

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939

ENROLLED

HOUSE BILL No. 117

(By Mrs. Walker, of Fayette)

PASSED Feb. 24, 1939

In Effect ninety days from Passage

ENROLLED
House Bill No. 117

(BY MRS. WALKER, OF FAYETTE)

[Passed February 24, 1939; in effect ninety days from passage.]

AN ACT to amend section six, article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter one hundred twenty-four, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, and further to amend said article by adding thereto four new sections designated as sections six-a, six-b, six-c and six-d, relating to the application for and issuance of marriage licenses, providing certain measures to decrease the communication of syphilis and to prevent its spread, and providing penalties.

Be it enacted by the Legislature of West Virginia:

That section six, article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter one hundred twenty-four, acts of the Legislature, regular

session, one thousand nine hundred thirty-seven, be amended, and that new sections designated as sections six-a, six-b, six-c and six-d be added to said article one, to read as follows :

Article 1. Marriage.

Section 6. *Application for License; Requirements for Issuance of License.* Every license for marriage shall be issued by the clerk of the county court of the county in which the female to be married usually resides: *Provided, however,* That such license shall be issued not sooner than three days after the filing with said clerk of a written application therefor. The day upon which such application is filed shall be counted as the first day, but two full days shall elapse after the day of such filing before the license shall be issued: *Provided further,* That before any such license is issued each applicant therefor shall file with the clerk a certificate or certificates from any physician duly licensed in the state, stating that each party thereto has been given such examination, including a standard serological test, as may be necessary for the discovery of syphilis, made not more than thirty days prior to the date of such application, and stating that in the opinion of the physician the person therein named either is

18 not infected with syphilis or, if so infected, is not in the state
19 of the disease which is or may later become communicable.
20 Such examinations and tests as are required hereunder may
21 be given as provided by section nineteen, article four, chapter
22 sixteen of this code.

23 The application for a marriage license shall contain a
24 statement of the full name of both parties, their respective
25 ages and their places of birth and residence. It shall be
26 signed by one or the other of the parties to the contemplated
27 marriage, and shall be verified by such party to be true to
28 the best of his or her knowledge and belief; and shall be
29 recorded in the register of marriages provided for in section
30 eleven of this article. The date of its filing shall be noted in
31 said register, which notation or a certified copy thereof shall
32 be legal evidence of the facts therein contained.

33 To the extent otherwise provided by section six-c of this
34 article, the provisions of this section shall not apply. No
35 application for license shall be received nor any license issued
36 on any Sunday, or before the hours of eight o'clock A. M.
37 and after five o'clock P. M. on any week day.

Sec. 6-a. *Standard Serological Test.* A standard serological

2 test, for the purposes of section six, shall be a laboratory test
3 for syphilis approved by the state commissioner of health,
4 and shall be performed by the state department of health or
5 by a laboratory approved for this purpose by the state de-
6 partment of health.

Sec. 6-b. *Content and Form of Statements.* Each physi-
2 cian's statement, provided for in section six, shall be accom-
3 panied by a statement from the person in charge of the lab-
4 oratory making the serological test, or from some other per-
5 son authorized by the person in charge of such laboratory to
6 make such statement, setting forth the name of the test,
7 the date it was completed, and the name and address of the
8 person whose blood was tested, but not stating the result of
9 the test, and shall be attached to the application and forth-
10 with filed with the licensing authority. The physician's state-
11 ment and the laboratory statement shall be on the same form
12 sheet. Upon a separate form, a detailed report of the labor-
13 atory test showing the result of the test shall be transmitted
14 by the person in charge of the laboratory to the physician.

Sec. 6-c. *Emergency or Extraordinary Circumstances.* In
2 case of an emergency or extraordinary circumstances, as

3 shown by affidavit or other proof, a judge of the circuit court
4 of the county in which an application for a marriage license
5 is to be filed may direct the clerk of the county court by or-
6 der, duly entered in the office of the clerk of the circuit court,
7 to issue such license at any time before the expiration of the
8 three-day limit and to dispense with those requirements
9 which relate to the filing with the licensing authority
10 by either or both of the parties of the physician's certificate
11 and laboratory statement. The order shall be accompanied by
12 a written memorandum from the judge reciting his reason or
13 reasons for granting the order.

14 The order and the accompanying memorandum shall be at-
15 tached to and filed with the application by the licensing
16 authority who shall thereupon proceed with the issuance of
17 the marriage license in accordance with the terms of the
18 judge's order. The licensing authority and his clerks and
19 employees shall hold the contents of the judge's memorandum
20 in absolute confidence. In the absence or incapacity to act of
21 the judge of the circuit court of the county in which the ap-
22 plication is to be filed, the order and accompanying memor-
23 andum may be made to the clerk of the county court of such

24 county by the judge of any judicial circuit adjoining the
25 circuit in which such county is situated.

Sec. 6-d. *Penalties.* Any applicant for a marriage license,
2 any physician or representative of a laboratory who shall
3 knowingly misrepresent any of the facts called for in the
4 physician's statement or laboratory report, respectively; and
5 any licensing authority who shall make a false entry as to the
6 date of application for a marriage license; and any licensing
7 authority who shall issue a marriage license prior to the end
8 of the required three-day period or without the required
9 physician's statement and laboratory report (unless these
10 shall have been dispensed with by judicial order pur-
11 suant to section six-c), or who shall issue such license despite
12 his having reason to believe that any of the facts contained in
13 said statement or report have been misrepresented, or shall
14 issue a license on any Sunday or after five o'clock P. M. and
15 before eight o'clock A. M. on any week day, shall be guilty
16 of a misdemeanor, and upon conviction shall be fined not less
17 than two hundred nor more than one thousand dollars, or
18 confined in jail for not less than three nor more than nine

19 months, or both such fine and confinement in the discretion
20 of the court.

Sec. 6-e. *Provisions of Act Severable.* Each section of this
2 act and every part thereof is hereby declared to be an inde-
3 pendent section or part of a section, and if any section, sub-
4 section, sentence, clause or phrase of this act shall for any
5 reason be held unconstitutional, the validity of the remaining
6 phrases, clauses, sentences, subsections and sections of this
7 act shall not be affected thereby.

FILED IN THE OFFICE OF THE SECRETARY OF STATE
JAN 3 1911
H. B. NO. 117

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

C. Frank Millender
 Acting Chairman Senate Committee

Reed B. Polka
 Chairman House Committee

Originated in the *House of Delegates*
 Takes effect *ninety days from* passage.

Charles Miller
 Clerk of the Senate

Wm. S. Hall
 Clerk of the House of Delegates

James H. Thomas
 President of the Senate

James H. Thomas
 Speaker House of Delegates

The within *Approved* this the *3rd*
 day of *March*, 1939.

James H. Thomas
 Governor.



Filed in the office of the Secretary of State
 of West Virginia. **MAR 6 1939**
 Wm. S. O'BRIEN,
 Secretary of State