

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1973



ENROLLED

HOUSE BILL No. 730

(By Mr. Fields)



PASSED April 10, 1973

In Effect Ninety days from Passage



C 641

730

FILED IN THE OFFICE  
EDGAR F. HEISKELL III  
SECRETARY OF STATE  
THIS DATE 5-1-73

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 730**  
(By MR. FIELD)

[Originating in the House Committee on the Judiciary]

[Passed April 10, 1973; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article four, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to courts and their officers; clerks of courts; providing for destruction of certain papers in the custody of the clerks of circuit courts.

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

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

**ARTICLE 4. GENERAL PROVISIONS RELATING TO CLERKS OF COURTS.**

**§51-4-3. Preservation and destruction of papers; microphotography.**

1 All papers lawfully returned to or filed in the clerk's office  
2 shall be preserved therein, subject to the conditions set out  
3 herein, until legally delivered out.

4 Notwithstanding any other provision of this code to the  
5 contrary, the clerk may destroy all documents, records, instru-  
6 ments, books, papers, depositions and transcripts in any action  
7 or proceeding in the circuit court or other court of record, or

8 otherwise filed in his office pursuant to law, provided that:

9 (a) Ten years have elapsed since the filing of any paper  
10 in such action or proceeding, and that the said action or pro-  
11 ceeding is not pending, subject to modification or on appeal  
12 in any court, except that depositions, and, when the written  
13 consent of the prosecuting attorney is first obtained, transcripts  
14 of preliminary hearings in criminal matters may be destroyed  
15 when five years have elapsed since their filing in the office  
16 of the clerk and the action or proceeding in which they were  
17 filed is not pending or on appeal in any court;

18 (b) The clerk maintains for the use of the public a micro-  
19 photographic film print or copy of each document, record,  
20 instrument, book, paper, deposition or transcript so destroyed,  
21 together with an index and a mechanical device by which  
22 such film may be conveniently examined; and

23 (c) The clerk promptly seals and stores at least one original  
24 negative of each microphotographic film in such manner and  
25 place as will reasonably assure its preservation indefinitely  
26 against loss, theft, defacement, fire or other destruction.

27 A photographic reproduction of any of the records described  
28 in this section, the negative or film of which has been certified  
29 by the clerk in charge of such reproduction as being an exact  
30 replica of the original, shall be received in evidence in all courts,  
31 and in hearings before any officer, board or commission having  
32 jurisdiction or authority to conduct such hearings, in like  
33 manner as the original.

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

H. Darrel Darby  
Chairman Senate Committee

Clarence C. Blunt  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard W. Carson  
Clerk of the Senate

W. A. Blankenship  
Clerk of the House of Delegates

H. B. Baker Jr.  
President of the Senate

Lewis D. McManus  
Speaker House of Delegates

The within approved this the 16th  
day of April, 1973.

Arba Shaver Jr.  
Governor

PRESENTED TO THE  
GOVERNOR

Date 4/16/73

Time 9:11 a.m.