

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1959

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ENROLLED

SENATE BILL NO. 179

(By Mr. Handlan)

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PASSED Feb 13 1959

In Effect July 1, 1959 Passage



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of West Virginia FEB 21 1959

JOE F. BURDETT  
SECRETARY OF STATE

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AN ACT to create and establish in the county of Wood a court of limited jurisdiction to be known and designated as "The Intermediate Court of Wood County", and to define its jurisdiction.

*Be it enacted by the Legislature of West Virginia:*

That an intermediate court of Wood county be created and established as hereinafter provided.

Section 1. *Court Created and Established.*—There is  
2 hereby created and established in and for the county of  
3 Wood, with authority and jurisdiction coextensive with  
4 the county, a court of limited jurisdiction to be known and  
5 designated as "The Intermediate Court of Wood County",

6 to be held and presided over by a judge to be appointed  
7 or elected as provided by this act. Wherever and whenever  
8 the word "Court" is hereinafter in this act used, it shall be  
9 taken to mean and refer to the intermediate court of Wood  
10 county, unless the context clearly indicates otherwise.

Sec. 2. *Jurisdiction.*—The court shall have jurisdiction  
2 within Wood county, concurrent with the circuit court of  
3 said county of causes, matters, proceedings and suits re-  
4 lating to (a) affirmation of marriages, annulment of mar-  
5 riages, separate maintenance, divorce, alimony, the care,  
6 custody, maintenance and education of children of liti-  
7 gants and the adjudication of property rights arising out  
8 of same, and all other causes and matters arising within  
9 the provisions of chapter forty-eight, article two of the  
10 official code of West Virginia, commonly known as "the  
11 divorce law", and of all amendments and reenactments  
12 thereof; (b) adoption proceedings arising out of article  
13 four of the chapter last aforesaid, and of all amendments  
14 and reenactments thereof; (c) proceedings for a change  
15 of name arising out of article five of the chapter last afore-  
16 said, and of all amendments and reenactments thereof;

17 (d) the enforcement of support of dependents arising out  
18 of article nine of the chapter last aforesaid, and of all  
19 amendments and reenactments thereof; (e) the care and  
20 disposition of delinquent, defective, neglected and de-  
21 pendent children and juvenile offenders arising out of  
22 chapter forty-nine, articles five, six and seven of the offi-  
23 cial code of West Virginia, and of all amendments and re-  
24 enactments thereof; (f) compulsory school attendance  
25 and truancy arising out of chapter eighteen, article eight  
26 of the official code of West Virginia, and of all amend-  
27 ments and reenactments thereof; (g) habeas corpus pro-  
28 ceedings involving the award and custody of children  
29 under the age of twenty-one years; (h) the collection of  
30 recognizances and bonds taken by said court, or of bonds  
31 taken by the clerk thereof in vacation, to secure the pay-  
32 ment of judgments for fines and costs rendered by said  
33 court; and (i) any and all other matters arising under  
34 the present and future laws of the state of West Virginia,  
35 common or statutory, incidental to the foregoing, includ-  
36 ing, but not limited to, the disposition of property and  
37 property interests involved in any such matters, and, as

38 well, the adjudication of any and all rights, titles and  
39 interests necessary or incidental to a full determination  
40 of all such matters pending in said court.

41 Said court shall have general equity jurisdiction in  
42 causes, matters, proceedings and suits before it within its  
43 jurisdiction with power to grant injunctions and to re-  
44 quire and take recognizances.

45 The proceedings, modes of procedures, power and juris-  
46 diction conferred by law upon the circuit court of Wood  
47 county in any and all said causes, matters, proceedings and  
48 suits, are hereby conferred upon and shall be exercised  
49 by said court.

50 The judge of said court shall have the same powers in  
51 vacation as to any and all of said causes, matters, proceed-  
52 ings and suits that are conferred upon the judge of the  
53 circuit court of said county.

54 It shall not be necessary in any such causes or proceed-  
55 ings to set forth upon the record the facts authorizing said  
56 court to take jurisdiction thereof, but jurisdiction shall be  
57 presumed unless the contrary plainly appear, from the  
58 record.

