

# WEST VIRGINIA LEGISLATURE

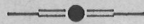
FIRST EXTRAORDINARY SESSION, 1936



# ENROLLED

HOUSE BILL No. 1

(By Mr. Speaker, Mr. Carter)



PASSED June 20 1936

In Effect July 1, 1936 Passage

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# House Bill No. 1

(By MR. SPEAKER, Mr. Pelter)

[Passed June 20, 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



3 this act are hereby repealed. But the enactment of this act  
4 shall not affect the operation of executive orders relating  
5 to the West Virginia Relief Administration dated April  
6 twenty-fifth, one thousand nine hundred and thirty-four and  
7 February thirteenth, one thousand nine hundred and thirty-  
8 five.

Sec. 6. *Relief Administration.* The West Virginia Relief  
2 Administration shall continue in effect until its operations  
3 are terminated by order of the governor. When the gover-  
4 nor finds that the state department and county councils are  
5 prepared to discharge the duties of the relief administration,  
6 or any of them, or to discharge such duties in a particular  
7 county of the state, he shall transfer such duties and activities  
8 from the relief administration to the state department or  
9 county council, or both, as the case may be. He shall at the  
10 same time, transfer so much of the appropriation made by  
11 the legislature for emergency relief and applicable to the  
12 transferred activity, as may be necessary, to the state de-  
13 partment to be administered for the purposes of the trans-  
14 ferred activity in accordance with the provisions of this  
15 chapter.

## Chapter IX

### PUBLIC ASSISTANCE AND RELIEF

#### Article I. State Department of Public Assistance.

Section 1. *Purpose.* The intent of the legislature is to

- 2 provide a permanent system of public assistance for the state
- 3 of West Virginia, to the end that its citizens who are subject
- 4 to the recurring misfortunes of life may have such aid and
- 5 encouragement as the state is able to extend. The purpose of
- 6 this chapter is, therefore:

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

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

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

- 14 (4) To provide for physical rehabilitation of physically
- 15 handicapped adult persons who qualify to receive public as-
- 16 sistance or general relief under the provisions of this chapter.

Sec. 2. *The State Department of Public Assistance.* To

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

Sec. 3. *Acceptance of Federal Legislation.* The state of  
2 West Virginia assents to the purposes of the act of the Congress  
3 of the United States, entitled the "Social Security Act,"  
4 approved, August fourteenth, one thousand nine hundred and  
5 thirty-five, and assents to such additional federal legislation  
6 as is not inconsistent with the purposes of this chapter.

7 The state of West Virginia further accepts the appropria-  
8 tions of money by Congress in pursuance of the "Social Secu-  
9 rity Act" and authorizes the receipt of such money into the  
10 state treasury for the use of the State Department of Public  
11 Assistance in accordance with this chapter and the conditions  
12 imposed by the "Social Security Act."

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

Sec. 5. *Definitions.* For the purposes of this chapter:

2 "State department" means the State Department of Public

3 Assistance.

4 "State board" means the State Advisory Board.

5 "Director" means the Director of the State Department

6 of Public Assistance.

7 "County council" means a county public assistance council.

8 "County director" means a director appointed by a county

9 council.

## **Article II. State Advisory Board.**

Section 1. *The State Advisory Board.* There is hereby

2 created in the Department of Public Assistance, a "State

3 Advisory Board" composed of five members.

4 The members and the director shall be appointed by the

5 governor, by and with the advice and consent of the Senate.

6 The board shall select one of its members as chairman.

Sec. 2. *Political Affiliations of Members.* Not more than

2 three of the members of the state board other than the

3 director shall belong to the same political party.

Sec. 3. *Term of Office.* The term of office of the members

2 of the state board shall be six years, except that the governor,

3 upon the adoption of this chapter, shall appoint the members

4 upon the following basis: Two members for a term of six  
5 years; two members for a term of four years; and one member  
6 for a term of two years. As these appointments expire, all  
7 appointments shall be for six year terms. In case of a  
8 vacancy in the state board, the appointment shall be for the  
9 remainder of the unexpired term. An appointee shall be  
10 subject to removal at the will and pleasure of the governor.

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

21418 Sec. 5. *Disqualification.* No member shall be a candidate  
2 for, or hold, any other public office or trust, nor shall he be  
3 a member of any political committee, nor shall he serve as an  
4 election official, nor shall he engage in any political activity,  
5 other than to vote, in behalf of, or in opposition to, any can-  
6 didate, political party or public issue involved in any election.  
7 Any violation by a member of the provisions of this section  
8 shall automatically vacate his membership on the state board.

21419 Sec. 6. *Oath of Office.* Members of the state board shall  
2 take and subscribe to the oath prescribed by article four,  
3 section five, of the state constitution before entering upon

4 their duties. Their oaths shall be filed with the secretary of  
5 state.

6 Sec. 7. *Honorarium and Traveling Expenses.* Each mem-  
2 ber of the state board shall receive an honorarium of ten  
3 dollars for each day actually served in attendance at meet-  
4 ings of the board, and actual expenses incurred in the per-  
5 formance of his duties under the provisions of this chapter.

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

9 Sec. 8. *Offices.* The offices and meeting place of the board  
2 shall be in the offices of the director.

3 Sec. 9. *Meetings.* The state board shall hold four regular  
2 meetings each year, as follows: On the first Monday in July,  
3 October, January, and April. Special meetings may be con-  
4 vened on the call of the director, the governor or a majority  
5 of the members.

6 Sec. 10. *Quorum.* A majority of the members of the  
2 state board shall constitute a quorum for the conduct of  
3 official business.

4 Sec. 11. *Advisory Powers and Duties.* The state board

2 shall be an advisory body to the director, and as such shall  
3 have the following advisory powers and duties; to:

4 (1) Study and consider the entire field of legislation and  
5 administration concerning public assistance.

6 (2) Advise the director concerning the organization and  
7 administration of the state department.

8 (3) Recommend to the director policies and practices  
9 relative to his duties.

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

12 (5) Advise the director with respect to the special prob-  
13 lems of different regions of the state and different economic  
14 groups.

15 (6) Advise the director with respect to the preparation  
16 and amendment of rules and regulations to give effect to the  
17 provisions of this chapter.

18 (7) Exercise any other advisory powers necessary or  
19 reasonably implied within the provisions and purposes of this  
20 chapter.

Sec. 12. *Powers and Duties.* The state board shall, in

2 addition to its functions as an advisory body, have the fol-  
3 lowing powers and duties; to:

4 (1) Recommend to the governor persons to be appointed  
5 members of the county councils.

6 (2) Prescribe the qualifications for county directors and  
7 their assistants.

8 (3) Certify persons approved for appointment as county  
9 directors.

10 (4) Promulgate reasonable regulations for the filing and  
11 consideration of applications for certification as approved  
12 county directors.

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

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

**Sec. 13. *Appointment of County Councils.* Immediately**

2 after the organization of the state board, the board shall  
3 prepare and submit to the governor a list of persons recom-  
4 mended for appointment to the county public assistance



5 councils. The state board shall submit the names of not  
6 less than seven nor more than ten persons, for each county  
7 council.

8 As soon as possible after the receipt of the recommenda-  
9 tions, the governor shall appoint four of the persons recom-  
10 mended for each county to the county council, two members  
11 for a three year term, one member for a two year term,  
12 and one member for a one year term. He shall certify the  
13 appointment of the members of the county council to the  
14 state director.

