

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939



ENROLLED

HOUSE BILL No. 9

(By Mr. Speaker, Mr. Thomas)



PASSED Feb. 20, 1939

In Effect from Passage

**ENROLLED**

**House Bill No. 9**

(BY MR. SPEAKER, MR. THOMAS)

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[Passed February 20, 1939; in effect from passage.]

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AN ACT to amend and reenact section four, article eight, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, relating to the further confinement of convicts for second and third offenses.

*Be it enacted by the Legislature of West Virginia:*

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

Section 4. *Procedure in Sentencing Convicts to Further*  
2 *Confinement for Second and Third Offenses.* When a prisoner  
3 convicted of an offense and sentenced to confinement therefor  
4 in the penitentiary, is received therein, if he was before con-  
5 victed in the United States of a crime punishable by imprison-  
6 ment in a penitentiary and the record of his conviction does

7 not show that he has been sentenced under sections eighteen  
8 or nineteen, article eleven, chapter sixty-one of this Code, the  
9 warden of the penitentiary shall give information thereof,  
10 without delay, to the circuit court of the county of Marshall,  
11 whether it be alleged or not in the indictment on which he was  
12 convicted that he had before been previously so convicted.  
13 The court shall cause the convict to be brought before it, and  
14 upon an information filed, setting forth the several records of  
15 conviction, and alleging the identity of the prisoner with the  
16 person named in each, shall require the convict named to say  
17 whether he is the same person or not. If he say he is not, or  
18 remain silent, his plea, or the fact of his silence, shall be en-  
19 tered of record, and a jury shall be impaneled to inquire  
20 whether the convict is the same person mentioned in the sev-  
21 eral records. If the jury find that he is not the same person,  
22 he shall be remanded to the penitentiary; but if they find  
23 that he is the same person, or if he acknowledge in open court,  
24 after being duly cautioned, that he is the same person, the  
25 court shall sentence him to such further confinement as is  
26 prescribed by article eleven, chapter sixty-one of this Code,  
27 on a second or third conviction, as the case may be.

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

*Frank Millender*  
Acting Chairman Senate Committee

*Walter B. Walker*  
Chairman House Committee

Originated in the *House of Delegates*

Takes effect *from* passage.

*Shirley*  
Clerk of the Senate

*W. S. Hall*  
Clerk of the House of Delegates

*Wm. S. O'Brien*  
President of the Senate

*James Key Thomas*  
Speaker House of Delegates

The within *approved* this the *27<sup>th</sup>*

day of *February*, 1939.

*Sam A. L. H.*

Governor.



Filed in the office of the Secretary of State of West Virginia. **FEB 27 1939** **FEB 27 1939**  
Wm. S. O'BRIEN, Secretary of State