

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1968

ENROLLED

SENATE BILL NO. 114

(By Mr. Brotherton)

PASSED February 7, 1968

In Effect thirty days from Passage

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 2-16-68

114 #

ENROLLED
Senate Bill No. 114

(By MR. BROTHERTON)

[Passed February 7, 1968; in effect ninety days from passage.]

AN ACT to amend and reenact section thirteen, article five, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the right to counsel in proceedings concerning juveniles, certain mandatory advice with respect thereto, the appointment of such counsel under certain circumstances and the payment by the state to attorneys so appointed of a fixed maximum fee.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. JUVENILE COURTS.

§49-5-13. Same—Right to counsel; mandatory advice with respect thereto; appointment of counsel; payment by state of fee for appointed attorney.

1 In any proceeding under the provisions of this article,
2 the child shall have the right to be represented by counsel,
3 and the child and his parents, his guardian, his custodian,
4 or any other person standing in loco parentis to him,
5 or the person named in the petition, must be informed
6 at the outset of the child's right to be represented by
7 counsel, and if neither the child nor any other of the
8 aforementioned persons can pay for the services of
9 counsel, that counsel will be appointed to represent the
10 child. Upon the presentation to the court or judge thereof
11 of a written request for the appointment of counsel and
12 an affidavit by the child, or by his parents, the guardian
13 of his person, his custodian, or any other person standing
14 in loco parentis to him, or by the person named in the
15 petition, showing that neither the child nor any other
16 of the aforementioned persons can pay for the services
17 of counsel, the court or judge, upon being satisfied as to

18 the truth of the information set forth in the affidavit,
19 shall, by order entered of record, appoint an attorney at
20 law to represent the child in any proceeding under the
21 provisions of this article, and may, in the exercise of
22 discretion, by order entered of record, allow any attorney
23 so appointed a fee in an amount not to exceed fifty dollars.
24 Any such fee shall be paid by the state auditor in the
25 same manner as fees for appointed counsel are paid in
26 felony cases.

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

William Tompkins
Chairman Senate Committee

Clayton L. Davidson
Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

Thomas M. McInerney
Clerk of the Senate

C. W. Blankenship
Clerk of the House of Delegates

Harward Carson
President of the Senate

H. Lahan White
Speaker House of Delegates

The within approved this the 14
day of February, 1968.

Walter C. Smith
Governor



PRESENTED TO THE
GOVERNOR

Date 2/12/68

Time 3:01 P.M.

RECEIVED

FEB 13 1 30 PM '68

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA