

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1945



ENROLLED

Committee Substitute for

HOUSE BILL No. 45

*Originating in the House Committee
on the Judiciary*

(By Mr. _____)



PASSED March 9 1945

In Effect From Passage

43

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COMMITTEE SUBSTITUTE FOR

House Bill No. 45

(Originating in the House Committee on the Judiciary)

[Passed March 9, 1945; in effect from passage.]

AN ACT to amend and reenact section six, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter twenty-one, acts of the Legislature, regular session, one thousand nine hundred forty-three, relating to assistants and stenographers or clerks for prosecuting attorneys; salaries; and when the court may appoint attorney to prosecute.

Be it enacted by the Legislature of West Virginia:

That section six, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter twenty-one, acts of the Legislature, regular session, one thousand nine hundred forty-three, be amended and reenacted to read as follows:

Section 6. *Assistants, Stenographers and Clerks for*
2 *Prosecuting Attorney; Salaries; When Court May Appoint*
3 *Attorney to Prosecute.*—Any prosecuting attorney may,
4 with the assent of the county court of his county, entered
5 of record, except as hereinafter provided, appoint one
6 (and Ohio, Harrison, Kanawha, Fayette, Raleigh, Cabell
7 and McDowell counties two each) practicing attorney to
8 assist him in the discharge of his official duties for and
9 during his term of office, and such assistant shall take
10 the same oath and may perform the same duties as his
11 principal; and he may be removed from office as such at
12 any time by his principal; and further he may be removed
13 from his office as such assistant by the circuit court of
14 the county in which he is appointed, for any cause for
15 which his principal might be so removed. The com-
16 pensation of such assistant shall be paid by the principal,
17 except in the counties of Barbour, Berkeley, Boone,
18 Brooke, Cabell, Calhoun, Clay, Fayette, Harrison, Han-
19 cock, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall,
20 McDowell, Mercer, Mineral, Mingo, Monongalia, Nicholas,
21 Ohio, Putnam, Raleigh, Randolph, Summers, Taylor, Up-

22 shur, Wayne, Wetzel, Wood and Wyoming, and in said
23 counties the county court thereof shall allow annually to
24 such assistants such compensation to be paid out of the
25 county treasury as is deemed reasonable by the court;
26 in Ohio county for the first assistant, three thousand dol-
27 lars, and for the second assistant not to exceed two
28 thousand four hundred dollars; in Kanawha county for
29 the first assistant, not less than four thousand and not
30 more than five thousand dollars, and for the second assist-
31 ant not less than four thousand nor more than five thou-
32 sand dollars; in Cabell county, not more than twenty-
33 four hundred dollars for each assistant; in McDowell
34 county, not less than three thousand dollars nor more
35 than three thousand six hundred dollars for each assist-
36 ant; in Marion county, not less than two thousand nor
37 more than three thousand dollars; in Raleigh county,
38 not more than three thousand dollars; in Mingo county,
39 not to exceed three thousand dollars; in Harrison and
40 Mercer counties, not less than one thousand five hun-
41 dred nor more than three thousand four hundred
42 dollars; in Summers and Wood counties, not less

43 than one thousand nor more than two thousand dollars;
44 in Logan County, not less than three thousand dollars
45 nor more than three thousand six hundred dollars;
46 in Fayette county for the first assistant, not less than
47 two thousand four hundred nor more than three thou-
48 sand six hundred dollars, and for the second assistant
49 not to exceed one thousand eight hundred dollars; in
50 Boone and Wyoming counties, not less than one thousand
51 two hundred nor more than one thousand eight hundred
52 dollars; in Barbour county, one thousand dollars; in
53 Monongalia county, two thousand four hundred dollars;
54 in Wayne county, two thousand dollars; in Berkeley
55 county, not to exceed one thousand two hundred dollars;
56 in Lewis, Lincoln, Marshall, Mineral, Nicholas, Randolph
57 and Upshur counties, not to exceed twelve hundred dol-
58 lars; in Wetzel county, not less than six hundred nor
59 more than nine hundred dollars; in Taylor county, not to
60 exceed six hundred dollars; in Putnam and Calhoun coun-
61 ties, three hundred dollars. In each case such compensa-
62 tion shall include the compensation provided by law for
63 such assistant's services as attorney for boards of educa-

64 tion and other administrative boards and officers of the
65 county.

