

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961

ENROLLED

SENATE BILL NO. 17

(By Mr.

Carson, Mr. President

PASSED

March 9th,

1961

In Effect

sixty days from

Passage



ENROLLED
Senate Bill No. 17
(By MR. CARSON, MR. PRESIDENT)

[Passed March 9, 1961; in effect ninety days from passage.]

AN ACT to amend and reenact sections one and three, article eight, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to desertion or nonsupport of wife or child.

Be it enacted by the Legislature of West Virginia:

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

Article 8. Desertion or Nonsupport of Wife or Child.

Section 1. *Offense; Penalty.*—Any husband who shall,
2 without just cause, desert or wilfully neglect or refuse to
3 provide for the support and maintenance of his wife, in

4 destitute and necessitous circumstances, or any parent
5 who shall, without lawful excuse, desert or wilfully
6 neglect or refuse to provide for the support and mainte-
7 nance of his or her legitimate or illegitimate child or
8 children, under the age of eighteen years, in destitute and
9 necessitous circumstances, shall be guilty of a misde-
10 meanor, and, upon conviction thereof, shall be fined not
11 exceeding five hundred dollars, or imprisoned in the
12 county jail not exceeding one year, with hard labor, or
13 both, and the court may also direct that the husband or
14 parent work on the public highways of this state or where
15 he may obtain employment, and the court may order such
16 payments to be made to the wife, guardian, custodian or
17 trustee of such minor child or children as he may deem
18 necessary for their maintenance, taking into considera-
19 tion the station in life of such husband or parent and any
20 other circumstances surrounding the case: *Provided,*
21 *however,* That if such husband or parent be regularly
22 employed or obtain regular employment, the court in its
23 discretion may order such husband or parent to remain in
24 such employment, and it shall be the duty of the sheriff to

25 arrange for a continuation of said employment without
26 interruption, and whenever such husband or parent is not
27 employed, and between the hours or periods of employ-
28 ment, he or she shall be confined in jail unless the court
29 shall otherwise direct. The earnings of such husband or
30 parent shall be collected by the sheriff, and from such
31 earnings the sheriff shall pay the board and reasonably
32 necessary personal expenses of such husband or parent,
33 both inside and outside the jail, and, to the extent directed
34 by the court, pay the balance to the wife, guardian, cus-
35 todian or trustee of such minor child or children, as the
36 court may order.

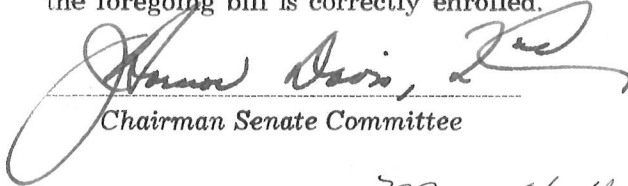
Sec. 3. *Order for Support; Release on Bond; Forfeiture;*

2 *Failure to Furnish Bond.*—The justice of the peace or
3 other court before whom such conviction is had may, in
4 lieu of the penalty herein provided, or in addition thereto,
5 having regard to the circumstances and financial ability
6 or earning capacity of the defendant, require the defend-
7 ant to pay a certain sum periodically to the wife or to the
8 guardian, curator, custodian or trustee of such wife, child
9 or children, which shall be subject to change from time

10 to time as circumstances may require, and may release
11 the defendant upon his or her entering into a bond with
12 good surety in the penalty of not less than five hundred
13 dollars. The condition of the bond shall be to make pay-
14 ments as aforesaid to the wife, guardian, curator, custodian
15 or trustee of such wife, child or children until the further
16 order of the court or until the child or children arrive at
17 the age of eighteen years, and to appear before the court in
18 case default be made in the payment of such sums; and in
19 case the defendant fails to make such payments, the
20 justice or other court may order the re-arrest of the de-
21 fendant, and proceed with the trial under the original
22 charge, or sentence him or her under the original charge,
23 as the case may be, and in the case of forfeiture of the
24 bond herein provided for, and enforcement thereof, the
25 sum recovered may, in the discretion of the court wherein
26 the forfeiture is enforced, be paid in whole or in part to
27 the wife or to the guardian, curator, custodian or trustee
28 of such wife or minor child or children, as the court may
29 order; and in event the accused is unable to furnish bond
30 as set out in this article, then the judge of the circuit court

31 may direct that the defendant work on the public high-
32 ways of this state or where he may obtain employment,
33 and the judge of such court may order such payments to
34 be made to the wife, guardian, custodian or trustee of
35 such minor child or children as he may deem necessary
36 for their maintenance, taking into consideration the sta-
37 tion in life of the defendant ~~and any other~~ circumstances
38 surrounding the case.

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  seventy days from passage.

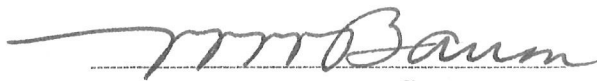

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within approved this the 17th
day of March, 1961.


Governor

