

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1945



ENROLLED

HOUSE BILL No. 325

(By Mr. Lowell Osborne)



PASSED March 10 1945

In Effect From Passage

325

3-16

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House Bill No. 325

(By MR. POWELL and MR. OSBORNE)

[Passed March 10, 1945; in effect from passage.]

AN ACT to amend article nine, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section designated section one-a, relating to presumptive findings of death.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by the addition thereto of a new section designated section one-a, to read as follows:

Section 1-a. Presumptive findings of death of any person engaged in any service or activity of, or employment by the United States in any war in which the United States is engaged, by an official or officer of the United States, who is authorized to make such presumptive findings by any act of congress, shall create a presumption of

7 the death of such person in the state of West Virginia. Pro-
8 ceedings under section two of this article may be com-
9 menced at any time after such finding is made.

10 No administrator, executor or personal representative
11 of any person who is presumed to be dead under this
12 section shall make final distribution of the assets of any
13 such person until the expiration of three years after the
14 termination of the present World War by presidential
15 proclamation: *Provided, however,* that assets in the
16 estate of any such person, which are exempt from attach-
17 ment by creditors, including moneys paid by the United
18 States of such nature, and other assets of any such estate
19 which would otherwise be available for support of the
20 wife, children and other dependents of such person, if
21 he were alive after allowance for debts and costs of ad-
22 ministration, may be paid by the personal representative
23 for the support of the wife and children and dependents
24 of such person upon order of the circuit or other similar
25 court of the county which has jurisdiction in probate pro-
26 ceedings until such time as distribution may be made or
27 administration terminated, and such sums shall be treated

28 for all purposes of law as expenditures legally chargeable
29 against such person, as if he were living to the time a
30 final presumption of death becomes effective in this state.
31 In case any such person presumed to be dead as a result
32 of a finding, as aforesaid, is not heard from as provided
33 in section one of this article, for a period of three years
34 after the termination of the present World War by presi-
35 dential proclamation, the presumption provided in section
36 one of this article shall become effective to permit final
37 distribution of his estate.

38 No surviving spouse of any person who is presumed to
39 be dead under this section shall marry another until
40 after the expiration of two years following the finding
41 aforesaid, unless proceedings for divorce were commenced
42 by such spouse or the missing person prior to the date
43 such presumptive finding was made by an official of the
44 United States; and after such two-year period the sur-
45 viving spouse shall be free to remarry, or at any time un-
46 less the other spouse be heard from prior to the actual
47 date of remarriage.

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

Charles C Morris
Chairman Senate Committee

J. A. DeGrutter Jr.
Chairman House Committee

Originated in the House

Takes effect from passage.

Howard Meigs
Clerk of the Senate

Staff
Clerk of the House of Delegates

Arnold W. Tickens
President of the Senate

John E. Amos
Speaker House of Delegates

The within Approved this the 16

day of March, 1945.

Clarence Medsker
Governor.



Filed in the office of the Secretary of State
of West Virginia **MAR 19 1945**
Wm. S. O'BRIEN,
Secretary of State