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STATE OF WEST VIRGINIA

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1970

## ENROLLED

SENATE BILL NO. 153

(By Mr. Tompson)

PASSED Feb. 12, 1970

In Effect pm Passage



FILED IN THE OFFICE  
JOHN D. ROCKEFELLER, IV  
SECRETARY OF STATE  
THIS DATE 2-18-70

153

**ENROLLED**

**Senate Bill No. 153**

(By MR. TOMPOS)

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[Passed February 12, 1970; in effect from passage.]

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AN ACT to create and establish in the county of Hancock a court of record of limited jurisdiction to be known and designated as "The Common Pleas Court of Hancock County", and defining its jurisdiction, salary and procedures.

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

**HANCOCK COUNTY COMMON PLEAS COURT.**

**§1. Court created and established.**

1     There is hereby created and established in and for the  
2     county of Hancock, with authority and jurisdiction co-  
3     extensive with the county, a court of record of limited  
4     jurisdiction to be known and designated as "The Common  
5     Pleas Court of Hancock County", to be held and presided

6 over by a judge to be appointed or elected as provided by  
7 this act. Wherever and whenever the word "court" is  
8 hereinafter in this act used, it shall be taken to mean and  
9 refer to the common pleas court of Hancock county, un-  
10 less the context clearly indicates otherwise.

**§2. Jurisdiction.**

1 The court shall have jurisdiction within Hancock county,  
2 concurrent with the circuit court of said county of causes,  
3 matters, proceedings and suits relating to: (a) Adoption  
4 proceedings arising out of article four, chapter forty-eight  
5 of the code of West Virginia, one thousand nine hundred  
6 thirty-one, as amended; (b) proceedings for a change of  
7 name arising out of article five, said chapter forty-eight,  
8 as amended; (c) the enforcement of support of dependents  
9 arising out of article nine, said chapter forty-eight, as  
10 amended; (d) all civil actions or proceedings at law, ex-  
11 cept where it shall appear from the pleadings that  
12 the matter in controversy exceeds the value of fifty  
13 thousand dollars; (e) all cases arising under articles  
14 five, six and seven, chapter forty-nine of the code of  
15 West Virginia, one thousand nine hundred thirty-one,

16 as amended; (f) appellate jurisdiction in all cases, civil  
17 and criminal, from judgments of justices of the peace in  
18 said county, police judges or mayors of any incorporated  
19 city, town or village, or of any inferior tribunal therein,  
20 wherein an appeal, writ of error, supersedeas or writ of  
21 certiorari may be allowed; (g) all proceedings under  
22 article one, chapter thirty-seven of the code of West Vir-  
23 ginia, one thousand nine hundred thirty-one, as amended;  
24 (h) any and all other matters arising under the present  
25 and future laws of the state of West Virginia, common or  
26 statutory, incidental to the foregoing, including, but not  
27 limited to, the disposition of property and property inter-  
28 ests involved in any such matters, and, as well, the adjudi-  
29 cation of any and all rights, titles and interests necessary  
30 or incidental to a full determination of all such matters  
31 pending in said court.

32 The court shall have general equity jurisdiction in  
33 causes, matters, proceedings and suits before it within its  
34 jurisdiction with power to grant injunctions and to re-  
35 quire and take recognizances.

36 The proceedings, modes of procedures, power and juris-  
37 diction conferred by law upon the circuit court of Hancock  
38 county in any and all said causes, matters, proceedings  
39 and suits are hereby conferred upon and shall be exer-  
40 cised by the court of common pleas of Hancock county.

41 The judge of said court shall have the same powers in  
42 vacation as to any and all of said causes, matters, proceed-  
43 ings and suits that are conferred upon the judges of the  
44 circuit court of Hancock county.

45 It shall not be necessary in any such causes or proceed-  
46 ings to set forth upon the record the facts authorizing said  
47 court to take jurisdiction thereof, but jurisdiction shall be  
48 presumed unless the contrary plainly appears from the  
49 record.