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

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

*Sec. 14. Classification of Services and Compensation.*

2 The state board shall promulgate regulations prescribing  
3 the qualifications and compensation of appointees and em-  
4 ployees in the state department and of county directors and  
5 their assistants. The board shall:

6 (1) Classify the different types of services to be per-  
7 formed.

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

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

Sec. 15. *Certification of Qualified County Directors.* For  
2 the purpose of certifying persons as qualified for appoint-  
3 ment as county directors, the state board shall:

4 (1) Prescribe required qualifications of education, train-  
5 ing and experience.

6 (2) Prepare and distribute application forms.

7 (3) Examine by written or oral examination, or both,  
8 as the board may determine, persons applying for certifi-  
9 cation.

10 (4) Determine whether the applicant possesses the neces-  
11 sary qualifications.

11a (5) Issue to each approved applicant a certificate of  
12 qualification.

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

15 (7) Promulgate regulations prescribing the qualifications  
16 for county directors and the procedure of application, exami-  
17 nation and certification.

### Article III. The Director of Public Assistance.

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

3 The director shall hold office for a term of six years unless  
4 sooner removed at the will and pleasure of the governor.  
5 He shall devote his entire time to the duties of his office.

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

4 The state director shall not be a candidate for, or hold, any  
5 other public office or trust, nor shall he be a member of any  
6 political committee, nor shall he serve as an election official,  
7 nor shall he engage in any political activity, other than to  
8 vote, in behalf of, or in opposition to, any candidate, politi-

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

10 The bond and oath shall be filed with the secretary of  
11 state.

Sec. 4. *Offices.* The offices of the director shall be located  
2 at the state capitol. The director shall keep his offices open  
3 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.

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

10 (1) Exercise general supervision of, and make, and revise,  
11 rules and regulations for the government of the department.

12 (2) Prescribe uniform regulations pertaining to investi-  
13 gations, reinvestigations, and case supervision by county  
14 councils and directors.

15 (3) Prescribe uniform methods of recording and account-  
16 ing to be employed by the county councils and directors.

17 (4) Sign and execute, in the name of the state, by "The  
18 State Department of Public Assistance", and by and with  
19 the consent and approval of the state board, any contract  
20 or agreement with the federal government or its agencies,  
21 other states, subdivisions of this state, corporations, associa-  
22 tions, partnerships, or individuals.

16 (5) Supervise the fiscal affairs and responsibilities of the  
17 department.

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

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

24 (8) Make such reports as will comply with the require-  
25 ments of the federal legislation and the provisions of this  
26 chapter.

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

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

33 (11) Make an annual report to the governor of the con-  
34 dition, operation, and functioning of the department.

35 (12) Exercise any other powers necessary and proper to  
36 standardize state and county work, to expedite business, to

37 assure fair consideration of application for aid, and to pro-  
38 mote the efficiency of the service.

39 (13) Invoke any legal, equitable, or special remedies for  
40 the enforcement of his orders or the provisions of this  
41 chapter.

42 Sec. 7. *Organization of Department.* The director shall  
43 create such divisions of the department as will promote  
44 efficiency and economy in administration.

45 Sec. 8. *Assistants and Employees.* The director shall  
46 appoint the heads of the divisions of the department. He  
47 shall employ such assistants and employees as may be neces-  
48 sary to the efficient operation of the department and shall  
49 fix their compensation in accordance with regulations pro-  
50 mulgated under section fourteen, article two of this chapter.  
51 Assistants and employees shall serve at the will and pleasure  
52 of the director.

53 No such assistants and employees shall be a candidate for,  
54 or hold, any other public office or trust, nor shall he be a  
55 member of any political committee, nor shall he serve as an  
56 election official.

57 Sec. 9. *Compliance with Federal Methods and Standards*

2 *of Administration.* For the purpose of assuring full federal  
3 approval of the activities of the department and county  
4 councils, the state director shall comply with all federal  
5 requirements pertaining to methods and standards of admin-  
6 istration.

7 In the making of rules and regulations the state director  
8 shall include such methods and standards of administration  
9 for the conduct of the work of county councils as may be  
10 required for the receipt of grants-in-aid from the federal  
11 government.

12 *Sec. 10. Supervision of County Councils and County*  
13 *Directors.* The state director shall organize in the depart-  
14 ment a unit for the inspection, supervision and guidance of  
15 county councils and county directors. The state director,  
16 through this unit, shall maintain close contact with the work  
17 of county councils and county directors, to enforce standard-  
18 ized record keeping and accounting, adequate case investiga-  
19 tion and case supervision, and to guide and instruct county  
20 officials in the performance of their duties.

21 *Sec. 11. Training Periods.* To insure adequate standards  
22 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 exofficio.  
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  
12 serve for a term of three years, except that the first members  
13 appointed after the adoption of this chapter shall serve as  
14 specified by section thirteen, article two, of this chapter.  
15 A member appointed to fill a vacancy occurring prior to  
16 the expiration of a term shall serve for the unexpired term.

7 An appointee shall be subject to removal at the will and  
8 pleasure of the governor.

Sec. 3. *Qualifications.* The appointed members of the  
2 county council shall be selected with special reference to  
3 their experience, capacity, and fitness to perform the duties  
4 required of them by this chapter.

Sec. 4. *Disqualification.* No appointed member shall be a  
2 candidate for, or hold, any other public office, nor shall he be  
3 a member of any political committee, nor shall he serve as an  
4 election official. If an appointed member becomes a candidate  
5 for, or is appointed to, any other public office, or political  
6 committee, or serves as an election official, his office as a mem-  
7 ber of the county council shall, automatically, be vacated.

Sec. 5. *Serve without Compensation.* Members of the  
2 county council shall serve without compensation.

Sec. 6. *Offices and Equipment.* The office of the county  
2 council shall be at the county seat. The county court shall  
3 provide adequate office space and equipment. Offices shall be  
4 in the county courthouse if possible.

Sec. 7. *Meetings and Proceedings.* The county council  
2 shall hold regular meetings at such times as it shall determine

3 by formal order. Special meetings may be convened at the  
4 call of the chairman, the state director, the county director  
5 or a majority of the members.

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

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

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

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

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

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

22 (4) Prepare and submit to the state board or the state  
23 director reports and information at their request.

14 (5) Cooperate with private charitable organizations or  
15 agencies operating within the county.

16 (6) Keep records of all transactions which shall be pre-  
17 served as public records.

Sec. 9. *County Director of Public Assistance.* The county  
2 council shall appoint a "County Director of Public Assist-  
3 ance" from the list of persons certified by the state board as  
4 qualified to perform the duties of that office. The county  
5 director shall serve during the will and pleasure of the county  
6 council. The county council shall fix the compensation of the  
7 county director within the limits of the salary scale fixed  
8 by the state board.  
9 The county director shall devote his entire time to the  
10 duties of his office.  
11 The county director shall be the exofficio secretary of the  
12 county council.

Sec. 10. *Assistants and Employees.* The county council,  
2 upon the recommendation of the county director and with the  
3 approval of the state department, shall appoint or employ  
4 such assistants and employees as may be required, and in  
5 counties having a negro population of ten per cent or more

6 of the total county population, as determined by the last  
7 federal census, the county council shall appoint an assistant  
8 director from the negro race. A person appointed or em-  
9 ployed by the county council shall be qualified in accordance  
10 with the regulations of the state board.

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

20 Sec. 11. *Disqualification.* No county director shall be a  
21 candidate for, or hold, any other public office, nor be a mem-  
22 ber of any political committee, nor shall he serve as an elec-  
23 tion official, nor shall he engage in any political activity, other  
24 than to vote, in behalf of, or in opposition to, any candidate,  
25 political party, or public issue involved in any election. The

7 county council shall discharge any director who violates any  
8 provision of this section.