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

Sec. 4. *Judge, Qualifications, Term, Appointment and*  
2 *Election*.—The principal presiding officer of said court  
3 shall be a judge whose qualifications, term, appointment  
4 and election shall be as follows: The person appointed  
5 or elected to the 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 Wood county. The gov-  
8 ernor of this state, on or before the first day of July, one  
9 thousand nine hundred fifty-nine, shall designate, appoint  
10 and commission a judge of said court, who shall preside  
11 over said court and serve as such from the first day of  
12 July, one thousand nine hundred fifty-nine, until the first  
13 day of January, one thousand nine hundred sixty-one. At  
14 the general election regularly held on the Tuesday after  
15 the first Monday in November, one thousand nine hundred  
16 sixty, and thereafter at intervals of eight years, some per-  
17 son qualified as aforesaid shall be elected in the manner  
18 provided by law for the election of circuit judges, to be

19 the judge of said court for the next ensuing term of eight  
20 years, beginning on January first, next following such  
21 election. The judge of said court may be removed from  
22 office for the same reasons and in the same manner as  
23 judges of the circuit court and shall be, except as to his  
24 term of office and jurisdiction, subject to the laws in force  
25 governing circuit judges. If from any cause the office shall  
26 become vacant, the vacancy shall be filled in the same  
27 manner as in the case of a vacancy in the office of the  
28 judge of the circuit court. Any judge so appointed or  
29 elected shall continue in such office until his successor is  
30 elected and qualified. Such judge, during his tenure in  
31 office, shall not engage in the practice of law.

Sec. 5. *Salary*.—The judge of said court shall, for his  
2 services, receive the sum of ten thousand dollars per  
3 annum, to be paid in monthly installments out of the  
4 treasury of Wood county. The county court shall annual-  
5 ly make provisions by appropriate levy and appropriation  
6 for the payment of said salary.

Sec. 6. *Clerk; Powers, Duties and Compensation*.—The  
2 clerk of the circuit court of Wood county shall, *ex officio*,

3 be, act as and perform the duties of the clerk of the said  
4 court and shall exercise the same power and duties arising  
5 within the jurisdiction of said court as are performed by  
6 him as clerk of the circuit court. All processes, rules and  
7 orders of the court, in the exercise of its jurisdiction, shall  
8 be signed by the clerk thereof to be directed to the sheriffs  
9 of the proper counties wherein the same are to be execut-  
10 ed in like manner and with the same effect as processes  
11 issuing from the circuit court of Wood county. For his  
12 services under and pursuant to this act, the clerk shall  
13 receive, in addition to his annual salary as provided by  
14 general statute, additional compensation not to exceed  
15 six hundred dollars annually, payable in monthly install-  
16 ments out of the county treasury of Wood county, begin-  
17 ning contemporaneously with salary payments hereunder  
18 to the judge of said court, and the county court of Wood  
19 county shall annually make provision by levy and appro-  
20 priation for the payment of said additional compensation.

Sec. 7. *Sheriff; Powers and Duties.*—The sheriff of  
2 Wood county and the sheriffs of the several counties in  
3 the state shall by themselves or their deputies execute all



4 processes of said court, issued by the clerk thereof, di-  
5 rected 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. The  
9 sheriff of Wood county shall perform the same duties and  
10 services for said court as he is now by law required to per-  
11 form for the circuit court of Wood county. In the execu-  
12 tion of processes, rules and orders of the court, the sheriff  
13 shall have the same powers and rights, be subject to the  
14 same liabilities, govern himself by the same rules and  
15 principles of law and the statutes of the state, as though  
16 said processes issued from the circuit court of Wood  
17 county.

Sec. 8. *Prosecuting Attorney; Powers and Duties.*—The  
2 prosecuting attorney of Wood county shall attend the  
3 terms of said court, either by himself or his assistant, and  
4 shall perform the duties of his office as required by law.

