WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1966

ENROLLED
SENATE BILL NO. 84

(By Mr. Burchett)

PASSED February 9, 1966

In Effect Ninety days from Passage

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 2-15-66
AN ACT to amend and reenact section one, article three, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to time for trial of criminal cases; depositions of witnesses for accused; counsel, copy of indictment, and lists of jurors for accused; and remuneration for appointed counsel.

Be it enacted by the Legislature of West Virginia:

That section one, article three, chapter sixty-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. Time for Trial; Depositions of Witnesses for Accused; Counsel, Copy of Indictment, and Lists of Jurors
for Accused; Remuneration for Appointed Counsel.—

When an indictment is found in a court having jurisdiction, in any county, against a person for a felony, the accused, if in custody, or if he appear in discharge of his recognizance, or voluntarily, shall, unless good cause be shown for a continuance, be tried at the same term. If any witness for the accused be a non-resident of the state, or absent therefrom in any service or employment, so that service of a subpoena cannot be had upon him in this state, or is aged or infirm so that he cannot attend upon the court at the trial, the accused may present to the court in which the case is pending, or to the judge thereof in vacation, an affidavit showing such facts, and stating therein what he expects to prove by any such witness, his name, residence, or place of service or employment; and if such court or judge be of the opinion that the evidence of any such witness, as stated in such affidavit, is necessary and material to the defense of the accused on his trial, an order may be made by such court or judge for the taking of the deposition of any such witness upon such notice to the prosecuting attorney, of
the time and place of taking the same, as the court or
judge may prescribe; and in such order the court or
judge may authorize the employment of counsel, prac-
ticing at or near the place where the deposition is to be
taken, to cross-examine the witness on behalf of the state,
the reasonable expense whereof shall be paid out of the
treasury of the state, upon certificate of the court wherein
the case is pending. Every deposition so taken may, on
motion of the defendant, so far as the evidence therein
contained is competent and proper, be read to the jury
on the trial of the case as evidence therein. A court of
record having criminal jurisdiction may appoint counsel
to assist an accused in criminal cases, except traffic viola-
tions and violations of municipal ordinances, at any time
upon request. A copy of the indictment and of the
list of the jurors selected or summoned for his trial,
as provided in the third section of this article, shall be
furnished him, upon his request, at any time before the
jury is impaneled. In every case where the court appoints
counsel for the accused and the accused presents an
affidavit showing that he cannot pay therefor, the court,
may, in its discretion, by order entered of record allow
an attorney so appointed a fee of not to exceed twenty-
five dollars in any misdemeanor case, and a fee of not
to exceed fifty dollars in any felony case. In misdemeanor
cases, the fee so allowed shall be paid out of the general
county fund, and in felony cases shall be paid by the state
auditor as other fees in felony cases are paid. The amount
so paid, in the event the accused shall not prevail, shall
be and constitute a judgment of said court against the
accused to be recovered as any other judgment for costs.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

O. Roy Parker  
Chairman Senate Committee

James W. Loop  
Chairman House Committee

Originated in the Senate.

Takes effect Thirty days from Passage.

Jeffrey D. Hyte  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

Howard E. Sisson  
President of the Senate

H. Robert White  
Speaker House of Delegates

The within Approved this the 13th

day of February, 1966.

Helen C. Smith  
Governor
PRESENTED TO THE GOVERNOR

Date 2/14/66
Time 10:50 AM

FEB 15 7 55 PM '66
OFFICE OF SECRETARY OF STATE STATE OF WEST VIRGINIA