shelter.

Sec. 5. Two or More Counties. The county courts of two or more adjoining counties may jointly establish a children’s shelter, and contribute to the expense of establishing and maintaining it in the proportions and under the regulations agreed upon. The management shall be in the county court of the county where the shelter is situated unless otherwise agreed by the county courts concerned.

Sec. 6. Care of Children. A children’s shelter shall be so arranged, furnished, and conducted that the children resident therein are, so far as consistent with safe custody, cared
The shelter shall be supplied with all necessary and convenient facilities for the care of the children.

Section 7. Superintendent and Employees. The county court shall appoint a superintendent and such other employees as may be necessary for the proper care and maintenance of the shelter. Persons appointed shall be selected with special reference to good moral character and their ability to deal with and care for children.

The superintendent shall reside in the shelter.

Section 8. Employees: Compensation; Tenure. The superintendent and employees shall serve during the pleasure of the county court. The court shall fix their compensation.

Section 9. Duties as to Children committed. The superintendent shall receive and have temporary custody of children committed to the shelter by the county council or the juvenile court.

The superintendent shall keep a complete record of all children committed. The record shall show the name, age, and residence of the child and the cause and period of detention, and any other useful data or information that the
Sec. 10. Records and Reports. The superintendent shall keep a record of expenditures made by the county for the care and maintenance of the shelter. He shall make an annual report to the county court and shall file a copy with the clerk of the court. The report shall contain an itemized statement of all expenses necessary to maintain the home, together with the number of children cared for during each month.

Sec. 11. Information Furnished. At the request of the president of the county court or the juvenile court, the superintendent shall furnish such information with respect to the shelter as may be desired.

Sec. 12. Inspection. The county court shall make quarterly or more frequent inspection of a children's shelter provided for by this article. It may request the county or municipal health officer, or any qualified physician to assist in or make an independent inspection.

Sec. 13. Services Rendered by County Director. At the request of the county court, the county director shall advise...
and consult with the county court with respect to the management and control of the children's shelter, and shall make such visitations and inspections as the county court may request.

Sec. 14. Appropriation. In a county in which a children's shelter is established and maintained, the county court shall annually include within its estimate of necessary county expenditures an amount sufficient to provide for the maintenance of the shelter.

Article VII. General Provisions.

Section 1. Consent of Guardian to Adoption. If at the hearing under article two of this chapter, the court or judge finds that it is to the best interest of a neglected child that the guardian of his person be given authority to consent to his legal adoption as required by section one, article four of chapter forty-eight of the official code of one thousand nine hundred thirty-one, the court or judge may by order authorize the guardian to appear in court where proceedings for the adoption of the child are pending and to consent to the adoption.
11. The court or judge shall authorize the guardian to consent to adoption only if the court or judge finds that:

12. (1) The person legally responsible for the child, or, if there is no such person, the nearest known relative agrees to the order of the court or judge, or

13. (2) The person legally responsible for the child is unfit because of moral delinquency, habitual drunkenness, use of narcotic drugs, extreme and repeated cruelty to the child, or abandonment, or desertion of the child for more than six months next preceding the hearing, or

14. (3) The child is fourteen years of age or over and agrees to the order.

15. In an adoption proceeding the court or judge with the consent of a guardian so authorized under this section, may enter an order or decree of adoption without further notice to, or consent by the parent or relatives of the child.

Sec. 2. Guardianship of Estate of Child Not Affected. The provisions of this chapter shall not be construed to give the guardian appointed hereunder the guardianship of the estate of the child, or to change the age of minority for any other purpose except the custody of the child.
The guardian of the estate of a child committed to guardianship hereunder shall furnish, at such times and in such form as may be required, full information concerning the property of the child to the state department or to the court or judge before whom the case of any such child is heard.

Sec. 3. *Proceedings Not to be Evidence Against Child, or be Published.* Any evidence given in any cause or proceeding under this chapter, or any order, judgment or finding therein, shall not in any civil, criminal or other cause of proceeding whatever in any court, be lawful or proper evidence against such child for any purpose whatsoever except in subsequent cases under this chapter involving the same child; nor shall the name of any child, in connection with any proceedings under this chapter, be published in any newspaper without a written order of the court.