Sec. 9. *Transfer of Pending Cases.*—The judge of the  
2 circuit court of said county may, in his discretion, certify  
3 to said court, on and after the first day of July, one thou-

4 sand nine hundred fifty-nine, any portion or all of the  
5 causes, matters, proceedings and suits within the herein  
6 defined jurisdiction of said court pending in said circuit  
7 court on the first day of July, one thousand nine hundred  
8 fifty-nine, or thereafter instituted therein, and all causes,  
9 matters, proceedings and suits so certified to said court  
10 shall be docketed and thereafter proceeded with therein  
11 according to law. The judge of said circuit court, in his  
12 discretion, may also direct the clerk of said circuit court  
13 to certify to and docket in said court all such causes, mat-  
14 ters, proceedings and suits properly within the jurisdic-  
15 tion of said court as may be instituted on and after the  
16 first day of July, one thousand nine hundred fifty-nine, in  
17 said circuit court. In the event of the absence or dis-  
18 qualification of the judge of said circuit court or said inter-  
19 mediate court, any matter coming within the purview of  
20 the act pending in either court may be certified to the  
21 other court, docketed therein and proceeded with accord-  
22 ing to law.

Sec. 10. *Terms of Court; Maturity of Causes; Procedure.*

2 —For the purpose of maturing, docketing, hearing and

3 determining all causes, matters, proceedings and suits  
4 properly determinable in said court there shall be regu-  
5 larly continued and held four terms of court each year,  
6 beginning on the second Monday in February, May,  
7 August and November. Special terms of said court may  
8 be called and held whenever, in the discretion of the judge  
9 of said court, public interest requires such special terms.  
10 The judge of said court shall have like jurisdiction and  
11 authority in vacation of said court to make and enter  
12 such proper orders in any cause, matter, proceeding or  
13 suit pending in said court as the judge of the circuit court  
14 has under the laws of the state. All matters arising under  
15 the jurisdiction of said court, other than suits for divorce,  
16 separate maintenance, annulment of marriages and  
17 affirmation of marriages, 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 said court  
22 shall be the same as that prescribed for the circuit court  
23 in similar causes. The court is authorized and empowered

24 to appoint such additional officers, divorce commissioners,  
25 commissioners in chancery, special commissioners, jury  
26 commissioners and such clerical and secretarial assistants  
27 as shall enable said court to discharge all the duties re-  
28 quired of it under the provision of this act and the general  
29 laws of the state. Such appointments shall be made by  
30 the judge and the appointees shall serve during the pleas-  
31 ure of the judge.

32 The judge shall maintain a political balance between  
33 the two major political parties of Wood county in his  
34 appointments of divorce commissioners, commissioners  
35 in chancery and special commissioners so that at no time  
36 will the number of either divorce commissioners or of  
37 commissioners in chancery or of special commissioners of  
38 one political affiliation exceed by more than one the num-  
39 ber of such commissioners affiliated with the other major  
40 political party of the county. Said court shall make pro-  
41 vision for reference of such divorce and other matters  
42 as may be proper from time to time to said commissioners  
43 in rotation so as to effect, insofar as practicable, an equit-  
44 able distribution of work between and among them. The

45 judge of said court shall have power to make and promul-  
46 gate such rules for the transaction of the business of the  
47 court as may be necessary: *Provided*, That all such rules  
48 shall be in conformity with the laws of the state of West  
49 Virginia and with any rules promulgated by the supreme  
50 court of appeals of this state, and such rules shall be filed  
51 in the office of the clerk of said supreme court of appeals.

Sec. 11. *Appointment of Probation Staff; Clerical and*  
2 *Secretarial Assistants; Fixing Salary and Manner of Pay-*  
3 *ment.*—Said court, or the judge thereof in vacation, is em-  
4 powered and authorized to appoint one or more probation  
5 officers, one of whom may be designated as the chief pro-  
6 bation officer, and necessary clerical and secretarial assist-  
7 ants as shall enable said court to discharge the duties re-  
8 quired of it under the provisions of this act and the general  
9 laws of the state. The salaries and expenses shall be paid  
10 by the county court of Wood county. Such appointments  
11 shall be made by the judge and the appointees shall serve  
12 during the pleasure of the judge.

