

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1953

ENROLLED

SENATE BILL NO. 28

(By Mr. Beard, Mr President.)

PASSED February 17 1953

In Effect ninety days from Passage

FILED IN THE OFFICE OF THE SECRETARY OF STATE
OF WEST VIRGINIA **FEB 20 1953**
D. PITT O'BRIEN,
SECRETARY OF STATE

ENROLLED

Senate Bill No. 28

(By MR. BEAN, MR. PRESIDENT)

[Passed February 17, 1953; in effect ninety days from passage.]

AN ACT to amend chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article to be designated article nine, relating to reciprocal enforcement of the support of dependents and providing for procedure therefor.

Be it enacted by the Legislature of West Virginia:

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

Article 9. Reciprocal Dependency Law.

Section 1. *Purpose.*—The purposes of this article are to

2 improve and extend by reciprocal legislation the en-
3 forcement of support of dependents and to make uniform
4 the law with respect thereto.

Sec. 2. *Definitions.*—As used in this article unless the
2 context requires otherwise:

3 (1) “State” includes any state, territory or possession
4 of the United States and the District of Columbia in
5 which this or a substantially similar reciprocal law has
6 been enacted.

7 (2) “Initiating state” means any state in which a pro-
8 ceeding pursuant to this or a substantially similar re-
9 ciprocal law is commenced.

10 (3) “Responding state” means any state in which any
11 proceeding pursuant to the proceeding in the initiating
12 state is or may be commenced.

13 (4) “Court” means the criminal, intermediate, or cir-
14 cuit court, or any other court having jurisdiction in this
15 state, and when the context requires, means the court of
16 any other state as defined in a substantially similar re-
17 ciprocal law.

18 (5) “Law” includes both common and statute law.

19 (6) "Duty of support" includes any duty of support
20 imposed or imposable by law, or by any court order, de-
21 crees or judgment, whether interlocutory or final, wheth-
22 er incidental to a proceeding for divorce, legal separation,
23 separate maintenance or otherwise.

24 (7) "Obligor" means any person owing a duty of
25 support.

26 (8) "Obligee" means any person to whom a duty
27 of support is owed.

Sec. 3. *Remedies Additional to Those Now Existing.*—

2 The remedies herein provided are in addition to and not
3 in substitution for any other remedies.

Sec. 4. *Extent of Duties of Support.*—The duty of sup-
2 port imposed by the laws of this state or by the laws of
3 the state where the obligee was present when the failure
4 to support commenced as provided in section seven and
5 the remedies provided for enforcement thereof, including
6 any penalty imposed thereby, bind the obligor who is a
7 resident or claims residence in this state, temporary or
8 otherwise, regardless of the presence or residence of the
9 obligee.

Sec. 5. *Interstate Rendition.*—The governor of this
2 state may demand from the governor of any other state
3 the surrender of any person found in such other state who
4 is charged in this state by warrant, presentment, informa-
5 tion or indictment with the crime of failing to provide for
6 the support of any person in this state upon whom the law
7 imposes a duty to support, and may surrender on demand
8 by the governor of any other state any person found in
9 this state who is charged by warrant, information or in-
10 dictment in such other state with the crime of failing to
11 provide for the support of a person in such other state.
12 The provisions for extradition of criminals not incon-
13 sistent herewith shall apply to any such demand al-
14 though the person whose surrender is demanded was not
15 in the demanding state at the time of the commission of
16 the crime and although he had not fled therefrom. Neith-
17 er the demand, the oath nor any proceedings for extra-
18 dition pursuant to this section need state or show that the
19 person whose surrender is demanded has fled from just-
20 ice, or at the time of the commission of the crime was in
21 the demanding or the other state.

Sec. 6. *No Rendition During Compliance.*—Any obligor
2 contemplated by section five, who submits to the juris-
3 diction of the court of such other state and complies with
4 the court's order of support, shall be relieved of extra-
5 dition for desertion or nonsupport entered in the courts
6 of this state during the period of such compliance.