66 In any case in which it would, in the opinion of the
67 court, be improper for the prosecuting attorney and his
68 assistant (if he has one) to act, or if the prosecuting at-
69 torney and his assistant be unable to act, such court shall
70 appoint some competent practicing attorney to prosecute
71 such case, and upon the performance of the service for
72 which he was appointed, the court shall certify that fact,
73 with its opinion of what would be a reasonable allowance
74 to such attorney for the service rendered, to the county
75 court of the county, and such sum, or a different sum,
76 when allowed by the county court, shall be paid out of
77 the county treasury: *Provided*, That nothing in this
78 section shall be construed to prohibit the employment by
79 any person of a competent attorney or attorneys to assist
80 in the prosecution of any person or corporation charged
81 with crime.

82 In each of the counties herein named, except Harrison,
83 and including Greenbrier, Lewis, Hampshire, Pocahontas,
84 Putnam, Ritchie, Roane and Upshur, the prosecuting at-

85 torney may employ a stenographer for his office at a sal-
86 ary, payable out of the county treasury, of not less than
87 nine hundred nor more than two thousand dollars per
88 annum; except, the annual salary of such stenographer in
89 Barbour, Lewis, Pocahontas and Taylor counties shall not
90 exceed one thousand two hundred dollars; in Calhoun,
91 Putnam, Ritchie and Upshur counties, shall not exceed
92 nine hundred dollars; in Hampshire and Roane counties,
93 shall not exceed six hundred dollars; in Berkeley county,
94 shall not be less than six hundred dollars nor exceed
95 one thousand two hundred dollars; in Boone county,
96 shall be one thousand eight hundred dollars; and in
97 Braxton county, shall be seven hundred twenty dol-
98 lars; in Webster county, shall be six hundred dollars;
99 in Jefferson and Gilmer counties, shall not exceed
100 nine hundred dollars: *Provided*, That in each of the
101 last three named counties the prosecuting attorney may
102 not employ a stenographer except with the consent of
103 the county court entered of record.

104 In the county of Harrison, the prosecuting attorney
105 may employ two stenographers for his office at a salary

106 for each stenographer of not less than nine hundred nor
107 more than one thousand two hundred dollars per annum,
108 payable out of the county treasury.

109 In the counties of Clay and Wetzel, the prosecuting at-
110 torney may employ a clerk or stenographer for his office
111 at a salary of one thousand two hundred dollars per an-
112 num, payable out of the county treasury; except, that in
113 the county of Clay, in lieu of the appointment of such
114 clerk or stenographer, the prosecuting attorney may em-
115 ploy a practicing attorney of said county as his assistant
116 at a salary of not less than one thousand nor more than
117 one thousand five hundred dollars per annum, payable
118 out of the county treasury.

119 In the counties of Mingo and Preston, the prosecuting
120 attorney may employ one stenographer for his office at
121 a salary not to exceed two thousand one hundred dollars
122 per annum for the county of Mingo and one thousand five
123 hundred dollars per annum for the county of Preston,
124 payable out of the county treasury.

125 In the county of Jackson, the prosecuting attorney may
126 employ one stenographer or clerk for his office at a sal-

127 ary of six hundred dollars per annum, payable out of the
128 county treasury.

129 In the counties of Hardy and Grant, the prosecuting
130 attorney may employ one stenographer or clerk for his
131 office with the consent of the county court, at a salary
132 not to exceed five hundred dollars per annum, payable
133 out of the county treasury as salaries of county officials
134 are paid. The amount of said salary for one thousand nine
135 hundred forty-five for Hardy and Grant counties, shall
136 be fixed by the county court of each of said counties at
137 its first regular meeting after the effective date of this
138 act and annually thereafter at its first regular meeting in
139 each year.

140 In the county of Mason, the prosecuting attorney may
141 employ one stenographer at a salary to be fixed by the
142 county court and payable out of the treasury of said
143 county.

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

Charles C Morris

Chairman Senate Committee

J. A. DeGruyter Jr.

Chairman House Committee

House

Originated in the _____

Takes effect _____ passage.

From

Horace Huges

Clerk of the Senate

R. Bluff

Clerk of the House of Delegates

Arnold W. Tickers

President of the Senate

John E. Amos

Speaker House of Delegates

The within *Approved* this the *16*

day of *March*, 1945.

Clarence Meadows

Governor.



Filed in the office of the Secretary of State

of West Virginia

MAR 16 1945

Wm. S. OSBORN,
Secretary of State

John S. O'Brien