

1047

**Advance Copy**

**COURT OF COMMON PLEAS  
OF WOOD COUNTY**

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**An Act of the Legislature of West Virginia  
Regular Session, 1974**

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**(Com. Sub. for H. B. 1047—By Mr. Butcher and Mr. Haynes)**

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[Passed February 25, 1974; in effect from passage;  
disapproved by the Governor and repassed by both houses  
notwithstanding the objections of the Governor.]

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AN ACT establishing in the county of Wood, a court of limited jurisdiction to be known and designated as the "Court of Common Pleas of Wood County," and defining its jurisdiction.

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

- §1. Creation of court of common pleas of Wood County.
- §2. Jurisdiction.
- §3. Powers conferred upon court.
- §4. Qualifications of judge.
- §5. Election of judge.
- §6. Jurisdiction presumed.
- §7. Punishment for contempt.
- §8. Grand jury for each term.
- §9. Duties of county court.
- §10. Clerk; powers, duties and compensation.
- §11. Salary of judge; payment.
- §12. Terms of court.
- §13. Seat of court.
- §14. Sheriff to execute process.
- §15. Certification to circuit court; special judge.
- §16. Transfer of cases.
- §17. Indictments found pending in circuit court may be certified to common pleas court.

- §18. Cases where appeals allowed to common please court concurrent with circuit court.
- §19. Appeals.
- §20. Prosecuting attorney or his assistant to attend terms of court; what duties to perform.
- §21. Certain sections of article eight, chapter seven made applicable.
- §22. Court reporter appointed; compensation.
- §23. Contest of office of judge.
- §24. Vacancy; how filled.
- §25. Removal proceedings.
- §26. Taxing of costs.
- §27. Writs of habeas corpus.
- §28. West Virginia reports and acts.
- §29. Liens, executions and remedies.
- §30. Issuance of attachments.
- §31. Severability.

## **§1. Creation of court of common pleas of Wood County.**

- 1 That a court of limited jurisdiction is hereby established
- 2 within and for the county of Wood, to be held and presided
- 3 over as of January one, one thousand nine hundred seventy-
- 4 five, by a judge to be selected as hereinafter provided, which
- 5 court shall be named and designated as the "Court of Com-
- 6 mon Pleas of Wood County."

## **§2. Jurisdiction.**

- 1 That said court shall have original jurisdiction within said
- 2 county of all crimes, felonies, misdemeanors, criminal pro-
- 3 ceedings, and all matters in anywise relating thereto, and all
- 4 civil actions, civil matters and proceedings in anywise relating
- 5 thereto.

- 6 Such jurisdiction of said common pleas court shall be gen-
- 7 eral, common and concurrent with the jurisdiction of the cir-
- 8 cuit court of such county in all and every respect as the same
- 9 is constituted and set forth in section twelve, article eight of
- 10 the constitution of West Virginia, and by the laws and statutes
- 11 of the state of West Virginia, except where the matters in con-
- 12 troversy in civil suits or proceedings shall exceed the sum of
- 13 five hundred thousand dollars, including appellate jurisdiction
- 14 in all matters of probate arising in the county court wherein an
- 15 appeal or writ of error may be allowed, which appellate juris-
- 16 diction shall be concurrent with that of the circuit court.

**§3. Powers conferred upon court.**

1 The proceedings, modes of procedure, powers and juris-  
2 diction conferred by law upon the circuit courts in any and  
3 all said actions, causes, matters and proceedings are hereby  
4 conferred upon and shall be exercised by the said court of  
5 common pleas of Wood County, and the judge of said court  
6 shall have the same powers in vacation as are now or may  
7 hereafter be conferred upon the judge of the circuit court of  
8 the fourth judicial circuit in respect to all cases, matters and  
9 proceedings within the jurisdiction of said court of common  
10 pleas of Wood County.

**§4. Qualifications of judge.**

1 The judge of said court shall be a resident of Wood County  
2 and shall be a member of the West Virginia state bar.

**§5. Election of judge.**

1 Candidates for the office of judge of the said court shall be  
2 nominated at the primary election on the second Tuesday in  
3 May in the year one thousand nine hundred seventy-four in  
4 accordance with the provisions of chapter three, article five of  
5 the official code of West Virginia, as amended. Candidates  
6 for nomination to said office shall file a certificate of candidacy  
7 no later than the first Saturday in April, said certificate shall  
8 be in the form required by section seven, article five, chapter  
9 three, of said code. There shall, at the general election in  
10 this state to be held on Tuesday after the first Monday in  
11 November, one thousand nine hundred seventy-four, be elected  
12 by the legal voters of said county, a judge of the court of  
13 common pleas of Wood County, for the term of two years,  
14 from the first day of January succeeding said election. There  
15 shall, at the general election in this state to be held on Tuesday  
16 after the first Monday in November, one thousand nine hundred  
17 seventy-six and every eight years, thereafter, be elected by said  
18 voters, a judge of said court for the term of eight years from the  
19 first day of January succeeding said election.

