

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1947



ENROLLED

SENATE BILL No. 189

(By Mr. Love)



PASSED March 8, 1947

In Effect Thirty days from Passage



189

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Senate Bill No. 189
(By MR. LOVE)

[Passed March 8, 1947; in effect ninety days from passage.]

AN ACT to create and establish in Kanawha county a court to
be known and designated as the Domestic Relations Court
of Kanawha county.

Be it enacted by the Legislature of West Virginia:

That a domestic relations court of Kanawha county be created and established as hereinafter provided.

Section 1. *Court Created and Established.*—There is
2 hereby created and established in and for Kanawha coun-
3 ty, with authority and jurisdiction co-extensive with the
4 county, a court of limited jurisdiction to be known and
5 designated as the Domestic Relations Court of Kanawha
6 county. Wherever and whenever the word “court” is
7 hereinafter in this act used, it shall be taken to mean and
8 refer to the Domestic Relations Court of Kanawha county,
9 unless the context clearly indicates otherwise.

Sec. 2. *Jurisdiction.*—The court shall have jurisdiction,
2 within Kanawha county, concurrent with the circuit court
3 of said county, of actions, suits, causes and proceedings
4 relating to annulment of marriages, separate maintenance,
5 divorces, alimony, the adoption of adults and children,
6 the care and disposition of delinquent, defective,
7 neglected and dependent children, juvenile offenders, desertion
8 and non-support of wives and children, child labor, truancy
9 under the school laws of the state, and any and
10 all other matters arising under the laws of the state of
11 West Virginia, common or statutory, incidental to the
12 foregoing, including, but not limited to, the disposition
13 of property and property interests involved in any such
14 causes and matters and, as well, the adjudication of any
15 and all rights, titles and interests therein necessary or
16 incidental to a full determination of all such causes and
17 matters pending in said court.

18 The court shall have general equity jurisdiction in
19 any causes or proceedings before it, with full power to
20 grant injunctions in matters involving the care, preservation
21 and protection of persons or property in such
22 causes or proceedings.

23 The manner and modes of procedure, power and juris-
24 diction conferred by law upon the circuit court of Ka-
25 nawha county in any and all of the foregoing matters
26 and causes are hereby conferred upon and shall be exer-
27 cised by the domestic relations court of Kanawha county.
28 It shall not be necessary in any such causes or pro-
29 ceedings to set forth upon the record the facts author-
30 izing the court to take jurisdiction thereof, but jurisdic-
31 tion shall be presumed unless the contrary plainly ap-
32 pears from the record.

Sec. 3. *Judge; Qualification, Terms, Appointment and*
2 *Election.*—The principal presiding officer of the court
3 shall be a judge whose qualifications, term, appointment,
4 election and tenure shall be as follows. The person elect-
5 ed or appointed to said office of judge shall be a member
6 of the West Virginia state bar and a resident member in
7 good standing of the organized bar of Kanawha county.
8 At the general election to be held on the Tuesday after
9 the first Monday in November, one thousand nine hun-
10 dred forty-eight, and at the general election to be held
11 at intervals of eight years thereafter, some attorney, qual-

12 ified as aforesaid, shall be elected, in the manner pro-
13 vided by law for the election of circuit judges, to be
14 judge of said court for the next ensuing term of eight
15 years, beginning on January first next following such
16 election. Candidates for the office of judge of the court
17 shall be nominated in the same manner as are candidates
18 for the office of judge of the circuit court. The judge of
19 the court may be removed from office for the same rea-
20 sons and in the same manner as a judge of the circuit
21 court. If from any cause the office of judge of the court
22 shall become vacant, the vacancy shall be filled in the
23 same manner as in the case of a vacancy in the office of
24 the judge of the circuit court. Any judge so elected or
25 appointed shall continue in said office until his successor
26 is elected and qualified.

Sec. 4. *Salary.*—The judge of the domestic relations
2 court of Kanawha county shall for his services receive
3 the sum of eight thousand five hundred dollars per an-
4 num, to be paid in monthly installments out of the county
5 treasury of Kanawha county. The county court of Ka-
6 nawha county shall annually make provisions by appro-

7 puate levy and appropriation for the payment of said
8 salary.

