WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1957

ENROLLED

HOUSE BILL No. 286

(By Mr. Whaley)

PASSED Feb 27, 1957

In Effect 90 days from Passage
AN ACT to amend and reenact sections one and three, article one, chapter forty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the course of descent and method of partition of real estate when the owner thereof dies intestate.

Be it enacted by the Legislature of West Virginia:

That sections one and three, article one, chapter forty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. Course of Descent Generally.—When any person having title to any real estate of inheritance shall die intestate as to such estate, it shall descend and pass in parcenary to his kindred, male and female, in the following course:

(a) To his children and their descendants;
(b) If there be no child, nor descendant of any child, then the whole shall go to the wife or husband, as the case may be;

(c) If there be no child, nor descendant of any child, nor wife, nor husband, then one moiety each to the mother and father; or if there be no child, nor descendant of any child, nor wife, nor husband, nor mother, then the whole shall go to the father; or if there be no child, nor any descendant of any child, nor wife, nor husband, nor father, then the whole shall go to the mother;

(d) If there be no child, nor descendant of any child, nor wife, nor husband, nor mother, nor father, the whole shall go to the intestate's brothers and sisters and the descendants of brothers and sisters;

(e) And if there be no child, nor descendant of any child, nor father, nor mother, nor wife or husband, nor brother, nor sister, nor descendant of any brother or sister, then one moiety shall go to the paternal and the other to the maternal kindred in the following course:

(f) First to the grandfather and grandmother one-half of the moiety each;
(g) If no grandmother one-half of the moiety to the grandfather, or if no grandfather one-half of the moiety to the grandmother; and in either case the other one-half of the moiety, or if there be neither grandfather nor grandmother the whole of the moiety, shall go to the uncles and aunts on the same side, and their descendants;

(h) If there be no grandmother, nor such uncle, nor such aunt, nor descendant of any such uncle or aunt, then the whole of the moiety to the grandfather; or if there be no grandfather, nor such uncle, nor such aunt, nor descendant of any such uncle or aunt, then the whole of the moiety to the grandmother;

(i) If there be no grandfather, nor grandmother, nor such uncle, nor such aunt, nor descendant of any such uncle or aunt, then to the great-grandfathers and great-grandmothers one-fourth of the moiety each;

(j) If any great-grandfather or great-grandmother be dead then his or her share, or the whole of the moiety in case all the great-grandfathers and great-grandmothers be dead, shall go to the brothers and sisters of the grandfathers and grandmothers, and the descendants of such
brothers and sisters of the grandfathers and grandmothers; and if there be no brother nor sister of any grandfather or grandmother, nor the descendant of any such brother or sister, then the whole of the moiety shall go to such of the great-grandfathers and great-grandmothers as may then be living, in equal shares, or to the survivor of them;

(k) And so on, in like manner, in other cases without end, passing to the nearest lineal ancestors, male and female, and if any of them be dead his or her share, or if all of them be dead the whole, to the brothers and sisters of the lineal ancestors, male and female, of the degree next nearer the intestate, and the descendants of such brothers and sisters; and if there be no brother nor sister of any lineal ancestor, male or female, of the degree next nearer the intestate nor descendant of any such brother or sister, then to such of the lineal ancestors in this subdivision first mentioned as may then be living, in equal shares or to the survivor of them;

(l) If there be no paternal kindred the whole shall go to the maternal kindred, and if there be no maternal
kindred the whole shall go to the paternal kindred. If there be neither paternal nor maternal kindred, the whole shall go to the kindred of the wife or husband of the intestate in the like course as if such wife or husband had survived the intestate and died entitled to the whole of the estate.

Sec. 3. When Parties Take Per Capita and When Per Stirpes.—Whenever the children of the intestate, or the brothers and sisters of the intestate, or the uncles and aunts of the intestate, or the brothers and sisters of any of the intestate's lineal ancestors of the same degree, come into partition, they shall take per capita, or by persons; and where, a part of them being dead and a part living, the descendants of those dead have right to partition, such descendants shall take per stirpes, or by stocks, that is to say, the shares of their deceased ancestors; but whenever the persons entitled to partition, other than those whose shares are definitely fixed by the statute of descents, are all in the same degree of kindred to the intestate, they shall take per capita or by persons.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect 90 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 7th day of March 1957.

Governor

Held in the Office of the Secretary of State
MAR 8-1957
OF WEST VIRGINIA
D. PITT O'BRIEN
SECRETARY OF STATE