9 No appointee or employee of a county council shall be a  
10 candidate for, or hold, any other public office, nor be a mem-  
11 ber of any political committee, nor shall he serve as an elec-  
12 tion official, nor shall he engage in any political activity,  
13 other than to vote, in behalf of, or in opposition to, any  
14 candidate or political party; and any such appointee or em-  
15 ployee of a county council who shall, in the judgment of  
16 said council, become politically active, contrary to the intent  
17 hereof, shall be dismissed by the council.

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

5 (1) Perform all duties imposed upon him by the pro-  
6 visions of this chapter.

7 (2) Execute in accordance with the provisions of this  
8 chapter, the instructions of the state board, the state director,  
9 and the county council.

10 (3) Supervise and direct the work of his subordinates and  
11 assistants.

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

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

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

Sec. 13. *Inter-county Agreements.* Upon approval by the  
2 state director, two or more county councils may enter into an  
3 inter-county agreement for the joint employment of a single  
4 county director and a joint staff of assistants and employees.

5 The county councils of the counties desiring so to cooperate  
6 shall prepare an agreement in the form and to the effect  
7 approved by the state director. When adopted by formal  
8 order of each county council acting independently, the agree-  
9 ment shall be effective for the duration of the fiscal year, but  
10 shall automatically expire at the close of the fiscal year. Inter-  
11 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  
staff of assistants 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."

6 Public Assistance shall be granted only:

7 (1) To the extent that funds are available for the purpose.

8 (2) To those actually in need.

9 (3) To the extent necessary to safeguard a decent and  
10 healthful subsistence.

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

1 "Public Assistance" shall mean money payments to, or for  
2 the benefit of, aged persons, blind persons, or dependent  
3 children.

4 "Resources" shall mean all property, real and personal,  
5 tangible and intangible, and all income, whether in the form  
6 of money or otherwise.

7 "Applicant" shall mean the person for whose use and  
8 benefit application is made.

9 "Recipient" shall mean the person for whose use and  
10 benefit a grant of public assistance is made.

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

1 (1) Has attained the age of sixty-five years.

2 (2) Is a citizen of the United States.

5 (3) Has resided in the state for at least five years during  
6 the nine years immediately preceding application for assist-  
7 ance and for one year immediately preceding the application.

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

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

13 (6) Is not an inmate of a public or private institution.  
14 An inmate may apply for assistance to begin after the dis-  
15 charge from such institution.

16 (7) Is actually in need and has not sufficient income or  
17 other resources to provide a subsistence compatible with de-  
18 cency and health.

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

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

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

7 (3) Is a citizen of the United States.

8 (4) Has resided in the state for at least five during the  
9 nine years immediately preceding application for assistance  
10 and for one year immediately preceding the application.

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

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

17 (7) Is actually in need and has not sufficient income or  
18 other resources to provide a subsistence compatible with de-  
19 cency and health.

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

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

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

26 (3) Is living with his father, mother, grandfather, grand-  
27 mother, brother, sister, stepfather, stepmother, stepbrother,

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.

22 Sec. 6. *Application.* A person desiring public assistance,  
23 or, in the case of a dependent child, the person having custody  
24 of the child, shall apply to the county director of the county  
25 in which he resides. Application shall be in writing, or shall  
26 be reduced to writing, in the form prescribed by the regula-  
27 tions of the state department. The application shall set forth  
28 complete information pertaining to:

8 (1) The eligibility of the applicant as an aged person, a  
9 blind person, or a dependent child.

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

12 (3) Income from all sources including amounts con-  
13 tributed by relatives or other persons.

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

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

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

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

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

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

Sec. 8. *Recommendation by County Council.* Upon the  
2 completion of his investigation, the county director shall

3 submit to the county council the application, the results of  
4 his investigation, and his findings as to the eligibility of the  
5 applicant and the amount of public assistance required.

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

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

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

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

17 (4) Funds for the purpose of public assistance are avail-  
18 able and may be expended under the provisions of this  
19 chapter.

20 *Sec. 9. Approval of Application.* If the county council  
21 approves an application, it shall determine the amount of aid  
22 per month required for a subsistence compatible with decency

4 and health, having due regard for the resources of the ap-  
5 plicant and his necessary expenditures.

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

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

11 A determination by the county council or by the state de-  
12 partment that the home of the person having custody of a  
13 dependent child is no longer a suitable or proper place for  
14 the rearing of children shall constitute good reason for the  
15 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.

9 (3) That the amount of public assistance determined as  
10 necessary by the county council is reasonable. If the amount  
11 is unreasonable, the state department may correct the amount.

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

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

16 (6) That pertinent evidence was not excluded or over-  
17 looked.

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

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

11 7 Sec. 15. *Disposition of Application.* In addition to the  
2 disposition of an application under section fourteen, the state  
3 department may initiate an original investigation of any  
4 application; may remand an application for further investi-  
5 gation; or may increase or decrease the amount of public  
6 assistance determined by a county council as necessary.

7 The state department shall notify the county council and  
8 the applicant of its decision in writing.

Sec. 16. *Amount of Grant.* When the state department  
2 approves an application for public assistance, it shall fix  
3 the amount of monthly grant required for the needs of the  
4 applicant. Public assistance shall be paid monthly out of  
5 funds appropriated for the purposes of this article upon  
6 requisition of the director by means of a warrant signed by  
7 the auditor and treasurer.

Sec. 17. *Limitation of Amount.* The amount of public  
2 assistance granted from all sources, including funds received  
3 from the Federal government, shall not exceed in the case of :  
4 (1) An aged person, thirty dollars per month.  
5 (2) A blind person, thirty dollars per month.  
6 (3) A dependent child, twelve dollars per month. If  
7 more than one child is accorded public assistance in the same  
8 family, the amount granted for the first child shall not exceed  
9 twelve dollars per month and for each additional child  
10 after the first, shall not exceed eight dollars per month.

Sec. 18. *Additional Aid.* A recipient of public assistance  
2 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.

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

11 Sec. 20. *Payment for Use of Recipient.* Whenever an aged  
12 or blind recipient of public assistance is, or becomes in the  
13 judgment of the county council, incapable of managing his  
14 own finances, the council may with the approval of the state  
15 department designate a parent, the legal guardian, or another  
16 responsible person to whom the installments of assistance  
17 shall be paid for the benefit of the recipient. The person  
18 designated and approved shall be responsible to the county  
19 council for the use of all money paid to him under this  
20 section.  
21 The county council may, with the approval of the state  
22 department, change its designation or make a new one when  
23 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 con-  
venient 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.

11 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.

12 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

10 by sections twenty-three, twenty-four and twenty-five of this  
11 article.

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

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

Sec. 29. *Agreement to Reimburse.* As a condition of  
2 receiving public assistance, an aged person shall submit to  
3 the county council a properly acknowledged agreement  
4 granting to the state a lien upon all or any part of his  
5 real or personal property including that subsequently ac-  
6 quired, as may be required by the rules of the state depart-  
7 ment. The lien shall be effective from the date of its re-  
8 cordation in the county wherein said property is situate, and



9 shall be for the total amount of public assistance paid to the  
10 person.

10-a The clerk of the county court shall enter without fee

10-b the agreement in a book known as "Reimbursement Agree-  
11 ments", and containing a complete alphabetical index. The  
12 county council shall enter with the clerk of the county court  
13 an acknowledgement of the amount of reimbursement  
14 received.