**§3. Contempt.**

1 Said court shall have the same powers to punish for  
2 contempt as are conferred by law upon said circuit court.

**§4. Judge, qualifications, term and election.**

1 The principal presiding officer of said court shall be a  
2 judge whose qualifications, term and election shall be as  
3 follows: The person elected to the office of judge or ap-

4 pointed to fill a vacancy in such office shall be a member  
5 of the West Virginia state bar and a resident of Hancock  
6 county. Notwithstanding the provisions of section seven,  
7 article five, chapter three of the code of West Virginia,  
8 one thousand nine hundred thirty-one, as amended, per-  
9 sons filing as candidates for nomination for election as a  
10 judge of said court at said general election to be held in  
11 the year one thousand nine hundred seventy may file their  
12 certificates of candidacy not later than the twenty-eighth  
13 day of February, one thousand nine hundred seventy,  
14 which certificates must be received by the clerk of the  
15 circuit court before midnight, eastern standard time, of  
16 that day or, if mailed, shall be postmarked before that  
17 hour. An election for the purpose of electing a judge for  
18 the court of common pleas shall be held on the same date  
19 and in the same manner as now provided by law for elec-  
20 tion of circuit court judges. At the general election to be  
21 held on the Tuesday after the first Monday in November,  
22 one thousand nine hundred seventy, some person qualified  
23 as aforesaid shall be elected as provided by law for the  
24 election of circuit court judges to be judge of said court

25 for the next ensuing term of six years beginning the first  
26 day of January, next following such election. At the gen-  
27 eral election regularly held on the Tuesday after the first  
28 Monday in November, one thousand nine hundred seven-  
29 ty-six, and thereafter at intervals of eight years, some  
30 person qualified as aforesaid shall be elected to be the  
31 judge of said court for the next ensuing term of eight  
32 years, beginning on the first day of January, next follow-  
33 ing such election. The judge of said court may be re-  
34 moved from office for the same reasons and in the same  
35 manner as judges of the circuit court and shall be, except  
36 as to his term of office and jurisdiction, subject to the laws  
37 in force governing circuit judges. If from any cause the  
38 office shall become vacant, the vacancy shall be filled in  
39 the same manner as in the case of a vacancy in the office  
40 of the judge of a circuit court. Any judge so appointed  
41 shall continue in such office until his successor is elected  
42 and qualified. Such judge, during his tenure in office,  
43 shall not engage in the practice of law.

**§5. Salary.**

1 The judge of said court shall, for his services receive  
2 the sum of twenty thousand dollars per annum, to be

3 paid in monthly installments out of the treasury of Han-  
4 cock county. The county court shall annually make pro-  
5 vision by appropriate levy and appropriation for the pay-  
6 ment of said salary.

**§6. Clerk; powers, duties and compensation.**

1 The clerk of the circuit court of Hancock county shall,  
2 ex officio, be, act as and perform the duties of the clerk  
3 of the said court and shall exercise the same power and  
4 duties arising within the jurisdiction of said court as are  
5 performed by him as clerk of the circuit court. All pro-  
6 cesses, rules and orders of the court, in the exercise of its  
7 jurisdiction, shall be signed by the clerk thereof to be  
8 directed to the sheriffs of the proper counties wherein the  
9 same are to be executed in like manner and with the  
10 same effect as processes issuing from the circuit court of  
11 Hancock county. For his services under and pursuant to  
12 this act, the clerk shall receive no compensation in addi-  
13 tion to his annual salary as provided by law.

**§7. Sheriff; powers and duties.**

1 The sheriff of Hancock county and the sheriffs of the  
2 several counties in the state shall, by themselves or their



3 deputies, execute all processes of said court, issued by the  
4 clerk thereof, directed to them respectively, and all  
5 processes emanating from said court shall be directed to  
6 and be executed by them in the same manner as is pro-  
7 vided by law as to processes issuing from the circuit court  
8 of said county. The sheriff of Hancock county shall per-  
9 form the same duties and services for said court as he is  
10 now by law required to perform for the circuit court of  
11 Hancock county. In the execution of processes, rules and  
12 orders of the court, the sheriff shall have the same powers  
13 and rights, be subject to the same liabilities, govern him-  
14 self by the same rules and principles of law and the  
15 statutes of the state, as though said processes issued from  
16 the circuit court of Hancock county.

**§8. Prosecuting attorney; powers and duties.**

1 The prosecuting attorney of Hancock county shall at-  
2 tend the terms of said court, either by himself or an  
3 assistant, and shall perform the duties of his office as  
4 required by law.

**§9. Juvenile officer; powers and duties.**

1 The probation officer appointed by the circuit judges of  
2 Hancock county shall attend said court and shall perform

3 the duties of juvenile officer of said court as required  
4 by law.