Sec. 7. *What Duties are Enforceable.*—Duties of sup-
2 port enforceable under this article are those imposed or
3 imposable under the laws of any state where the alleged
4 obligor is present during the period for which support is
5 sought or where the obligee was present when the fail-
6 ure to support commenced, at the election of the obligee.

Sec. 8. *Remedies of a State or Political Subdivision*
2 *Thereof Furnishing Support.*—Whenever the state or a
3 political subdivision thereof has furnished support to an
4 obligee it shall have the same right to invoke the pro-
5 visions hereof as the obligee to whom the support was
6 furnished for the purpose of securing reimbursement of
7 expenditures so made.

Sec. 9. *How Duties of Support are Enforced.*—All duties
2 of support, including alimony cases if they are properly

3 certified as relief cases, are enforceable by petition or
4 complaint, with warrant or indictment attached thereto
5 and made a part thereof, irrespective of relationship be-
6 tween the obligor and obligee. Jurisdiction of all pro-
7 ceedings hereunder shall be vested in the court, or judge
8 thereof in vacation including justice of peace. When
9 the petition or complaint is filed before a justice of the
10 peace a copy shall be immediately transmitted to the
11 clerk of the circuit court and considered as though it
12 had been initiated originally in the circuit court.

Sec. 10. *Contents of Petition or Complaint for Support.*

2 —The petition or complaint shall be verified and shall
3 state the name and, so far as known to the plaintiff, the
4 address and circumstances of the defendant and his de-
5 pendants for whom support is sought and all other pert-
6 inent information, and attach thereto or incorporate
7 therein a copy of the warrant, presentment, information
8 or indictment.

Sec. 11. *Duty of Court of This State as Initiating State.*

2 —If the court of this state or the judge thereof in vacation
3 acting as an initiating state finds that the petition sets

4 forth facts from which it may be determined that the
5 defendant owes a duty of support and that a court of the
6 responding state may obtain jurisdiction of the defendant
7 or his property, it shall so certify and shall cause certified
8 copies of the petition or complaint, including such war-
9 rant, presentment, information or indictment as the case
10 may be, the certificate and an authenticated copy of this
11 act to be transmitted to the court of the responding state.

Sec. 12. *Duty of the Court of This State as Responding*
2 *State.*—When the court of this state or the judge in vaca-
3 tion thereof, acting as a responding state, receives from
4 the court of an initiating state the aforesaid copies, it
5 shall (1) docket the cause, (2) notify the prosecuting at-
6 torney or his representative, (3) set a time and place
7 for a hearing, and (4) take such action as is necessary in
8 accordance with the laws of responding state to obtain
9 jurisdiction, including issuance and service of summons
10 on defendant. It shall be the duty of the prosecuting
11 attorney, upon the request of any judge or the state de-
12 partment of public assistance to represent the plaintiff
13 in any proceeding under this act.

Sec. 13. *Order of Support.*—If the defendant submits to
2 the jurisdiction of the court of the responding state in
3 term or to the judge thereof in vacation, the judge may
4 order him to furnish support or reimbursement therefor
5 including costs and fees if any incurred or accumulated
6 by the laws of the initiating and responding states, and
7 subject the property of the defendant to such order.

Sec. 14. *Responding State to Transmit Copies to Initiating State.*—The court of this state when acting as a re-
2 sponding state shall cause to be transmitted to the court
3 of the initiating state a copy of all orders of support or
4 orders for reimbursement therefor. Such orders shall be
5 recorded by the clerk in the proper record book of his
6 office.
7

Sec. 15. *Additional Powers of Court.*—In addition to
2 the foregoing powers, the court of this state when acting
3 as the responding state has the power to subject the de-
4 fendant to such terms and conditions as the court may
5 deem proper to assure compliance with its orders with
6 respect to the following:

7 (a) To require the defendant to furnish recognizance

8 in the form of a cash deposit or bond of such character
9 and in such amount as the court may deem proper to
10 assure payment of any amount required to be paid by
11 the defendant.