Sec. 5. *Clerk; His Powers, Duties and Compensation.*—

2 The clerk of the circuit court of Kanawha county shall,
3 ex officio, be, act as and perform the duties of clerk of the
4 domestic relations court of Kanawha county and shall
5 exercise the same power and duties arising within the
6 jurisdiction of the court as are performed by him as clerk
7 of the circuit court. All processes, rules and orders of the
8 court, in the exercise of its jurisdiction, shall be signed
9 by the clerk thereof to be directed to the sheriffs of the
10 proper counties wherein the same are to be executed
11 in like manner and with the same effect as processes is-
12 suing from the circuit court of Kanawha county. For his
13 services under and pursuant to this act, the clerk shall
14 receive, in addition to his annual salary as provided by
15 general statute, additional compensation not to exceed
16 two thousand dollars annually, payable in monthly in-
17 stallments out of the county treasury of Kanawha county,
18 beginning contemporaneously with salary payments
19 hereunder to the judge of the court, and the county court

20 of Kanawha county shall annually make provision by
21 levy and appropriation for the payment of said additional
22 compensation.

Sec. 6. *Power and Duties of Sheriff.*—The sheriff of
2 Kanawha county and the sheriffs of the several counties
3 in the state shall by themselves or their deputies execute
4 all processes of said court, issued by the clerk thereof,
5 directed to them respectively, and all processes emanat-
6 ing from said court shall be directed to and be executed
7 by them in the same manner as is provided by law as to
8 processes issuing from the circuit court by said clerk.
9 The sheriff of Kanawha county shall perform the same
10 duties and services for said court as he is now by law re-
11 quired to perform for the circuit court of Kanawha coun-
12 ty. In the execution of processes, rules and orders of the
13 court, the sheriff shall have the same powers and rights,
14 be subject to the same liabilities, govern himself by the
15 same rules and principles of law and the statutes of the
16 state, as though said processes issued from the circuit
17 court of Kanawha county.

Sec. 7. *Transfer of Pending Causes.*—The judges of

2 the circuit court and of the court of common pleas of
3 Kanawha county may, in their discretion, on and after
4 the first day of January, one thousand nine hundred
5 forty-nine, certify to the domestic relations court of Ka-
6 nawha county any portion or all of the divorce proceed-
7 ings, suits for annulment of marriage and any and all
8 other matters pending in said courts and properly com-
9 ing within the jurisdiction of this court as defined in
10 section two hereof, and all such matters, suits, actions,
11 petitions and proceedings so certified to the domestic re-
12 lations court of Kanawha county shall be docketed and
13 thereafter proceeded with therein according to law. The
14 judges of the said circuit court and court of common
15 pleas, in their discretion, may also direct the clerk of
16 their respective courts to certify to and to docket all such
17 matters, suits, actions, petitions and proceedings prop-
18 erly within the jurisdiction of the domestic relations court
19 of Kanawha county as may be instituted on and after the
20 first day of January, one thousand nine hundred forty-
21 nine, in either of their said courts, in the domestic rela-
22 tions court of Kanawha county. In the event of the ab-

23 sence or disqualification of the judge of either the circuit
24 court or court of common pleas, any matter coming within
25 the purview of this act, pending in either of said courts,
26 may be certified to the domestic relations court of Ka-
27 nawha county, docketed therein and proceeded with ac-
28 cording to law.

Sec. 8. *Terms of Court; Maturity of Causes; Procedure.*

2 —For the purpose of maturing, docketing, hearing and
3 determining all matters, suits, petitions and other pro-
4 ceedings properly determinable in the domestic relations
5 court of Kanawha county there shall be regularly con-
6 tinued and held four terms of court each year, beginning
7 on the second Monday in February, May, August and
8 November. Special terms of said court may be called and
9 held whenever, in the discretion of the judge of the
10 court, public interest requires such special terms. The
11 judge of the court shall have like jurisdiction and au-
12 thority, in vacation of the court, to make and enter such
13 proper orders in any matter, suit, action, petition or pro-
14 ceeding pending in the court as the judges of the circuit
15 courts have under the laws of the state. All matters aris-

16 ing under the jurisdiction of the court, other than suits
17 for divorce, separation and annulment of marriages, may
18 be heard and determined either in term time or in va-
19 cation: *Provided, however,* That proper notice of any such
20 proceedings be given as provided by law for the particular
21 case.