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

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

Sec. 31. *Insurance Policies.* As a condition of receiving  
2 public assistance, an aged person shall assign to the state

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.

A claim of the state under this section shall not be extinguished by the statute of limitations.

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.

5 (2) There is a threatened or actual sale or transfer of  
6 the property.

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

Sec. 35. *Power of County Council.* A county council  
2 shall receive all assignments and perform all acts necessary  
3 to protect the financial interests of the state in the assets  
4 of recipients of public assistance.

5 All liens and claims under this article shall be enforced  
6 by the county council as the agent and in the name of the  
7 state, and all money reclaimed shall be paid by the council  
8 into the state treasury.

Sec. 36. *Exemptions.* If the enforcement of a lien or  
2 claim held by the state under this article, real property to  
3 the value of fifteen hundred dollars and personal property to  
4 the value of two hundred dollars shall be exempt.

5 The value of the exemptions shall be determined in the

6 same manner as exemptions claimed in pursuance of section  
7 forty-eight, article six of the state constitution.

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

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

Sec. 39. *Grants Conditional.* A grant of public assist-  
2 ance shall be subject to:

- 3 (1) Reconsideration, revocation, or change.
- 4 (2) Appropriation by the legislature of public funds.
- 5 (3) Amendment or repeal.
- 6 (4) Continuation of federal grants-in-aid.

#### Article VI. General Relief.

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

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

- 4 (1) A public charge, or in danger of becoming a public  
5 charge, or
- 6 (2) In need of continuing institutional care because of  
7 his physical or mental condition, or
- 8 (3) In need of medical or surgical care whether in an  
9 institution or in his home.

10 A person financially able to maintain himself under  
11 ordinary conditions, but unable to provide necessary medical

12 or surgical care or treatment shall be eligible for general  
13 relief.

Sec. 3. *Legal Residence.* For the purpose of this article,  
2 a person shall be a resident of a county if he actually  
3 resides therein and has resided in the state for the year  
4 next preceding application.

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

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

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

Sec. 5. *Application.* A person, or another in his behalf,  
2 may make application for general relief to the county director  
3 of the county in which the applicant resides.

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

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

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

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

Sec. 9. *Order of County Council.* If a county council  
2 determines that general relief is necessary, it may:

(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.

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

(3) Order temporary medical or surgical treatment.

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

(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. *Hospitalization.* A county council shall, under the rules and regulations of the state department, designate one or more public or private hospitals, approved by the



4 state department, for the medical and surgical care of  
5 indigent persons in the county.

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

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

11 If the hospital does not know the residence of the indigent  
12 person, the county council of the county where the person  
13 resides, when such residence is finally determined, may assume  
14 the cost of services rendered, although the report required by  
15 this section was not made.

Sec. 14. *Supervision.* For the purpose of assuring that

2 general relief is continued no longer than necessary, and of

3 rendering guidance and assistance leading to self-support,

4 the county director shall:

5 (1) Visit, at least once each month, a person receiving

6 general relief in his own home or in another place other

7 than an institution.

8 (2) Visit, as often as the case requires, persons receiving

9 institutional care or treatment.

10 (3) Reinvestigate, and place before the county council

11 for review, a case of continued general relief at least once each

12 year, or more often as the county council may direct.

Sec. 15. *Interment.* A county director shall have de-

2 cently interred the remains of persons who die in the county,

3 and who, at the time of death, do not possess money

4 or property sufficient to pay the expense of such burial.

5 If the deceased is, or has been, in the military service

6 of the United States, or of the Confederacy, interment shall

7 not be made in a cemetery or cemetery plot used exclusively

8 for the burial of indigent persons.

Sec. 16. *Regulations by State Department.* The power

2 and duties conferred by this article upon the county  
3 council and the county director shall be exercised by them in  
4 accordance with the regulations prescribed by the state  
5 department.

#### **Article VII. County Infirmaries.**

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

5 The control and business management of the county in-  
6 firmary or other institution shall be the responsibility of the  
7 county court.

8 The commitment of persons to and the release from the  
9 county infirmary or other institution shall be the responsi-  
10 bility of the county council.

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

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

5 (2) Use and dispose of property received as a gift, grant,  
6 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

3 duties and labor, but only to the extent reasonably permitted  
4 by their physical and mental condition.

11 Sec. 10. *Records and Reports of Admissions.* The super-  
2 intendent shall:

3 (1) Keep a register of all persons admitted, showing their  
4 name, age, date of, and reason for admission.

5 (2) Record all discharges, removals, escapes, and deaths.

6 (3) Report quarterly, or more often if requested, to the  
7 county court and the county council, the above and such  
8 other information as the court or council may require.

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

11 Sec. 12. *Services Rendered by County Director.* At the  
2 request of the county court, the county director shall advise  
3 and consult with the county court with respect to the manage-  
4 ment and control of the infirmary or other institution, and  
5 shall make such visitations and inspections as the county  
6 court may request.

Sec. 13. *Records and Accounts.* Records and accounts  
2 required by this article shall be preserved for not less than  
3 five years as public records.

**Article VIII. State Veterans' Service Office.**

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

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

Sec. 2. *Duties.* The state veterans' service officer shall:  
2 (1) Assist all veterans honorably discharged from the  
3 armed forces of the United States of America, in properly  
4 presenting their claims before the United States Veterans'  
5 Administration, or before any bureaus or departments  
6 of the United States government; the state of West Virginia,  
7 or any of the several states of the United States, when the  
8 claims arise out of service with such armed forces.

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

11 (3) Render all possible assistance to veterans and families  
12 of veterans within the state, and furnish to the veterans and

13 their families information on compensation, insurance, re-  
14 habilitation, hospitalization, and allowances provided by the  
15 United States government, by this state, and by other states.

16 (4) Make careful inquiry into all claims presented for  
17 payment to the state treasurer from any appropriation here-  
18 after made for the relief of sick, disabled, or indigent  
19 soldiers, sailors, or marines residing in this state, who served  
20 in the armed forces of the United States.

#### **Article IX. Physical Rehabilitation of Adult Persons.**

21 Section 1. *Purpose.* The purpose of this article is to  
22 provide for the development within the state of adult physi-  
23 cal rehabilitation for the physically handicapped.

24 Sec. 2. *Definitions.* For the purpose of this article:  
25 "A physically handicapped person" means a person who  
26 by reason of a physical defect or infirmity, whether con-  
27 genital or acquired by accident, injury, or disease, is or may  
28 be expected to be totally or partially incapacitated for re-  
29 munerative occupation.

30 "Adult person" means any individual who:

- 31 (1) Has attained the age of eighteen years.
- 32 (2) Is a citizen of the United States.



10 (3) Has resided in the state for at least one year imme-  
11 diately preceding application for rehabilitation aid.

12 "Adult physical rehabilitation" mean the fitting by sur-  
13 gical or medical treatment and hospitalization of physically  
14 handicapped adult persons for remunerative occupations.

15 Sec. 3. *State Department.* The state department shall  
16 administer the adult physical rehabilitation program through-  
17 out the state.

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

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

23 (2) He is receiving, or is eligible to receive, public assist-  
24 ance or general relief under the provisions of this chapter.

25 Sec. 5. *Powers of State Department.* In the administra-  
26 tion of adult physical rehabilitation, the state department  
27 shall:

28 (1) Supervise the treatment of physically handicapped  
29 adult persons during the period of treatment.

6 (2) Provide surgical and medical treatment and hospitali-  
7 zation as may be necessary for physically handicapped adult  
8 persons in the state.

