

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939



ENROLLED

HOUSE BILL No. 3324

(By Mr. Speaker, Mr. Thomas)



PASSED March 11 1939

In Effect from Passage

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,

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 department, upon approval of the advisory board, may maintain

3 such assembly institutions as are necessary for the temporary
4 care, maintenance, and training of children and persons need-
5 ing institutional protection.

Article 5. Public Assistance.

Section 3. *Aged Persons.* An aged person shall be eligible

2 for public assistance who :

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

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

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

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

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

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

Section 4. *Blind Persons.* A blind person shall be eligible

2 for 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 de-
5 feet sufficient to incapacitate him for self-support.

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

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

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

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

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

Section 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, eighteen 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 eighteen dollars per month and for each additional child af-
10 ter the first, shall not exceed twelve dollars per month.

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

14 The value of the exemption shall be determined in the same
15 manner as exemptions claimed in pursuance of section forty-
16 eight, article six of the state constitution.

Article 6. General Relief.

Section 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, the
4 county director shall:

5 (1) Visit, at least once each three months, a person receiv-
6 ing general relief in his own home or in another place than
7 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
12 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 adminis-
2 tration of adult physical rehabilitation, the state department
3 shall:

4 (1) Supervise the treatment of physically handicapped
5 adult persons during the period of treatment.

6 (2) Provide surgical and medical treatment and hospital-

7 ization as may be necessary for physically handicapped adult
8 persons in the state.

9 (3) Procure and furnish to a physically handicapped
10 adult person artificial limbs and other orthopedic and pros-
11 thetic appliances needed.

12 (4) Cooperate with governmental, public, and private in-
13 stitutions, and agencies engaged in activities relating to or
14 connected with adult physical rehabilitation.

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

Article 10. Fiscal Provisions.

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

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 per cent of the total which the county court is legally

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 exofficio 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-

25 cates shall be filed in the office of the state director and with
26 the county court, respectively. The county court shall levy
27 for general relief not less than the amount so determined
28 and agreed: *Provided further*, That if a county court finds
29 that expenditures mandatory under other provisions of law
30 aggregate in excess of eighty-five per cent of the total amount
31 which the county court is authorized by law to levy for
32 current purposes, the court may petition the tax commissioner
33 for authority to provide an amount less than that required
34 by the first paragraph of this section. If the tax commissioner
35 finds that other mandatory expenditures for the county will
36 exceed eighty-five per cent of the authorized total levy for
37 current purposes, he may authorize the county court to pro-
38 vide a lesser amount than that required by said first para-
39 graph, but he shall require the maximum amount possible
40 under the circumstances.

Sec. 9. *Action by State Director.* Upon receipt of an appli-
2 cation for a grant from the state fund the director shall
3 examine the application and shall determine whether the
4 county has conformed with the provisions of sections five,
5 six and eight of this article. The director shall prepare a

6 report and recommendation for submission to the state board.

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

4 (1) A grant from the state fund is required to pay the
5 cost of general relief during the fiscal period covered by the
6 application.

7 (2) The cost of general relief for the fiscal period covered
8 by the application is reasonable, both as to total cost and
9 estimated cost per case.

10 (3) The county has conformed with the provisions of
11 section five, six and eight of this article.

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 be
15 paid from the state fund. It shall set a total amount which
16 the total of state grants to the county during the fiscal period
17 covered shall not exceed.

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

20 court, citizens of the county, and other interested parties
21 may be heard.

Article 11. General Provisions.

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:

- 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 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 vio-
17 lation 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

9 following means and no other :

10 (a) By petition praying that the person be adjudged neg-
11 lected or delinquent.

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

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

7 If during the pendency of a criminal proceeding against a
8 person in a court other than a juvenile court, it shall be
9 ascertained, or it shall appear, that the person was under the
10 age of eighteen years at the time of the alleged offense, the
11 court, judge or magistrate shall immediately transfer the
12 case with all the papers, documents, and testimony connected
13 therewith to the juvenile court having jurisdiction. The
14 juvenile court shall proceed to hear and dispose of the case
15 in the same manner as if it had been instituted in that court
16 in the first instance.

Sec. 4. *Children Wards of the Court.* A person under the
2 age of eighteen years who appears before the juvenile court
3 in any capacity shall be deemed to be a ward of the court
4 and protected accordingly. The juvenile court or judge
5 thereof shall request the county health officer in any county
6 employing a full time health officer, to make a physical and
7 mental examination of the wards of the court as defined in
8 section four of this article. Such health officer shall, as
9 promptly as may be, furnish to the court or judge a written
10 report of such examinations on forms to be furnished to said
11 health officer by the court. In those counties not employing
12 a full time health officer, the court or judge may designate
13 a reputable physician of the county to make such mental and
14 physical examinations and render such written reports. When
15 any such mental and physical examination is made and any
16 such report rendered, the county court shall pay to the ex-
17 amining physician a sum not to exceed three dollars for each
18 such mental and physical examination, upon certification of
19 the fact of such examination to the county court by the
20 juvenile court or the judge thereof.

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
4 dispositions:

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

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

9 (3) If the child be over sixteen years of age at the time
10 of the commission of the offense the court may, if the pro-
11 ceedings originated as a criminal proceeding in a court other
12 than a juvenile court, enter an order transferring the case
13 back to the court of origin, or to any court in the county
14 having criminal jurisdiction; or if the case originated on
15 petition in juvenile court, the court may enter an order show-
16 ing its refusal to take jurisdiction and permit the child to be
17 proceeded against in accordance with the laws of the state
18 governing the commission of crimes or violation of municipal
19 ordinances.

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

22 (5) Commit the child to any public or private institution

23 or agency permitted by law to care for children.

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

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

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

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

Sec. 18. *Duty of Probation Officer; Expenses.* The clerk
2 of a court shall notify, if practicable, the chief probation

3 officer of the county when a child is brought before the court
4 or judge. When notified, or if the probation officer otherwise
5 obtains knowledge of such fact, he or one of his assistants
6 shall:

7 (1) Make investigation of the case.

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

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

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

14 The necessary expenses incurred by a probation officer
15 acting pursuant to an order issued by a court of juvenile
16 jurisdiction shall be borne by the county court unless such
17 expenses are assumed by the state department.

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

E. O. Wiseman

Chairman Senate Committee

Will W. Walker

Chairman House Committee

Originated in the *House of Delegates*

Takes effect *from* passage.

Charles D. Smith

Clerk of the Senate

W. S. Hall

Clerk of the House of Delegates

Wm. W. Brown

President of the Senate

James Tay Thomas

Speaker 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
1939

Wm S. O'Brien

SECRETARY OF STATE