**§10. Transfer of pending cases; certification of matters to  
other court.**

1 The judges of the circuit court of said county may, in  
2 their discretion, certify to said court on and after the first  
3 day of January, one thousand nine hundred seventy-one,  
4 any portion or all of the causes, matters, proceedings and  
5 suits within the herein defined jurisdiction of said court  
6 pending in said circuit court on the first day of January,  
7 one thousand nine hundred seventy-one, or thereafter in-  
8 stituted therein, and all causes, matters, proceedings and  
9 suits so certified to said court shall be docketed and there-  
10 after proceeded with therein according to law. The judges  
11 of said circuit court, in their discretion, may also direct  
12 the clerk of said circuit court to certify to and docket in  
13 said court all such causes, matters, proceedings and suits  
14 properly within the jurisdiction of said court as may be  
15 instituted on and after the first day of January, one thous-  
16 and nine hundred seventy-one, in said circuit court. In  
17 the event of the absence or disqualification of the judges

18 of said circuit court or the judge of said common pleas  
19 court, any matter coming within the purview of this act  
20 pending in either court may be certified to the other court,  
21 docketed therein and proceeded with according to law.

**§11. Terms of court; maturity of causes; procedure.**

1 For the purpose of maturing, docketing, hearing and  
2 determining all causes, matters, proceedings and suits  
3 properly determinable in said court there shall be regular-  
4 ly continued and held three terms of court each year, be-  
5 ginning on the second Monday in March, July and Novem-  
6 ber. Special and adjourned terms of said court may be  
7 called and held whenever, in the discretion of the judge  
8 of said court, public interest requires such special or ad-  
9 journed terms. The judge of said court shall have like  
10 jurisdiction and authority in vacation of said court to  
11 make and enter such proper orders in any cause, matter,  
12 proceeding or suit pending in said court as the judges of  
13 the circuit court have under the laws of the state.

14 The mode of procedure in causes instituted in said court  
15 shall be the same as that prescribed for the circuit court  
16 in similar causes. The court is authorized and empowered

17 to appoint such additional officers, commissioners, special  
18 commissioners, jury commissioners, and such clerical and  
19 secretarial assistants as shall enable said court to dis-  
20 charge all the duties required of it under the provision  
21 of this act and the general laws of the state. Such ap-  
22 pointments shall be made by the judge and the appointees  
23 shall serve during the pleasure of the judge.

24 The judge of said court shall have power to make and  
25 promulgate such rules for the transaction of the business  
26 of the court as may be necessary, but all such rules shall  
27 be in conformity with the laws of the state of West Vir-  
28 ginia and with the rules promulgated by the supreme  
29 court of appeals of this state, and such rules shall be  
30 filed in the office of the clerk of said supreme court of  
31 appeals.

**§12. Supplies, finances, seal, courtrooms and offices.**

1 It shall be the duty of the county court of Hancock  
2 county to provide all record and other books and sta-  
3 tionery, postage and supplies that may be necessary for  
4 said court. Likewise a seal for said court shall be pro-  
5 vided and full faith and credit shall be given to the

6 records of the court and certificates of its judge or clerk  
7 in like manner and with the same effect as if the same  
8 were records of the circuit court similarly authenticated.  
9 The county court of Hancock county shall likewise  
10 furnish rooms, furniture and equipment for the prop-  
11 er conduct and administration of said court and shall,  
12 through annual levy and appropriations, make pro-  
13 vision for the payment for all such rooms, supplies  
14 and equipment. It shall be the duty of the county court  
15 of Hancock county to pay the salary of a full-time sec-  
16 retary in the office of the judge of said court, to be  
17 appointed by him, whose compensation shall be not  
18 less than three thousand six hundred dollars nor more  
19 than four thousand eight hundred dollars annually, to  
20 be determined by the judge.

**§13. Appeals.**

1 Appeals from, or writs of error or supersedeas to,  
2 any judgment, decree or order of said court shall be  
3 governed by and subject to the provisions of article four,  
4 chapter fifty-eight of the code of West Virginia, one thous-  
5 and nine hundred thirty-one, as amended, pertaining to

6 the subject of "Appeals from Courts of Record of Limited  
7 Judisdiction."

**§14. Separability; repeal.**

1 The provisions of this act shall be construed as sep-  
2 arable and severable and should any provision or part  
3 hereof be held unconstitutional or for any reason in-  
4 valid, the remaining provisions or parts shall not be  
5 thereby affected.

6 All acts or parts of acts in conflict herewith are here-  
7 by repealed.

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

William Tompkins  
Chairman Senate Committee

Clayton C. Davidson  
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Thomas M. Keegan  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

Lucy B. Jackson  
President of the Senate

Sam F. Bucisky  
Speaker House of Delegates

The within approved this the 17th  
day of February, 1970.

Arch A. Moore, Jr.  
Governor



PRESENTED TO THE  
GOVERNOR

Date 2/12/70

Time 2:15 p.m.