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

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

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

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

#### Article X. Fiscal Provisions.

Section 1. *Responsibility.* The support of public assist-  
2 ance is hereby declared to be the responsibility of the state.  
3 The support of general relief is hereby declared to be the  
4 responsibility of the county. To the extent that a county is

5 unable because of constitutional restrictions to meet reason-  
6 able costs of general relief as required by this article, the  
7 responsibility of the state is hereby recognized.

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

9 (1) The relative number of known eligible cases within  
10 the county.

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

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

16 The state director shall notify each county council of the  
17 budget made for its county by the state board and the number

18 of cases and average grant per case estimated to be reason-  
19 able for that county.

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

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

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

38 Sec. 5. *County Funds.* The amount of the county fund

2 provided each year by a county court shall not be less than  
3 fifteen percentum of the total which the county court is  
4 legally authorized to levy for current purposes by section  
5 ten, article eight, chapter eleven of the code of West Vir-  
6 ginia, one thousand nine hundred thirty-one, as amended,  
7 plus, if available, any other levy or portion of levy specifi-  
8 cally allocated by law to the purpose of the county fund.  
9 If a county court finds that expenditures mandatory under  
10 other provisions of law aggregate in excess of eighty-five per  
11 centum of the total amount which the county court is  
12 authorized by law to levy for current purposes, the court  
13 may petition the tax commissioner for authority to provide  
14 an amount less than that required by this section. If the  
15 tax commissioner finds that other mandatory expenditures  
16 for the county will exceed eighty-five percentum of the  
17 authorized total levy for current purposes, he may authorize  
18 the county court to provide a lesser amount than that re-  
19 quired by this section, but he shall require the maximum  
20 amount possible under the circumstances.

Sec. 6. *Transfers.* A transfer from the county fund to

2 any other fund shall not be made without the prior approval  
3 of the state department.

4 Sec. 7. *State General Relief.* There is hereby created  
5 a "State General Relief Fund", hereinafter referred to as  
6 the "state fund", to be administered by the state depart-  
7 ment for the purpose of supplementing the county fund for  
8 the support of general relief.

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

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

19 (2) The levies and expenditures of the county showing  
20 the rate of tax delinquency, amounts provided for various  
21 county activities, expenditures made mandatory by law, and  
22 amounts allocated to the county fund.

15 (3) Such other information as the state department or  
16 state board may require.

17 *Sec. 9. Investigation by Director.* Upon receipt of an  
18 application for a grant from the state fund the director shall  
19 examine the application and shall make such other investiga-  
20 tion as may be appropriate to determine whether the county  
21 has allocated every resource available for general relief  
22 during the ensuing year to the general relief fund. The  
23 director shall prepare a report and recommendation for sub-  
24 mission to the state board.

25 *Sec. 10. Determination by State Board.* The director  
26 shall submit his recommendations to the state board. The  
27 state board shall determine as to each county whether:

28 (1) A grant from the state fund is required to pay the  
29 reasonably estimated cost of general relief during the ensuing  
30 fiscal year.

31 (2) The estimated cost of general relief for the ensuing  
32 fiscal year is reasonable, both as to total cost and estimated  
33 cost per case.

34 (3) Every fiscal resource available to the county court  
35 for general relief has been allocated to the county fund.

12 If the state board determines that a grant from the state  
13 fund should be made to a county, it shall fix the proportion  
14 of the total cost of general relief in the county that shall  
15 be paid from the state fund. It shall set a total amount  
16 which the total of state grants to the county during the fiscal  
17 year shall not exceed.

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

Sec. 11. *Notification.* The state director shall notify the  
22 county council and the county court of the action taken by  
23 the state board.

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

Sec. 13. *Monthly Report.* The county council for a  
29 county for which a grant from the state fund has been



3 made shall prepare and submit to the state director a  
4 monthly report showing the number and kind of cases main-  
5 tained under general relief and the amount expended. The  
6 report shall be authenticated by the county court as to the  
7 amounts disbursed for the purposes stated.

8       Sec. 14. *Determination by Director.* Upon receipt of the  
9 monthly report the state director shall determine whether:  
10 (1) The cases for which cost is certified were properly  
11 general relief cases.

12 (2) The cost of care was reasonable.  
13 If the state director finds that payment should be made,  
14 he shall determine in accordance with the proportion of  
15 payment fixed by the state board the amount due to the  
16 county for that month. He shall draw his requisition for  
17 the amount upon the state auditor in favor of the sheriff of  
18 the county. The payment shall be disbursed as provided  
19 by law for other payments out of the state treasury. The  
20 sheriff, upon receipt of said payment, shall place the same to  
21 the credit of the general relief fund of the county.

22       Sec. 15. *Review by State Director.* If the state director  
23 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.

10 Sec. 18. *Records and Reports.* The state director, with  
11 the approval of the state board may prescribe forms and  
12 methods of records and accounts; the form and content of  
13 reports to the state department, and such methods and pro-  
14 cedures of administration as may be necessary for the effective  
15 administration of this article.

16 Sec. 19. *Review by State Board.* A determination made  
17 under this article by the state director shall be subject to  
18 review by the state board upon the petition of the county  
19 council, or the county court of the county, or any interested  
20 party.

21 Sec. 20. *Administrative Expenses.* The state board, upon  
22 the recommendation of the state director, shall prescribe a  
23 specific amount from the county fund of each county to be  
24 applied to the administrative expenses of the county council.  
25 The state board may likewise take necessary administrative  
26 expenses into consideration in determining the proportion  
27 payment from the equalization fund to a county, and may

8 designate an additional amount of monthly payment for ad-  
9 ministrative expenses.

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

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

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

#### Article XI. General Provisions.

Section 1. *Continuation of Present Aid.* Except as other-  
2 wise provided in this chapter, aid or assistance rendered  
3 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,

5 and to pay the expenses of burial when he dies, in the fol-  
6 lowing order:

7 (1) The children.

8 (2) The father.

9 (3) The brothers and sisters.

10 (4) The mother.

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

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

22 The court shall hear, in a summary manner, the allegations  
23 and proofs of the parties, and assess upon the relatives  
24 notified of the proceeding and appearing to be liable for  
25 the support, a sum sufficient to reimburse to the county

10 court for the expense incurred by the county council in the  
11 support or burial of the indigent person up to the time of  
12 the assessment, with interest and costs.

13 The court shall further, as the case requires, assess upon  
14 the relative such sums, to be payable quarterly thereafter  
15 to the county court until the further order of the court, as  
16 will be sufficient for the future support of the indigent  
17 person.

18 Payment of the support provided for by this section may  
19 be enforced by execution.

200 Sec. 7. *Jury Trial; Modification of Judgment.* In a  
2 proceeding under this article, the defendant may demand,  
3 or the court, of its own motion, may order any question of  
4 the fact to be tried by jury. The court may, from time to  
5 time, upon motion of the county council, or of a relative  
6 affected, vary the judgment or order so far as it relates to the  
7 future support of the indigent person.

8 A jury fee shall not be taxed in a proceeding under this  
9 section.

102 Sec. 8. *Payment in Part for Support.* If it appears that  
2 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 proportion 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 testimony 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



13 of the circuit court may be punished by the court as for  
14 contempt.

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

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

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

30 A person who violates the provisions of this section shall  
31 be guilty of a misdemeanor and upon conviction shall be  
32 fined not less than fifty nor more than five hundred dollars or

12 imprisoned not less than ten nor more than ninety days, or  
13 both, in the discretion of the court.

