ENROLLED

House Bill No. 332

(By Mr. Speaker, Mr. Thomas)

[Passed March 11, 1939; in effect from passage.]

AN ACT to amend chapters nine and forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-six, and as amended by chapters seventy-one to seventy-six, inclusive, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, by amending chapter nine in section ten-a, article three; sections three, four, seventeen and thirty-six, article five; section fourteen, article six; section five, article nine; sections three, five, nine and ten, article ten; and further amending chapter nine by adding to article eleven a new section designated section nineteen; and amending chapter forty-nine in section four, article one; and sections two, three, four, fourteen,
Enrolled H. B. No. 332]

fifteen, seventeen and eighteen, article five, all relating to public welfare.

Be it enacted by the Legislature of West Virginia:

That chapters nine and forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-six, as amended by chapters seventy-one to seventy-six, inclusive, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, be amended by amending chapter nine in section ten-a, article three; sections three, four, seventeen and thirty-six, article five; section fourteen, article six; section five, article nine; sections three, five, nine and ten, article ten; and that chapter nine be further amended by adding to article eleven a new section designated section nineteen; and that chapter forty-nine be amended in section four, article one; and sections two, three, four, fourteen, fifteen, seventeen and eighteen, article five, to read as follows:

CHAPTER 9

Article 3. The Director of Public Assistance.

Section 10-a. Assembly Institutions. The state depart-ment, upon approval of the advisory board, may maintain
such assembly institutions as are necessary for the temporary
care, maintenance, and training of children and persons need-
ing institutional protection.

Article 5. Public Assistance.

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

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

(2) Has resided in the state for at least one year imme-
diately preceding the application.

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

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

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

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

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

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

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

(3) Has resided in the state for at least one year immediately preceding the application.

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

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

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

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

(1) An aged person, thirty dollars per month.

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

Sec. 36. Exemptions. In the enforcement of a lien held by the state under this article, real property to the value of fifteen hundred dollars and personal property to the value of two hundred dollars shall be exempt, and such exemption shall apply to the estate after the death of the recipient as well as during his lifetime. The foregoing exemptions shall apply to all reimbursement liens heretofore granted to the state and remaining unsatisfied at the time this act takes effect and all such liens are hereby expressly released to the extent of, but not exceeding, said exemptions. No lien shall be required on real or personal property where the value of such property does not exceed the exemption for such property herein granted.

The value of the exemption shall be determined in the same manner as exemptions claimed in pursuance of section forty-eight, article six of the state constitution.
Article 6. General Relief.

Section 14. Supervision. For the purpose of assuring that general relief is continued no longer than necessary, and of rendering guidance and assistance leading to self-support, the county director shall:

1. Visit, at least once each three months, a person receiving general relief in his own home or in another place than an institution.
2. Visit, as often as the case requires, persons receiving institutional care or treatment.
3. Reinvestigate, and place before the county council for review, a case of continued general relief at least once each year, or more often as the county council may direct.

Article 9. Physical Rehabilitation of Adult Persons.

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

2. Provide surgical and medical treatment and hospital-
ization as may be necessary for physically handicapped adult persons in the state.

(3) Procure and furnish to a physically handicapped adult person artificial limbs and other orthopedic and prosthetic appliances needed.

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

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


Section 3. General Relief. For the purpose of this article general relief shall mean cash or its equivalent in services or commodities expended upon the order of the county council or county director for general relief other than for care in a county infirmary, child shelter, or similar institution, except as to contributions provided for in section three-a, article seven of this chapter.

Sec. 5. County Funds. The amount of the county fund provided each year by a county court shall not be less than fifteen per cent of the total which the county court is legally
Enrolled H. B. No. 332] 8

4 authorized to levy for current purposes by section ten, ar-
5 ticle eight, chapter eleven of the code of West Virginia, one
6 thousand nine hundred thirty-one, as amended, plus, if
7 available, any additional portion of such total so authorized
8 to be levied for such purposes: Provided, however, That the
9 said fifteen per cent of such total or such available ad-
10 ditional portion thereof, or both, shall not be required to be
11 provided by the county court if it shall be determined, prior
12 to the laying of the county’s levies, that an amount less than
13 such per cent or such additional portion, or both, will be
14 sufficient to meet the reasonably anticipated general relief
15 needs of the county. Such a determination shall require the
16 agreement of at least two of the following persons: The tax
17 commissioner, the state director, and the member of the
18 county court who is ex officio member of the county council
19 at the time such determination is made. Such a determination
20 shall be in writing; shall state the specific amount determined
21 upon as sufficient to meet the reasonably anticipated general
22 relief needs of the county; shall be signed by the three persons
23 designated or by at least two of them; and shall be filed of
24 record in the office of the tax commissioner. Complete dupli-
icates shall be filed in the office of the state director and with
the county court, respectively. The county court shall levy
for general relief not less than the amount so determined
and agreed: Provided further, That if a county court finds
that expenditures mandatory under other provisions of law
aggregate in excess of eighty-five per cent of the total amount
which the county court is authorized by law to levy for
current purposes, the court may petition the tax commissioner
for authority to provide an amount less than that required
by the first paragraph of this section. If the tax commissioner
finds that other mandatory expenditures for the county will
exceed eighty-five per cent of the authorized total levy for
current purposes, he may authorize the county court to pro-
vide a lesser amount than that required by said first para-
graph, but he shall require the maximum amount possible
under the circumstances.