12 (b) To require the defendant to make payments at
13 specified intervals to the clerk of the court and to report
14 personally to such clerk at such times as may be deemed
15 necessary.

16 (c) To punish the defendant who shall violate any
17 order of the court to the same extent as is provided by
18 the law for contempt of the court in any other suit or
19 proceeding cognizable by the court.

Sec. 16. *Additional Duties of the Court of this State*

2 *When Acting as a Responding State.*—The court of this
3 state when acting as a responding state shall have the fol-
4 lowing duties which may be carried out through the
5 clerk of the court or other person designated by the
6 court:

7 (a) Upon the receipt of a payment made by the de-
8 fendant pursuant to any order of court or otherwise, to

9 transmit the same forthwith to the court of initiating
10 state.

11 (b) Upon request to furnish to the court of the initi-
12 ating state a certified statement of all payments made by
13 the defendant.

Sec. 17. *Additional Duty of the Court of this State when*
2 *Acting as an Initiating State.*—The court of this state
3 when acting as an initiating state shall have the duty
4 to receive and disburse forthwith all payments made by
5 the defendant or transmitted by the court of the respond-
6 ing state. Such duty may be carried out through the clerk
7 of the court or other person designated by the court.

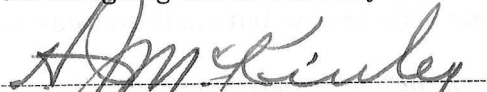
Sec. 18. *Evidence of Husband and Wife.*—Laws provid-
2 ing a privilege against the disclosure of communications
3 between husband and wife are inapplicable to proceed-
4 ings under this article. Husband and wife are competent
5 witnesses and may be compelled to testify to any rel-
6 evant matter including marriage and parentage.

Sec. 19. *Review.*—Any party to an action brought under
2 the provisions of this act shall have the same right of re-
3 view by appeal, writ of error or otherwise as provided by

4 statute. Any order for support made by the court shall
5 not be affected by any such review but shall continue in
6 effect until the case is decided and thereafter, if such
7 review is denied, until changed by further order of the
8 court.

Sec. 20. *Severability*.—If any provision hereof or the
2 application thereof to any person or circumstance is held
3 invalid, such invalidity shall not affect other provisions
4 or applications of this article which can be given effect
5 without the invalid provision or application, and to this
6 end the provisions of this article are declared to be sev-
7 erable.

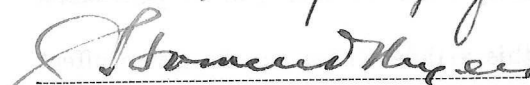
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

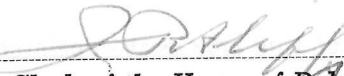

Chairman Senate Committee

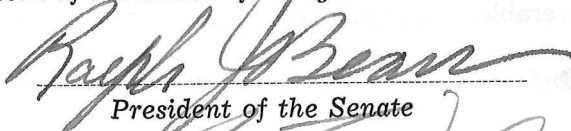

Chairman House Committee

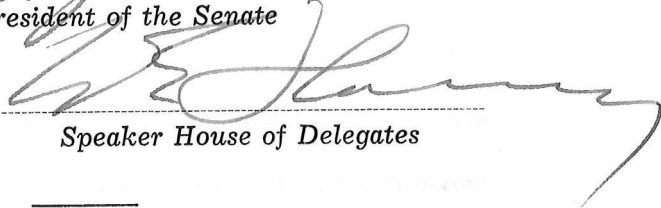
Originated in the Senate.

Takes effect ninety days from passage.


Clerk of the Senate

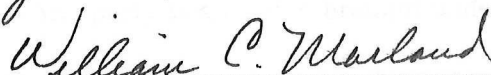

Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within approved this the 26th

day of February, 1953.


Governor.