22 The mode of procedure in causes instituted in this court
23 shall be the same as that prescribed for the circuit court
24 in similar causes. The court is authorized and empowered
25 to appoint such additional officers, divorce commission-
26 ers, commissioners in chancery, special commissioners,
27 jury commissioners and probation officers, and such med-
28 ical, clerical and secretarial assistance as shall enable the
29 court to discharge all of the duties required of it under
30 the provisions of this act and the general laws of the state.
31 The judge shall maintain a political balance between the
32 two major political parties of Kanawha county in his
33 appointments of divorce commissioners, commissioners in
34 chancery and special commissioners, so that at no time
35 will the number of either divorce commissioners or com-
36 missioners in chancery or of special commissioners of one

37 political affiliation exceed by more than one the number
38 of such commissioners affiliated with the other major
39 political party of the county. The court shall make pro-
40 vision for reference of such divorce and other matters
41 as may be proper from time to time to said commission-
42 ers in rotation so as to effect, in so far as practicable, an
43 equitable distribution of work between and among them.
44 The judge of the court shall have power to make and
45 promulgate such rules for the transaction of the business
46 of the court as may be necessary, provided that all such
47 rules shall be in conformity with the laws of the state
48 of West Virginia and with any rules promulgated by the
49 supreme court of appeals of this state.

Sec. 9. *Supplies; Finances; Seal; Court Rooms.*—It shall
2 be the duty of the county court of Kanawha county to pro-
3 vide all record and other books and stationery that may be
4 necessary for the court. Likewise a seal for the court shall
5 be provided, but full faith and credit shall be given to the
6 records of the court and certificates of its judge or clerk,
7 whether the seal of the court be affixed thereto or not,
8 in like manner and with the same effect as if the same

9 were records of the circuit court similarly authenticated.
10 The county court of Kanawha county shall likewise fur-
11 nish such rooms, furniture and equipment for the proper
12 conduct and administration of the court and shall,
13 through annual levy and appropriations, make provi-
14 sion for the payment for all such rooms, supplies and
15 equipment and as well for such clerical, secretarial and
16 other official help and expenses as may be required by
17 the court.

Sec. 10. *Contempt.*—The court shall have the same
2 powers to punish for contempt as are conferred upon
3 the circuit court by law.

Sec. 11. *Appeals; Limitations Thereon.*—Appeals may
2 be allowed and writs of error and supersedeas awarded
3 to judgments, decrees, rulings and orders of the court,
4 or the judge thereof, by the circuit court of Kanawha
5 county, or the judge thereof, in all matters arising within
6 the jurisdiction of this court for which matters appeals
7 may be allowed and writs of error and supersedeas
8 awarded by the supreme court of appeals if such matters
9 had originally arisen in the circuit court of Kanawha

10 county. In the event the circuit court of Kanawha county
11 or the judge thereof refuses an application for writ of
12 error and supersedeas or an appeal, application therefor
13 may be made direct to the supreme court of appeals of
14 the state or to any judge thereof. In all such cases such
15 application shall be made within four months next fol-
16 lowing the date of the entry of the final order, judgment,
17 or decree of this court or the circuit court as the case may
18 be.

Sec. 12. *Separability; Repeal.*—The provisions of this
2 act shall be construed as separable and severable and,
3 should any provision or part hereof be held unconstitu-
4 tional or for any reason invalid, the remaining provisions
5 or parts shall not be thereby affected.
6 All acts or parts of acts in conflict herewith are hereby
7 repealed.

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

Forest L McNeer
Chairman Senate Committee

R. L. Matthews
Chairman House Committee

Originated in the Senate

Takes effect Ninety days from passage.

Howard Myers
Clerk of the Senate

J. R. Lipp
Clerk of the House of Delegates

Arnold M. Vickers
President of the Senate

John E. Amos
Speaker House of Delegates

The within Approved this the 13
day of March, 1947.

Clarence Meadows
Governor.



Filed in the Office of the Secretary of State
of West Virginia.

MAR 13 1947
WM. S. O'BRIEN,
SECRETARY OF STATE