Sec. 9. Action by State Director. Upon receipt of an appli-
cation for a grant from the state fund the director shall
examine the application and shall determine whether the
county has conformed with the provisions of sections five,
six and eight of this article. The director shall prepare a
Sec. 10. *Determination by State Board.* The state director shall submit his recommendations to the state board. The state board shall determine as to each county whether:

1. A grant from the state fund is required to pay the cost of general relief during the fiscal period covered by the application.
2. The cost of general relief for the fiscal period covered by the application is reasonable, both as to total cost and estimated cost per case.
3. The county has conformed with the provisions of section five, six and eight of this article.

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

The state board may hold a hearing upon the application of a county at which hearing the county council, the county

Section 19. Authority to Administer Oaths and Take Affidavits. The state director and employees of the state department of public assistance and county directors and employees of county councils shall have the power and authority to administer oaths, examine witnesses and take and certify affidavits in any matter or thing pertaining to the business of the state department of public assistance and county councils.

CHAPTER 49

Article 1. Purposes; Definitions.

Section 4. Delinquent Child. "Delinquent child" means a person under the age of eighteen years who commits any of the following:

1. Violates a law or municipal ordinance.
2. Commits an act which if committed by an adult would be a crime not punishable by death or life imprisonment.
3. Is incorrigible, ungovernable, or habitually dis-
8 obedient and beyond the control of his parent, guardian, or
9 other 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 violo-
17 tation of law.
18 (9) Deports himself so as to wilfully injure or endanger
19 the morals or health of himself or others.

Article 5. Juvenile Courts.

Section 2. *Children.* "Child" means a person under the
2 age of eighteen years. When jurisdiction shall have been ob-
3 tained by any court of competent jurisdiction in the case of
4 any child, such child shall continue under the jurisdiction
5 of the court until he becomes twenty-one years of age unless
6 discharged prior thereto or is committed to a correctional or
7 other institution. A person subject to the jurisdiction of the
8 juvenile court may be brought before it by either of the
following means and no other:

(a) By petition praying that the person be adjudged neglected or delinquent.

(b) Certification from any other court before which such person is brought, charged with the commission of a crime.

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

If during the pendency of a criminal proceeding against a person in a court other than a juvenile court, it shall be ascertained, or it shall appear, that the person was under the age of eighteen years at the time of the alleged offense, the court, judge or magistrate shall immediately transfer the case with all the papers, documents, and testimony connected therewith to the juvenile court having jurisdiction. The juvenile court shall proceed to hear and dispose of the case in the same manner as if it had been instituted in that court in the first instance.
Sec. 4. Children Wards of the Court. A person under the age of eighteen years who appears before the juvenile court in any capacity shall be deemed to be a ward of the court and protected accordingly. The juvenile court or judge thereof shall request the county health officer in any county employing a full time health officer, to make a physical and mental examination of the wards of the court as defined in section four of this article. Such health officer shall, as promptly as may be, furnish to the court or judge a written report of such examinations on forms to be furnished to said health officer by the court. In those counties not employing a full time health officer, the court or judge may designate a reputable physician of the county to make such mental and physical examinations and render such written reports. When any such mental and physical examination is made and any such report rendered, the county court shall pay to the examining physician a sum not to exceed three dollars for each such mental and physical examination, upon certification of the fact of such examination to the county court by the juvenile court or the judge thereof.

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

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

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

(3) If the child be over sixteen years of age at the time of the commission of the offense the court may, if the proceedings originated as a criminal proceeding in a court other than a juvenile court, enter an order transferring the case back to the court of origin, or to any court in the county having criminal jurisdiction; or if the case originated on petition in juvenile court, the court may enter an order showing its refusal to take jurisdiction and permit the child to be proceeded against in accordance with the laws of the state governing the commission of crimes or violation of municipal ordinances.

(4) Commit the child to an industrial home or correctional institution for minors.

(5) Commit the child to any public or private institution
or agency permitted by law to care for children.

(6) Commit the child to the care and custody of some suitable person who shall be appointed guardian of the person and custodian of the child.

(7) Enter any other order which seems to the court to be to the best interests of the child.

Sec. 15. Child Not Committed to Jail. A child under sixteen years of age, whether delinquent or otherwise, shall not be committed to a jail or police station, except that any child over fourteen years of age who has been committed to an industrial home or correctional institution may be held in the juvenile department of a jail while awaiting transportation to the institution.

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

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

(1) Make investigation of the case.

(2) Be present in court, or before the judge, to represent
the interests of the child when the case is heard.

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

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

The necessary expenses incurred by a probation officer
acting pursuant to an order issued by a court of juvenile
jurisdiction shall be borne by the county court unless such
expenses are assumed by the state department.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

E. O. Freeman
Chairman Senate Committee

Dee M. Walker
Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

The within this the day of , 1939.

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

This the 17th day of March 1839.

Secretary of State