Sec. 4. *Placing Children in Infirmaries.* A child shall not be placed in a county infirmary or similar institution for other than temporary care. When a child is so placed, written notification shall be given to the state department not later than three days after the child enters the infirmary. When a
mentally defective child is so placed, notice shall be given to
the state board of control.

A superintendent of an infirmary or other institution who
fails to notify the state department or the state board of
control, as the case may be, shall be guilty of a misdemeanor.

Sec. 5. **Support of Child Placed in Home or Institution or Under Guardianship.** If it appears upon the hearing of a
petition under this chapter that a person legally liable for
the support of the child is able to contribute to the support
of such child, the court or judge shall order the person to pay
the state department, institution, organization, or private
person to whom the child was committed, a reasonable sum
from time to time for the support, maintenance, and educa-
tion of the child.

The court or judge may require the person liable for the
support to give reasonable security for payment. Upon
failure to give security or to pay, the court or judge may
enforce obedience by proceeding as for contempt of court.
The court or judge may, on application, and on such notice
as the court or judge may direct, from time to time, make
such alterations in the allowance as shall appear reasonable and proper.

Sec. 6. Enforcement or Order for Support from Wages.

If the person ordered to pay for the support, maintenance, and education of a child is employed for wages, salary, or commission, the court or judge may order that the sum to be paid by him shall be paid to the guardian, institution, organization, or person having custody of such child, out of his wages, salary, or commission, and that he shall execute an assignment thereof pro tanto. The court or judge may also order the person to report to the court or judge, from time to time, his place of employment and the amount earned by him. Upon his failure to obey the order of the court or judge, he may be punished as for contempt of court.

Sec. 7. Contributing to Delinquency of a Child. A person who causes, encourages, or contributes to the delinquency of a child, or who is responsible for such delinquency, shall be guilty of a misdemeanor, and, upon trial and conviction thereof, shall be fined not to exceed five hundred dollars, or imprisoned in the county jail for a period not exceeding one year, or both.
Sec. 8. Proof in Cases of Contributing to Delinquency.

2. In finding a person guilty of contributing to the delinquency
3. of a child, it shall not be necessary to prove that the child
4. has actually become delinquent, if it appears from the
5. evidence that the accused is guilty of conduct or of an act
6. of neglect or omission of duty on his part toward the child
7. which would tend to bring about or to encourage the de-
8. linquency.

Sec. 9. Suspension of Sentence. A court or judge, upon
2. such convictions as are imposed in accordance with the pro-
3. visions of this chapter, may:
4. (1) Suspend the sentence of a person found guilty of
5. contributing to the delinquency of a child,
6. (2) Stay or postpone the enforcement of execution of
7. sentence.
8. (3) Release the person from custody.

Sec. 10. Maintenance of Child by Convicted Person. If
2. the sentence of the person found guilty is suspended, the
3. court or judge may make it a condition of suspending
4. sentence that the person pay for whatever treatment and
5. care may be required for the welfare of such child,
and for its support and maintenance while in the custody of the department, person, or institution, and any other expense that may have resulted from, or be necessary because of, the act or acts of the person found guilty.

Sec. 11. Care of Child Upon Conviction for Contributing to its Delinquency. Where a person is found guilty of contributing to the delinquency of a child, the court or judge may place the child in the temporary custody of the state department or of some responsible person or approved institution.

Sec. 12. Custody of Child by Convicted Person. If the guilty person had custody of the child prior to conviction, the court or judge may, on suspending sentence, permit the child to remain in the custody of the person, and make it a condition of suspending sentence that the person provides whatever treatment and care may be required for the welfare of the child, and shall do whatever may be calculated to secure obedience to the law or to remove the cause of such delinquency.

Sec. 13. Suspension of Sentence: Bond. The conditions upon which the sentence of a person found guilty of con-
tributing to the delinquency, or to the neglect of any child, may be suspended, may include the furnishing of a good and sufficient bond to the state of West Virginia in such penal sum as the court shall determine, not exceeding one thousand dollars, conditioned upon:

1. Furnishing whatever treatment and care may be required for the welfare of such child.
2. Doing whatever may be calculated to secure obedience to the law or to remove the cause of delinquency, or neglect.
3. Payment of such amount as the court may order, not exceeding twenty dollars per month, for the support, care, and maintenance of the child to whose delinquency the person contributed. The sum shall be expended under the order of the court or judge for the purposes enumerated.

