

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1959



ENROLLED

HOUSE BILL No. 429

(By Mr. Goshorn + Chilton)



PASSED March 12 1959

In Effect 90 days from Passage



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of West Virginia MAR 20 1959
JOE F. BURDETT
SECRETARY OF STATE

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House Bill No. 429

(By MR. GOSHORN and MR. CHILTON)

[Passed March 12, 1959; in effect ninety days from passage.]

AN ACT to create and establish in Kanawha county a court to
be known as the juvenile court of Kanawha county.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Court Created and Established.*—Notwith-
2 standing section one, article five, chapter forty-nine of
3 the code of West Virginia, there is hereby created and
4 established in and for Kanawha county, with authority
5 and jurisdiction coextensive with the county, a separate
6 and distinct court of record and of limited jurisdiction
7 to be known and designated as the juvenile court of
8 Kanawha county. Wherever and whenever the word
9 “court” is hereinafter in this act used, it shall be taken
10 to mean and refer to the juvenile court of Kanawha

11 county, unless the context clearly indicates otherwise.

Sec. 2. *Jurisdiction*.—The court shall have jurisdiction,
2 within Kanawha county in all proceedings affecting de-
3 linquent, neglected, defective and state dependent chil-
4 dren as set forth and enumerated in chapter forty-nine
5 of the code of West Virginia; the adoption of adults and
6 children; the care, custody, control and disposition of
7 delinquent, mentally or physically disabled and neglected
8 children under the age of eighteen years; to take, in the
9 name of the state, all manner of recognizance, bonds
10 and obligations heretofore or hereafter permitted to be
11 taken in all cases where the person charged with de-
12 linquency is under the age of eighteen years and to con-
13 tinue or discharge such recognizance, bonds and obliga-
14 tions.

15 The court shall have general equity jurisdiction in any
16 causes or proceedings before it, with full power to grant
17 injunctions and make monetary awards in matters involv-
18 ing the care, custody, maintenance, preservation and pro-
19 tection of infants under the age of eighteen years, who
20 are delinquent, dependent or neglected.

21 The manner and modes of procedure, power and juris-
22 diction conferred by law upon the circuit court of Kana-
23 wha county in any and all of the foregoing matters and
24 causes are hereby conferred upon and shall be exercised
25 by the juvenile court of Kanawha county.

26 The said court shall also have and exercise such other
27 jurisdiction and powers, not herein enumerated, as may
28 have been heretofore or may be hereafter **given to the**
29 juvenile courts within the several counties of this state,
30 and proceedings affecting the treatment and control of
31 dependent, neglected, defective and delinquent children
32 under the age of eighteen years, and all general laws re-
33 lating to jurisdiction and powers of any court sitting as
34 a juvenile court are hereby made applicable to said juve-
35 nile court.

Sec. 3. *Judge; Qualification, Term, Appointment and*
2 *Election.*—The presiding officer of the court shall be a
3 judge whose qualifications, term, appointment, **election**
4 and tenure shall be as follows: The person elected or
5 appointed to said office of judge shall be a member of the
6 West Virginia state bar and a resident member in good

7 standing of the organized bar of Kanawha county. On or
8 after July first one thousand nine hundred fifty-nine the
9 governor shall appoint some attorney, qualified as afore-
10 said, to serve until January first, one thousand nine hund-
11 red sixty-one. At the general election to be held on the
12 Tuesday after the first Monday in November, one thousand
13 nine hundred sixty, and at the general election to be held
14 at intervals of eight years thereafter, some attorney, quali-
15 fied as aforesaid, shall be elected, in the manner provided
16 by law for the election of circuit judges, to be judge of
17 said court for the next ensuing term of eight years, be-
18 ginning on January first next following such election.
19 Candidates for the office of judge of the court shall be
20 nominated in the same manner as are candidates for the
21 office of judge of the circuit court. The judge of the court
22 may be removed from office for the same reasons and
23 in the same manner as a judge of the circuit court. If from
24 any cause the office of judge of the court shall become
25 vacant, the vacancy shall be filled in the same manner as
26 in the case of a vacancy in the office of the judge of the
27 circuit court. Any judge so elected or appointed shall

28 continue in said office until his successor is elected and
29 qualified.

Sec. 4. *Salary.*—The judge of the juvenile court of
2 Kanawha county shall for his services receive the sum
3 of thirteen thousand five hundred dollars per annum, to
4 be paid in monthly installments out of the county treasury
5 of Kanawha county. The county court of Kanawha county
6 shall annually make provisions by appropriate levy and
7 appropriation for the payment of said salary.