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

Sec. 11. *Obtaining Aid Fraudulently.* It shall be a mis-

2 demeanor to obtain or attempt to obtain, or aid or abet  
3 an applicant or recipient in obtaining or attempting to obtain,  
4 by means of a wilfully false statement or misrepresentation  
5 or by impersonation or any other fraudulent device:

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

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

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

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

Sec. 12. *Fraudulent Acquisition or Disposition of Prop-*

2 *erty.* A person who aids or abets in buying or in any way  
3 disposing of the property of an applicant for or a recipient

4 of public assistance or general relief for the purpose of con-  
5 cealing or dissipating the resources of the applicant or  
6 recipient shall be guilty of a misdemeanor and upon con-  
7 viction shall be fined not more than five hundred dollars, or  
8 imprisoned for not more than six months, or both, in the  
9 discretion of the court.

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

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

Sec. 15. *Duty of County Superintendent of Schools.* The  
2 superintendent of schools of the county shall without ad-  
3 ditional compensation cooperate with and render such assist-  
4 ance to the county council as the council may request.

Sec. 16. *Public Records.* All reports, and applications  
2 received by the county council and the record of all pro-  
3 ceedings shall be preserved as public records.

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

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

## Chapter 49

### CHILD WELFARE

#### Article I. Purposes; Definitions.

Section 1. *Purpose.* The purpose of this chapter is to  
2 provide a comprehensive system of child welfare throughout  
3 the state.

4 The child welfare services of the state shall be administered  
5 by the state department of public assistance and the several  
6 county councils in accordance with the provisions of this  
7 chapter.

8 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  
6 be a crime not punishable by death or life imprisonment.
- 7 (3) Is incorrigible, ungovernable, or habitually disobedient  
8 and beyond the control of his parent, guardian, or other  
9 custodian.
- 10 (4) Is habitually truant.
- 11 (5) Without just cause and without the consent of his  
12 parent, guardian, or other custodian, repeatedly deserts his  
13 home or place of abode.
- 14 (6) Engages in an occupation which is in violation of law.
- 15 (7) Associates with immoral or vicious persons.
- 16 (8) Frequents a place the existence of which is in viola-  
17 tion of law.
- 18 (9) Deports himself so as to wilfully injure or endanger  
19 the morals or health of himself or others.

Sec. 5. *Crippled Child.* "Crippled child" means a  
2 person under the age of eighteen years who, by reason of  
3 physical defect or infirmity, is, or may be expected to be,  
4 totally or partially incapacitated for education or for re-  
5 munerative 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  
3 a child is neglected, the department or person may present a  
4 petition setting forth the facts to the court having juvenile  
5 jurisdiction in the county in which the child resides or to  
6 the judge in vacation. The petition shall be verified by oath  
7 of some credible person having knowledge of the facts.

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

10 **Sec. 2. *Hearing.*** Notice of time and place of hearing  
11 shall be served upon the person having custody of the child  
12 and shall be given to the state department. The person  
13 having custody of the child, a parent or other person stand-  
14 ing in *loco parentis*, a relative, or any other person having  
15 knowledge of the circumstances may appear and be heard.

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

20 **Sec. 4. *Temporary Custody.*** Until a hearing can be held



2 upon the petition, the court or judge may order that the child  
3 be delivered into the custody of the state department, or into  
4 such other custody as the court or judge may deem proper.

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

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

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

Sec. 7. *Mentally Defective Children.* The state depart-  
2 ment may return a mentally defective child committed to it  
3 to the county from which the child was committed, to be  
4 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

4 in the care and custody of an individual holding the same  
5 religious belief as the parents or relatives of the child, or  
6 with some institution or organization that is controlled by  
7 persons of the same religious belief as that of the parents  
8 or relatives of the child.

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

Sec. 14. *Parole to State Department.* Children paroled  
2 from the state industrial homes for girls and the state in-  
3 dustrial school for boys shall be paroled to the state depart-  
4 ment.

Sec. 15. *Admission to Schools for Deaf and Blind Children.*  
2 The state department shall investigate applications for ad-  
3 mission to the state schools for the deaf and blind, and  
4 applications for admission to a state hospital for orthopedic  
5 treatment.

6 For the purposes of this section the state department shall  
7 have authority to procure proper medical and surgical ex-  
8 aminations. The expenses of examinations and of the trans-

9 portation of an applicant to and from the hospital shall be  
10 paid by the county in which the applicant resides, upon  
11 submission of an itemized statement of expenses, verified by  
12 affidavit of an agent of the state department.

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

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

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

8 determine the fitness of the institution or organization to  
9 provide care or training for children.

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

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

Sec. 19. *Inspection.* If the state department finds that  
2 a children's institution or organization is of such a character,  
3 or is so equipped, managed, or financed that the interests  
4 and welfare of a child are not served by entrusting his care  
5 or training to the institution or organization, it shall notify

6 the institution or organization, stating the reasons for its  
7 decision and designating the measures to be taken to correct  
8 the conditions causing disapproval.

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

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

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

### **Article III. Private Institutions and Organizations.**

*Section 1. What Children Admitted.* A children's in-  
2 stitution established under the laws of this state, or of the

3 state of Virginia prior to the formation of this state, may  
4 take under guardianship a neglected child who;

5 (1) Is voluntarily surrendered by the father and mother;  
6 by one parent in case of the death, or long continued absence  
7 of the other parent; by the guardian of the child's person;  
8 by a children's organization; or, where the child is illegiti-  
9 mate, by its mother. By virtue of the surrender of a child,  
10 the orphan asylum or children's home shall exercise over  
11 the child the same power possessed by the parties surrender-  
11-a ing the child.

12 (2) Is committed to its custody by the court or judge  
13 having juvenile jurisdiction in the county in which the child  
14 resides. Commitment shall be in accordance with the pro-  
15 visions of article two of this chapter.

Sec. 2. *Children's Organizations.* An organization  
2 formed under the laws of this state for the purpose of pro-  
3 tecting children from cruelty, or for finding homes for chil-  
4 dren, may receive into its custody and control a neglected  
5 child who is voluntarily surrendered by its father and mother,  
6 by one parent in case of the death or long continued absence



7 of the other parent, by the guardian of the person of the  
8 child, or, where the child is illegitimate, by its mother.

Sec. 3. *Officers of Institutions may Petition for Custody*  
2 *of Child.* An officer of a children's institution or organiza-  
3 tion may petition the court, or judge having juvenile juris-  
4 diction, for the purpose of obtaining custody of a neglected  
5 child in the manner provided by section one of article two  
6 of this chapter.

Sec. 4. *Provisions Applicable.* The provisions of article  
2 two of this chapter shall apply in all respects to the com-  
3 mitment, care, and custody of neglected children by a chil-  
4 dren's institution or organization.

5 A children's institution or organization shall be licensed  
6 as required by section seventeen, article two of this chapter.

Sec. 5. *Supervision and Control of Children.* A child  
2 placed in the care or committed to the custody of a children's  
3 organization shall be under its supervision and control until  
4 the child is received into a children's institution or private  
5 home, or until otherwise ordered by the court or judge by  
6 whom the child was committed.

Sec. 6. *Placing Children in Children's Institutions.*

2 A children's organization may place a child in an approved  
3 children's institution established under the laws of this state,  
4 or the state of Virginia prior to the formation of this state,  
5 which will receive the child.

Sec. 7. *Guardians for Children.* At the time of com-  
2 mitment the court or judge shall appoint the person in  
3 charge of the children's institution or organization to which  
4 the child is committed, as the guardian of the person of the  
5 child.