Sec. 14. Recovery on Bond Without Separate Suit. The penalty of a bond given upon suspension of sentence which becomes forfeited shall be recoverable without separate suit. The court or judge may cause citation or summons to issue to the surety, requiring that he appear at a time named by the court or judge, not less than ten nor more than twenty days from the issuance of the summons, and show cause why
judgment should not be entered for the penalty of such bond and execution issued against the property of the surety. Upon failure to appear, or failure to show sufficient cause, the court shall enter judgment in behalf of the state of West Virginia against the principal and surety in not to exceed the penalty of the bond plus costs. Any money collected or paid upon an execution, or upon the bond, shall be deposited with the clerk of the court in which the bond was given. The money shall be applied first to the payment of all court costs and then to the treatment, care, or maintenance of the child for whose delinquency conviction was had. If any money so collected is not required for these purposes, it shall be paid within one year into the county treasury, and credited to the general relief fund of the county.

Sec. 15. Suspended Sentence may be Enforced. If it appear to the satisfaction of the court or judge at any time while a suspension of sentence or stay of execution remains in effect, that the sentence ought to be enforced, the court or judge may enforce the sentence. A jail sentence shall
Sec. 16. Enforcement of Sentence. If the conditions of suspension are complied with, the sentence shall remain suspended, subject to enforcement upon the violation of any of the conditions imposed. Upon a failure to comply with any of the conditions imposed, the sentence shall be enforced and any bond given to insure the performance of the conditions shall be forfeited.

Sec. 17. Suspension of Sentence not to Exceed Two Years. A sentence shall not be suspended, or final judgment or execution stayed, for a period exceeding two years. At the end of two years from the time of imposition of sentence or sooner in the discretion of the court or judge, the defendant shall be finally released and discharged.

Sec. 18. Interference with Disposition of Child Punishable as Contempt of Court. A person who interferes with the direction of disposition of a child in accordance with an order of the court or judge made in pursuance of the provisions of this chapter, or with the state department, or a probation or other officer of the court in carrying out the
directions of the court or judge under such an order, shall be subject to punishment as for contempt of court.

Sec. 19. Penalty for Enticing Away Child. A person who personally or by agent entices or forcibly removes a child from a custody in which the child was placed under the provisions of this chapter, shall be guilty of a misdemeanor, and upon conviction shall be fined not more than one hundred dollars, or be imprisoned not more than six months, or both such fine and imprisonment.

Sec. 20. Penalties. A person who violates an order, rule, or regulation made under the authority of this chapter, or who violates a provision of this chapter for which punishment has not been specifically provided, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten nor more than one hundred dollars, or confined in jail not less than five days nor more than six months, or both such fine and imprisonment.

Sec. 21. Judge May Act in Vacation. The powers and jurisdiction of the court, under the provisions of this chapter, may be exercised by the judge thereof in vacation.
Sec. 22. *Appeal and Writs of Error*. Cases under this chapter, if tried in any inferior court, may be reviewed by writ of error or appeal to the circuit court, and if tried or reviewed in a circuit court, by writ of error or appeal to the supreme court of appeals.

Sec. 23. *Preservation of Records*. The proceedings, records, reports, case histories, and all other papers or documents of or received by the state department or a county council in the administration of this chapter shall be filed of record and preserved.

Sec. 24. *Rules and Regulations*. The state director shall prepare and promulgate rules and regulations necessary to give effect to the provisions of this chapter.

Sec. 25. *State Department to Gather Statistics*. The state department shall gather statistics and study legislation and problems connected with neglected and delinquent children, and publish the results from time to time. It shall also make available, so far as possible, to officials, institutions, and organizations dealing with these problems, such literature as shall tend to promote the efficiency of child welfare services.
Sec. 26. Duty of Prosecuting Attorney. The prosecuting attorney shall render to the county council, without additional compensation, such legal services as the council may require.

Sec. 27. Duty of County Superintendent of Schools. The superintendent of schools of the county shall, without additional compensation, cooperate with and render such assistance to the county council as the council may require.

Sec. 28. Proceeding by the County Council. A county council shall have the authority to institute, in the name of the state, proceedings incident to the performance of its duties under the provisions of this chapter.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect July 1, 1936

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 230 day of June, 1936.

Governor

Filed in the office of the Secretary of State of West Virginia. Wm. S. O'Brien, Secretary of State