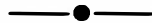


WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1963



ENROLLED

HOUSE BILL No. 123

(By Mr. Myles)



PASSED Feb. 26 1963

In Effect From Passage



Filed in Office of the Secretary of State
of West Virginia 3-6-63

JOE F. BURDETT
SECRETARY OF STATE

123

ENROLLED
House Bill No. 123
(By MR. MYLES)

[Passed February 26, 1963; in effect from passage.]

AN ACT to amend and reenact section twenty-three, article two, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to hearing before court; testimony and depositions as in civil actions; reference to commissioner, and to amend and reenact section twenty-five, article two, of said chapter, relating to notice by plaintiff of demand for trial in domestic relations cases.

Be it enacted by the Legislature of West Virginia:

That sections twenty-three and twenty-five, article two, 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:

Section 23. Hearing Before Court; Testimony and Depo-
2 sitions as in Civil Actions; Reference to Commissioner.—

3 Actions for divorce, annulment and separate maintenance
4 shall mature in the same manner as other actions pro-
5 vided for in the rules of civil procedure of the state of
6 West Virginia, and when ready for hearing under said
7 rules shall be tried before the court, in chambers, and all
8 witnesses shall appear and testify at the hearing the same
9 as witnesses in other civil actions. Such actions may be
10 heard, when matured, at any time irrespective of whether
11 or not there is a term of court in session. The law gov-
12 erning the taking and reading of depositions, as provided,
13 for in the rules of civil procedure, shall apply to deposi-
14 tions in the hearing of a divorce case. The court may,
15 instead of proceeding with the action under this section,
16 refer the same to a commissioner, or a special commis-
17 sioner, of said court as provided for in section twenty-six
18 of this chapter and article.

Sec. 25. Notice by Plaintiff of Demand for Trial.—

2 The plaintiff shall, in every case which is to be heard
3 before the court, at least thirty days before the date on
4 which it is expected the case will be heard by the court,
5 give the divorce commissioner of the county, if one has

6 been appointed under the provisions of section twenty-
7 four of this article, notice in writing that a trial will be
8 demand^{ed} If the plaintiff has not in the complaint stated the
9 residence and postoffice address of the defendant, he shall
10 furnish it to the divorce commissioner at the time of giv-
11 ing such notice; but if the residence and postoffice address
12 of the defendant are unknown to the plaintiff, at the time
13 of giving of notice, an affidavit of this fact, by the plaintiff,
14 delivered to the divorce commissioner with the notice
15 shall be sufficient.

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

Roy Parker
Chairman Senate Committee

Ethel L. Caudell
Chairman House Committee

Originated in the House.

Takes effect From passage.

Howard Myers
Clerk of the Senate

A. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

Julius A. Singleton Sr.
Speaker House of Delegates

The within Approved this the 6th
day of March, 1963.

W. W. Bann
Governor