Sec. 8. *Placing in Private Homes.* If the state depart-  
2 ment consents and approves, a children's institution or  
3 organization may place a child in a suitable private home,  
4 having regard for the religious and moral character of those  
5 with whom the child is placed, in order to secure to the  
6 child the benefits of good example and wholesome instruc-  
7 tion.

Sec. 9. *Bond by Person Receiving Child.* When a child  
2 is placed in a private home, the state department may, in its  
3 discretion, order the children's institution or organization to  
4 require a bond, payable to the state department, to be entered  
5 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 with-  
4 out the written consent of the children's institution or organ-  
5 ization, 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

2 children's institution or organization may in its discretion  
3 and, if the child was committed to it by the order of a court,  
4 with the consent of the court or judge, return the child to  
5 the parents, surviving parent, or guardian.

#### Article IV. Crippled Children.

Section 1. *Purpose.* The purpose of this article is to pro-  
2 vide for the continuation and development of services for  
3 crippled children. The state department shall formulate and  
4 apply administrative policies coordinating the care, treat-  
5 ment, and education of physically handicapped children.

6 In the development of administrative policies, the state de-  
7 partment shall cooperate with the children's bureau of the  
8 United States Department of Labor and shall comply with  
9 the regulations of the children's bureau prescribed under the  
10 authority of the "Social Security Act," and is hereby  
11 authorized to receive and expend federal funds for these  
12 services.

Sec. 2. *What Children are Included.* It is the intention  
2 of this article that services for crippled children shall be  
3 extended only to those children for whom adequate care,

4 treatment and rehabilitation is not available from other than  
5 public sources.

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

4 (1) Locate crippled children requiring medical, surgical,  
5 or other corrective treatment and provide competent diagnosis  
6 to determine the treatment required.

7 (2) Supply to crippled children treatment, including  
8 hospitalization, and after-care leading to correction and re-  
9 habilitation.

10 (3) Guide and supervise crippled children to assure  
11 adequate care and treatment.

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

6-b 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

5 department such investigations, case supervision, and other  
6 services as the department may request.

Sec. 7. *Other Agencies to Assist.* So far as practicable,  
2 the services and facilities of the state department of health,  
3 of the state department of education and the state board of  
4 control shall be available to the state department for the  
5 purposes of this article.

Sec. 8. *Cooperation with Private Agencies.* The state de-  
2 partment shall cooperate with private agencies and organi-  
3 zations engaged in rendering similar services to crippled  
4 children.

#### **Article V. Juvenile Courts.**

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

8 (1) The domestic relations court, or if there is none,

9 (2) The court of common pleas or intermediate court  
10 having chancery jurisdiction, or if there is none,

11 (3) The criminal court.

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

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

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



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

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

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

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

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

6 The petition may set forth that it is for the interest of

7 the child and of the state that the child be taken from its  
8 parent, guardian, or other custodian and placed under another  
9 guardianship or custody as determined by the court; and  
10 that the parent, guardian or other custodian is unfit properly  
11 to care for, protect, train, educate, control or discipline the  
12 child, or that the parent, guardian, or other custodian con-  
13 sents that the child may be taken from him.

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

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

Sec. 8. *Service of Summons.* A person named in the  
2 petition shall be made a defendant and shall be notified of  
3 the proceedings by personal service of summons, which shall  
4 require the person to appear with the child at the time and  
5 place set for the proceedings. If the defendant **cannot be**  
6 found, service may be by publication made twice in a news-  
7 paper of general circulation published in the county; or

8 if there is none, then in a newspaper published in the state  
9 and of general circulation in the county.

Sec. 9. *Answer.* A defendant, duly summoned, shall appear  
2 and answer, in open court or before the judge in vacation, on  
3 the return day of the summons, or if the summons is served  
4 less than one day prior to the return day, then on the follow-  
5 ing day.

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

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

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

Sec. 11. *Temporary Disposition.* The court or judge may,  
2 before the proceedings, make temporary disposition of the  
3 child in the manner provided in article two of this chapter,  
4 or may order the child to be placed in the custody of a proba-  
5 tion officer.

Sec. 12. *Warrant.* The court or judge may, if he deems  
2 such action necessary, order the issuance of a warrant against

3 the person having custody and control of the child, to bring  
4 the person into court or before the judge; or a warrant  
5 against the child to bring the child into court or before the  
6 judge.

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

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

- 5 (1) Treat the child as a neglected child, in which case the  
6 provisions of article two of this chapter shall apply.
- 7 (2) Order the child placed under the supervision of a  
8 probation officer.
- 9 (3) Permit the child to be proceeded against in accordance  
10 with the laws of the state governing the commission of crimes  
11 or violations of municipal ordinances.
- 12 (4) Commit the child to an industrial or correctional in-  
13 stitution for minors.

Sec. 15. *Child not committed to Jail.* A child under  
2 sixteen years of age, whether delinquent or otherwise, shall  
3 not be committed to a jail or police station.

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

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

Sec. 18. *Duty of Probation Officer.* The clerk of a court  
2 shall notify, if practicable, the chief probation officer of the  
3 county when a child is to be brought before the court or judge.

4 When notified, or if the probation officer otherwise obtains  
5 knowledge of such fact, he or one of his assistants shall:

- 6 (1) Make investigation of the case.
- 7 (2) Be present in court, or before the judge, to represent  
8 the interests of the child when the case is heard.

9 (3) Furnish such information and assistance as the court  
10 or judge may require.

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

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

#### **Article VI. Child Shelter.**

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

Sec. 2. *Purpose.* A children's shelter shall be conducted  
2 for the purpose of providing temporary care for neglected  
3 children and custody of children whose cases are pending  
4 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

4 for as in a family home. The shelter shall be supplied with  
5 all necessary and convenient facilities for the care of the  
6 children.

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

7 The superintendent shall reside in the shelter.

Sec. 8. *Employees: Compensation; Tenure.* The super-  
2 intendent and employees shall serve during the pleasure of  
3 the county court. The court shall fix their compensation.

Sec. 9. *Duties as to Children committed.* The superin-  
2 tendent shall receive and have temporary custody of children  
3 committed to the shelter by the county council or the juvenile  
4 court.

5 The superintendent shall keep a complete record of all  
6 children committed. The record shall show the name, age,  
7 and residence of the child and the cause and period of de-  
8 tention, and any other useful data or information that the



9 state department, the county council, or the juvenile court  
10 may direct.

Sec. 10. *Records and Reports.* The superintendent shall  
12 keep a record of expenditures made by the county for the  
13 care and maintenance of the shelter. He shall make an  
14 annual report to the county court and shall file a copy with  
15 the clerk of the court. The report shall contain an itemized  
16 statement of all expenses necessary to maintain the home,  
17 together with the number of children cared for during each  
18 month.

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

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

Sec. 13. *Services Rendered by County Director.* At the  
26 request of the county court, the county director shall advise

3 and consult with the county court with respect to the manage-  
4 ment and control of the children's shelter, and shall make  
5 such visitations and inspections as the county court may  
6 request.

Sec. 14. *Appropriation.* In a county in which a children's  
2 shelter is established and maintained, the county court shall  
3 annually include within its estimate of necessary county ex-  
4 penditures an amount sufficient to provide for the main-  
5 tenance of the shelter.

#### **Article VII. General Provisions.**

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

11 The court or judge shall authorize the guardian to consent  
12 to adoption only if the court or judge finds that:

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

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

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

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

27 *Sec. 2. Guardianship of Estate of Child Not Affected.* The  
28 provisions of this chapter shall not be construed to give the  
29 guardian appointed hereunder the guardianship of the estate  
30 of the child, or to change the age of minority for any other  
31 purpose except the custody of the child.