13 The chief probation officer shall receive as compensation  
14 for his or her services an annual salary of not less than

15 four thousand dollars nor more than five thousand four  
16 hundred dollars, to be determined by the judge. Assistant  
17 probation officers shall receive as compensation an annual  
18 salary of not less than three thousand four hundred dol-  
19 lars nor more than four thousand eight hundred dollars,  
20 to be determined by the judge. Clerical and secretarial  
21 assistants shall receive as compensation for his or her  
22 services an annual salary of not less than one thousand  
23 eight hundred dollars nor more than three thousand four  
24 hundred dollars, to be determined by the judge. In addi-  
25 tion to the annual salaries herein provided for, the chief  
26 probation officer and each assistant probation officer shall  
27 be reimbursed by the county court by reason of his or her  
28 necessary expenses actually incurred in the performance  
29 of official duties. The appointment of the chief probation  
30 officer, assistant probation officers, clerical and secretarial  
31 assistants, when made by the judge, shall be entered by  
32 order of the court, a copy of which order of appointment  
33 shall be transmitted to the clerk of the county court.  
34 Thereupon, the county court shall make provision for pay-  
35 ment and shall pay the salaries of the chief probation of-

36 ficer, the assistant probation officers, clerical and secre-  
37 tarial assistants as shown by the order of appointment.  
38 The annual salary provided for in said order of appoint-  
39 ment shall be paid in equal monthly installments. Expense  
40 and mileage accounts of the chief probation officer and as-  
41 sistant probation officers shall be itemized, verified, pre-  
42 sented to and paid by the county court, if such accounts  
43 are approved by the judge. The county court shall provide  
44 such office space, equipment and supplies for the probation  
45 staff, clerical and secretarial assistants as the judge shall  
46 deem necessary and adequate: *Provided, however, That*  
47 the appointing judge shall first obtain the approval of the  
48 county court of Wood county of the salaries to be paid,  
49 and the expenses, including automobile mileage expense,  
50 the rate to be fixed by said county court, to be incurred  
51 by said probation officer or officers, and said clerical and  
52 secretarial assistants, which approval shall be discretion-  
53 ary with said county court and shall be required before  
54 any appointment made herein becomes effective or salary  
55 or expense, including automobile mileage expense fixed  
56 by said county court, is incurred in connection therewith.

Sec. 12. *Supplies; Finances; Seal; Court Rooms and Of-*  
2 *fices.*—It shall be the duty of the county court of Wood  
3 county to provide all record and other books and station-  
4 ery that may be necessary for said court. Likewise a seal  
5 for said court shall be provided and full faith and credit  
6 shall be given to the records of the court and certificates  
7 of its judge or clerk in like manner and with the same  
8 effect as if the same were records of the circuit court  
9 similarly authenticated. The county court of Wood county  
10 shall likewise furnish such rooms, furniture and equip-  
11 ment for the proper conduct and administration of said  
12 court and shall, through annual levy and appropriations,  
13 make provision for the payment for all such rooms, sup-  
14 plies and equipment. It shall be the duty of the county  
15 court of Wood county to pay the salary of a full time sec-  
16 retary in the office of the judge of said court, to be ap-  
17 pointed by him, whose compensation shall be not less than  
18 one thousand eight hundred dollars nor more than three  
19 thousand dollars annually, to be determined by the judge.

Sec. 13. *Appeals.*—Appeals from, or writs of error or su-  
2 persedeas to, any judgment, decree or order of said court



3 shall be governed by and subject to the provisions of ar-  
4 ticle four, chapter fifty-eight of the official code of West  
5 Virginia, and of all enactments and reenactments thereof  
6 pertaining to the subject of "Appeals from Courts of Rec-  
7 ord of Limited Jurisdiction".

Sec. 14. *Separability; Repeal.*—The provisions of this act  
2 shall be construed as separable and severable and should  
3 any provision or part hereof be held unconstitutional or  
4 for any reason invalid the remaining provisions or parts  
5 shall not be thereby effected.

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. J. Jasper Jr.*  
 \_\_\_\_\_  
 Chairman Senate Committee

*F. F. Beem*  
 \_\_\_\_\_  
 Chairman House Committee  
 Member

Originated in the Senate.

Takes effect *July 1, 1959* \_\_\_\_\_ passage.

*Howard Myers*  
 \_\_\_\_\_  
 Clerk of the Senate

*C. A. Blankenship*  
 \_\_\_\_\_  
 Clerk of the House of Delegates

*Ralph Bean*  
 \_\_\_\_\_  
 President of the Senate

*H. R. Rusk*  
 \_\_\_\_\_  
 Speaker House of Delegates

The within *approved* this the *20th*  
 day of *February*, 1959.

*W. J. Underwood*  
 \_\_\_\_\_  
 Governor