Sec. 5. *Clerk; His Powers, and Duties.*—The clerk of
2 the circuit court of Kanawha county shall, ex officio, be,
3 act as and perform the duties of clerk of the juvenile
4 court of Kanawha county and shall exercise the same
5 power and duties arising within the jurisdiction of the
6 court as are performed by him as clerk of the circuit court.
7 All processes, rules and orders of the court, in the exercise
8 of its jurisdiction, shall be signed by the clerk thereof to
9 be directed to the sheriffs of the proper counties wherein
10 the same are to be executed in like manner and with the
11 same effect as processes issuing from the circuit court of
12 Kanawha county.

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 emanating
6 from said court shall be directed to and be executed by
7 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
11 required to perform for the circuit court of Kanawha
12 county. In the execution of processes, rules and orders
13 of the court, the sheriff shall have the same powers and
14 rights, be subject to the same liabilities, govern himself
15 by the same rules and principles of law and the statutes
16 of the state, as though said processes issued from the cir-
17 cuit court of Kanawha county.

Sec. 7. *Transfer of Pending Causes.*—The judge of the
2 domestic relations court of Kanawha county shall, not
3 later than the first day of August, one thousand nine
4 hundred fifty-nine, certify to the juvenile court of Kana-

5 wha county any and all matters pending in said court
6 and properly coming within the jurisdiction of this court
7 as defined in section two hereof, and all such matters
8 and proceedings so certified to the juvenile court of Ka-
9 nawha county shall be docketed and thereafter proceeded
10 with therein according to law.

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

2 —For the purpose of maturing, docketing, hearing and
3 determining all matters, petitions and other proceedings
4 properly determinable in the juvenile court of Kanawha
5 county there shall be regularly continued and held four
6 terms of court each year, beginning on the second Monday
7 in February, May, August and November. Special terms
8 of said court may be called and held whenever, in the
9 discretion of the judge of the court, public interest re-
10 quires such special terms. The judge of the court shall
11 have like jurisdiction and authority in any matter, suit,
12 action, petition or proceeding pending in the court, re-
13 specting the care, custody, control and disposition of such
14 delinquent, neglected or mentally or physically handi-
15 capped children, as the judges of the circuit courts have

16 under the laws of the state. All matters arising under the
17 jurisdiction of the court, may be heard and determined
18 either in term time or in vacation: *Provided, however,*
19 That proper notice of any such proceedings be given as
20 provided by law for the particular case.

21 The mode of procedure in causes instituted in this court
22 shall be the same as that prescribed by chapter forty-nine
23 of the code of West Virginia. The court is authorized and
24 empowered to appoint and discharge such additional
25 officers, probation officers, and such medical, clerical and
26 secretarial assistance as shall enable the court to dis-
27 charge all of the duties required of it under the provisions
28 of this act and the general laws of the state, and such
29 personnel shall be paid by the county court monthly such
30 sums as are annually appropriated by the county court,
31 plus reimbursement by the county court of his or her
32 necessary expenses actually incurred monthly in the per-
33 formance of official duties, including an allowance of
34 seven cents per mile for his or her automobile driven in
35 the performance of official duties.

Sec. 9. *Supplies; Finances; Seal; Court Rooms.*—It shall

2 be the duty of the county court of Kanawha county to
3 provide all record and other books and stationery that
4 may be necessary for the court. Likewise a seal for the
5 court shall be provided, but full faith and credit shall be
6 given to the records of the court and certificates of its
7 judge or clerk, whether the seal of the court be affixed
8 thereto or not, in like manner and with the same effect
9 as if the same were records of the circuit court similarly
10 authenticated. The county court of Kanawha county shall
11 likewise furnish such rooms, furniture and equipment for
12 the proper conduct and administration of the court and
13 shall, through annual levy and appropriations, make pro-
14 vision 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 the
17 court.

Sec. 10. *Contempt.*—The court shall have the same
2 powers to punish for contempt as are conferred upon the
3 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 award-
8 ed by the supreme court of appeals if such matters had
9 originally arisen in the circuit court of Kanawha county.
10 In the event the circuit court of Kanawha county or the
11 judge thereof refuses an application of writ of error and
12 supersedeas or an appeal, application therefor may be
13 made direct to the supreme court of appeals of the state
14 or to any judge thereof. In all such cases such application
15 shall be made within two months next following the date
16 of the entry of the final order, judgment, or decree of this
17 court or the circuit court as the case may 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.

W. H. Jasper Jr.
Chairman Senate Committee

Eudora Andrews
Chairman House Committee

Originated in the House of Delegates

Takes effect *90 days from* passage.

J. Howard Myers
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Ralph Bean
President of the Senate

F. R. Bailey
Speaker, House of Delegates

The within *approved* this the *20th*

day of *March*, 1959.

W. H. Anderson
Governor