6 The guardian of the estate of a child committed to guardian-  
7 ship hereunder shall furnish, at such times and in such form  
8 as may be required, full information concerning the property  
9 of the child to the state department or to the court or judge  
10 before whom the case of any such child is heard.

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

21 Sec. 4. *Placing Children in Infirmaries.* A child shall not  
22 be placed in a county infirmary or similar institution for  
23 other than temporary care. When a child is so placed, written  
24 notification shall be given to the state department not later  
25 than three days after the child enters the infirmary. When a

6 mentally defective child is so placed, notice shall be given to  
7 the state board of control.

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

*Sec. 5. Support of Child Placed in Home or Institution or*

2 *Under Guardianship.* If it appears upon the hearing of a  
3 petition under this chapter that a person legally liable for  
4 the support of the child is able to contribute to the support  
5 of such child, the court or judge shall order the person to pay  
6 the state department, institution, organization, or private  
7 person to whom the child was committed, a reasonable sum  
8 from time to time for the support, maintenance, and educa-  
9 tion of the child.

10 The court or judge may require the person liable for the  
11 support to give reasonable security for payment. Upon  
12 failure to give security or to pay, the court or judge may  
13 enforce obedience by proceeding as for contempt of court.  
14 The court or judge may, on application, and on such notice  
15 as the court or judge may direct, from time to time, make

16 such alterations in the allowance as shall appear reasonable  
17 and proper.

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

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

Sec. 7. *Contributing to Delinquency of a Child.* A

2 person who causes, encourages, or contributes to the delin-  
3 quency of a child, or who is responsible for such delinquency,  
4 shall be guilty of a misdemeanor, and, upon trial and con-  
5 viction thereof, shall be fined not to exceed five hundred  
6 dollars, or imprisoned in the county jail for a period not  
7 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,

6 and for its support and maintenance while in the custody  
7 of the department, person, or institution, and any other  
8 expense that may have resulted from, or be necessary be-  
9 cause of, the act or acts of the person found guilty.

12     Sec. 11. *Care of Child Upon Conviction for Contributing*  
2 *to its Delinquency.* Where a person is found guilty of con-  
3 tributing to the delinquency of a child, the court or judge  
4 may place the child in the temporary custody of the state  
5 department or of some responsible person or approved  
6 institution.

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

12     Sec. 13. *Suspension of Sentence: Bond.* The conditions  
2 upon which the sentence of a person found guilty of con-



3 tributing to the delinquency, or to the neglect of any child,  
4 may be suspended, may include the furnishing of a good  
5 and sufficient bond to the state of West Virginia in such  
6 penal sum as the court shall determine, not exceeding one  
7 thousand dollars, conditioned upon:

8 (1) Furnishing whatever treatment and care may be re-  
9 quired for the welfare of such child.

10 (2) Doing whatever may be calculated to secure obedience  
11 to the law or to remove the cause of delinquency, or neglect.

12 (3) Payment of such amount as the court may order,  
13 not exceeding twenty dollars per month, for the support,  
14 care, and maintenance of the child to whose delinquency  
15 the person contributed. The sum shall be expended under  
16 the order of the court or judge for the purposes enumerated.

Sec. 14. *Recovery on Bond Without Separate Suit.* The

2 penalty of a bond given upon suspension of sentence which  
3 becomes forfeited shall be recoverable without separate suit.

4 The court or judge may cause citation or summons to issue  
5 to the surety, requiring that he appear at a time named by  
6 the court or judge, not less than ten nor more than twenty  
7 days from the issuance of the summons, and show cause why

8 judgment should not be entered for the penalty of such bond  
9 and execution issued against the property of the surety.  
10 Upon failure to appear, or failure to show sufficient cause,  
11 the court shall enter judgment in behalf of the state of  
12 West Virginia against the principal and surety in not to  
13 exceed the penalty of the bond plus costs.

14 Any money collected or paid upon an execution, or upon  
15 the bond, shall be deposited with the clerk of the court in  
16 which the bond was given. The money shall be applied first  
17 to the payment of all court costs and then to the treatment,  
18 care, or maintenance of the child for whose delinquency con-  
19 viction was had. If any money so collected is not required  
20 for these purposes, it shall be paid within one year into  
21 the county treasury, and credited to the general relief fund  
22 of the county.

Sec. 15. *Suspended Sentence may be Enforced.* If it  
2 appear to the satisfaction of the court or judge at any time  
3 while a suspension of sentence or stay of execution remains  
4 in effect, that the sentence ought to be enforced, the court  
5 or judge may enforce the sentence. A jail sentence shall

6 commence from the date upon which the sentence is so  
7 ordered to be enforced.

Sec. 16. *Enforcement of Sentence.* If the conditions of  
2 suspension are complied with, the sentence shall remain  
3 suspended, subject to enforcement upon the violation of any  
4 of the conditions imposed. Upon a failure to comply with  
5 any of the conditions imposed, the sentence shall be enforced  
6 and any bond given to insure the performance of the con-  
7 ditions shall be forfeited.

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

Sec. 18. *Interference with Disposition of Child Punish-  
2 able as Contempt of Court.* A person who interferes with  
3 the direction of disposition of a child in accordance with an  
4 order of the court or judge made in pursuance of the pro-  
5 visions of this chapter, or with the state department, or  
6 a probation or other officer of the court in carrying out the

7 directions of the court or judge under such an order, shall  
8 be subject to punishment as for contempt of court.

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

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

9 Sec. 21. *Judge May Act in Vacation.* The powers and  
2 jurisdiction of the court, under the provisions of this chapter,  
3 may be exercised by the judge thereof in vacation.

1146 Sec. 22. *Appeal and Writs of Error.* Cases under this  
2 chapter, if tried in any inferior court, may be reviewed by  
3 writ of error or appeal to the circuit court, and if tried or  
4 reviewed in a circuit court, by writ of error or appeal to  
5 the supreme court of appeals.

1147 Sec. 23. *Preservation of Records.* The proceedings,  
2 records, reports, case histories, and all other papers or  
3 documents of or received by the state department or a county  
4 council in the administration of this chapter shall be filed  
5 of record and preserved.

1148 Sec. 24. *Rules and Regulations.* The state director shall  
2 prepare and promulgate rules and regulations necessary to  
3 give effect to the provisions of this chapter.

1149 Sec. 25. *State Department to Gather Statistics.* The  
2 state department shall gather statistics and study legislation  
3 and problems connected with neglected and delinquent chil-  
4 dren, and publish the results from time to time. It shall  
5 also make available, so far as possible, to officials, institutions,  
6 and organizations dealing with these problems, such litera-  
7 ture as shall tend to promote the efficiency of child welfare  
8 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 within

day of June

1936

Filed in the office of the Secretary of State  
of West Virginia  
JUN 24 1936  
WM. S. O'BRIEN  
Secretary of State

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

*Clinton F. Howard*

Chairman Senate Committee

*Arnold M. Tickers*

Chairman House Committee

Originated in the

*House of Delegates*

Takes effect

*July 1, 1936*

passage.

*Thomas A. Hines*

Clerk of the Senate

*Mo. J. Hall*

Clerk of the House of Delegates

*Chas. E. Hodge*

President of the Senate

*Wm. H. Heister*

Speaker House of Delegates.

The within

*approved*

this the

*23<sup>rd</sup>*

day of

*June*

, 1936.

*H. S. Kemp*

Governor.

Filed in the office of the Secretary of State

of West Virginia. **JUN 24 1936**

Wm. S. O'BRIEN,

Secretary of State