

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939



ENROLLED

HOUSE BILL No. 160

(By Mr. Winters)



PASSED March 10, 1939

In Effect from Passage

160

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House Bill No. 160

(BY MR. WINTERS)

[Passed March 10, 1939; in effect from passage.]

AN ACT to amend and reenact sections three and four, article eight, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to the desertion or non-support of a wife or child.

Be it enacted by the Legislature of West Virginia:

That sections three and four, article eight, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Article 8. Desertion or Nonsupport of Wife or Child.

Sec. 3. Order for Support; Release on Bond; Forfeiture.

2 The justice of the peace or other court before whom such
3 conviction is had, may, in lieu of the penalty herein provided,
4 or in addition thereto, having regard to the circumstances
5 and financial ability or earning capacity of the defendant,

6 require the defendant to pay a certain sum periodically to
7 the wife or to the guardian, curator, custodian or trustee of
8 such wife, child or children, which shall be subject to change
9 from time to time as circumstances may require, and may re-
10 lease the defendant upon his or her entering into a bond with
11 good surety in the penalty of not less than five hundred dol-
12 lars. The condition of the bond shall be to make payments as
13 aforesaid to the wife until the further order of the court or
14 until the child or children arrive at the age of sixteen years,
15 and to appear before the court in case default be made in
16 the payment of such sums; and in case the defendant fails
17 to make such payments, the justice or other court may order
18 the re-arrest of the defendant, and proceed with the trial
19 under the original charge, or sentence him or her under the
20 original charge, as the case may be, and in the case of for-
21 feiture of the bond herein provided for, and enforcement
22 thereof, the sum recovered may, in the discretion of the court
23 wherein the forfeiture is enforced, be paid in whole or in
24 part to the wife or to the guardian, curator, custodian or
25 trustee of such wife or minor child or children, as the court
26 may order; and in event the accused is unable to furnish

27 bond as set out in this article, then the judge of the circuit
28 court may direct that the defendant work on the public
29 highways of this state or where he may obtain employment,
30 and the judge of such court may order such payments to be
31 made to the wife, guardian, custodian or trustee of such
32 minor child or children as he may deem necessary for their
33 maintenance, taking into consideration the station in life of
34 the defendant and any other circumstances surrounding the
35 case.

Sec. 4. *Appeal; Bond; Reconviction.* If at the trial, any
2 husband, person or parent shall be found guilty of a viola-
3 tion of the provisions of this article, and desires to appeal
4 from the decision of the justice trying such case, he shall
5 give bond in the penalty of not less than five hundred dol-
6 lars, with the condition that he shall appear before the court
7 to which he appeals, and if upon trial on appeal, the defend-
8 ant is again found guilty of such charge, the payments to
9 the wife, child or children, as the case may be, shall be fixed
10 by the judge of the court to which appealed, in an amount
11 to be determined by him, which may be either more or less
12 than the amount fixed by the judgment from which appealed,

13 having regard to the circumstances and financial ability and
14 earning capacity of the defendant, and such amount as fixed
15 by the said judge shall relate back to the date of the trial
16 before the justice of the peace appealed from, and such bond
17 shall be liable for the payments of such sums, and judgment
18 therein may be entered thereon against the defendant and
19 his surety, and the court may also enter such further judg-
20 ment as may be proper under the provisions of this article.

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

E. O. Wiseman

Chairman Senate Committee

Reed B. Baker

Chairman House Committee

Originated in the

House of Delegates

Takes effect

from

passage.

Charles Miller

Clerk of the Senate

Geo S. Hall

Clerk of the House of Delegates

William H. Harrison

President of the Senate

James Kay Thomas

Speaker House of Delegates

The within

approved

this the

6th

day of

March

, 1939.

Samuel R. Hill

Governor.



Filed in the office of the Secretary of State

of West Virginia.

MAR 17 1939

Wm. S. O'BRIEN,

Secretary of State