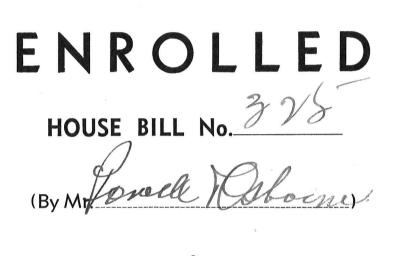
WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1945



PASSED March 10 1945

Passage In Effect

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ENROLLED 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 per-2 son engaged in any service or activity of, or employment 3 by the United States in any war in which the United 4 States is engaged, by an official or officer of the United 5 States, who is authorized to make such presumptive find-6 ings by any act of congress, shall create a presumption of Enr. H. B. No. 325]

7 the death of such person in the state of West Virginia. Pro8 ceedings under section two of this article may be com9 menced at any time after such finding is made.

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

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for all purposes of law as expenditures legally chargeable 28 29against 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 unless the other spouse be heard from prior to the actual 46 47 date of remarriage.

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

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10 Chairman Senate Committee Chairman House Committee Originated in the passage. Takes effects V B Clerk of the Senate Clerk of the House of Delegates brueld he. ickers) President of the Senate Speaker House of Delegates 6 this the The within uch, 1945. day of. Governor. Filed in the offlee of the Secretary of Staid 1 1945 9 el Wast Virginia No. S. O'BRIEN, Secretary of Party