

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949



ENROLLED

HOUSE BILL No. 401

(By Mr. File ^{and} Mr. Ballard
(Monroe)



PASSED March 12 1949

In Effect From Passage



401

ENROLLED
House Bill No. 401

(By MR. FILE and MR. BALLARD, of Monroe)

[Passed March 12, 1949; in effect from passage.]

AN ACT to amend and reenact section eight, article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the termination or abatement of action for injury upon the death of either party, to survival of action for personal injury against wrongdoer and providing the limitation of time within which such actions shall be brought against the personal representative of such wrongdoer.

Be it enacted by the Legislature of West Virginia:

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

Section 8. *When Action Not to Abate; Survival of*
2 *Action for Personal Injury against Wrongdoer; Time*
3 *within which Such Action must be Brought.*—Where an

4 action is brought by a person injured for damage caused
5 by the wrongful act, neglect or default of any person
6 or corporation, and the person injured dies pending the
7 action, the action shall not abate by reason of his death
8 but, his death being suggested, it may be revived in the
9 name of his personal representative, and the declaration
10 and other pleadings shall be amended so as to conform
11 to an action under sections five and six of this article,
12 and the case proceeded with as if the action had been
13 brought under said sections. But in such case there
14 shall be but one recovery for the same injury. And any
15 right of action which may hereafter accrue by reason
16 of any injury done to the person of another, and not
17 resulting in death, by the wrongful act, neglect or de-
18 fault of any person, shall survive the death of the
19 wrongdoer and may be enforced against his executor
20 or administrator, either by reviving against such personal
21 representative a suit which may have been brought
22 against the wrongdoer himself in his lifetime, or by
23 bringing an original suit against his personal represent-
24 ative after his death, whether or not the death of the

25 wrongdoer occurred before or after the death of the in-
26 jured party; but any such action shall be instituted within
27 one year from the time such cause of action accrued.
28 Nothing contained in this section shall be construed to
29 extend the time within which an action for any other tort
30 shall be brought, nor to give the right to assign a claim
31 for a tort not otherwise assignable.

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

Joseph L. Meyer
Chairman Senate Committee

R. Conaway
Chairman House Committee

Originated in the House of Delegates

Takes effect From passage.

Howard Myers
Clerk of the Senate

J. Schiff
Clerk of the House of Delegates

Raymond H. Hunter
President of the Senate

W. E. Hamner
Speaker House of Delegates

The within APPROVED this the 18TH

day of MARCH, 1949.

Chas. J. Patton

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

MAR 18 1949

D. PITT O'BRIEN,
SECRETARY OF STATE