**§6. Jurisdiction presumed.**

1 It shall not be necessary in any case or proceeding in said  
2 court of common pleas that the facts authorizing it to take

3 jurisdiction or proceeding shall be set forth upon the record,  
4 but the jurisdiction shall be presumed unless the contrary  
5 plainly appears from the record.

**§7. Punishment for contempt.**

1 The said court of common pleas shall have the same powers  
2 to punish for contempt as are conferred upon the circuit  
3 court by law.

**§8. Grand jury for each term.**

1 The said court of common pleas shall impanel at least one  
2 grand jury at each term thereof, and said court, or the judge  
3 thereof may, in his discretion, order a grand jury to be drawn  
4 or summoned to attend at any special or adjourned term of  
5 said court. Such grand jury may consider any offense against  
6 the laws committed within said county of Wood, and all the  
7 provisions of chapter fifty-two of the code of West Virginia, in  
8 regard to grand juries in the circuit court, shall apply, so far  
9 as applicable, to the grand juries in said court of common  
10 pleas. The grand and petit juries serving in said court shall be  
11 chosen and impaneled in the same manner as they are chosen  
12 and impaneled by law in the circuit court, and shall receive  
13 the same compensation as said jurors in the circuit court.

**§9. Duties of county court.**

1 The county court of Wood County, shall provide all record  
2 books and other books and stationery that may be necessary,  
3 and likewise a seal, for said court of common pleas together  
4 with appropriate offices, courtroom, court stenographer and  
5 secretarial assistance. Full faith and credit shall be given to  
6 the records of said court and to the certificate of its judge or  
7 clerk, whether the seal of the court be affixed thereto or not, in  
8 like manner and with like effect as if the same were records  
9 of the circuit court or certificates of the judge or clerk of the  
10 circuit court similarly authenticated.

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

1 The clerk of the circuit court of Wood County shall, ex  
2 officio, be, act as and perform the duties of the clerk of the  
3 said court and shall exercise the same power and duties aris-  
4 ing within the jurisdiction of said court as are performed by

5 him as clerk of the circuit court. All processes, rules and  
6 orders of the court, in the exercise of its jurisdiction, shall be  
7 signed by the clerk thereof to be directed to the sheriffs of the  
8 proper counties wherein the same are to be executed in like  
9 manner and with the same effect as processes issuing from the  
10 circuit court of Wood County. For his services under and pur-  
11 suant to this act, the clerk shall receive no compensation in  
12 addition to his annual salary as provided by general statute.

**§11. Salary of judge; payment.**

1 The judge of said court shall, for his services receive the  
2 sum of twenty-six thousand dollars per annum, to be paid in  
3 monthly installments out of the treasury of Wood County. The  
4 county court shall annually make provisions by appropriate  
5 levy and appropriation for the payment of said salary.

**§12. Terms of court.**

1 There shall be four terms of said court held in each year  
2 commencing on the fourth Monday in February, third Monday  
3 in May, fourth Monday in August and the third Monday in  
4 November. Adjourned and special terms of said court may be  
5 called and held as provided for special and adjourned terms  
6 of the circuit court.

**§13. Seat of court.**

1 The said terms of said court shall be held in Parkersburg  
2 in said county of Wood at the courthouse thereof, or at such  
3 other place as may be provided by the county court, pursuant  
4 to chapter seven, article three, section two of the official code  
5 of West Virginia, as amended.

**§14. Sheriff to execute process.**

1 The sheriff of Wood County and the sheriffs of the several  
2 counties of the state shall be themselves or their deputies  
3 execute all process of said court, or issue by the clerk there-  
4 of, directed to them, respectively, and all process emanating  
5 from said court, or issued by the clerk thereof, shall be direct-  
6 ed to and executed by them in the same manner as is provided  
7 by law as to process issuing from the circuit court or its clerk;  
8 and the sheriff of Wood County shall perform the same duties  
9 and services for the court of common pleas of Wood County

10 as he now by law is required to perform for the circuit court  
11 of said county; and in the execution of the process, rules and  
12 orders of said court the said officers shall have the same power  
13 and rights, be subject to the liabilities, govern themselves by  
14 the same rules and principles of law and the statutes of the  
15 state, and be entitled to the same fees as though the process  
16 issued from the circuit court of said county.

**§15. Certification to circuit court; special judge.**

1 If the judge of said court in his judgment cannot properly  
2 preside at the hearing of any cause pending therein, said cause  
3 may be, in his discretion, certified to, and the original papers,  
4 together with a copy of the orders of the court, filed in the  
5 circuit court of said county, and the cause shall be docketed  
6 therein and proceeded with as though the cause had originally  
7 been brought and proceedings therein had in the circuit court.  
8 When for any cause the judge of said court of common pleas  
9 is incapable of acting, or is absent, a special judge may be  
10 elected in the same manner as a special judge of the circuit  
11 court, and be governed in all respects so far as applicable by  
12 the laws governing special judges of the circuit court, and he  
13 shall be allowed the same per diem as a special judge of the  
14 circuit court to be paid out of the county treasury.

**§16. Transfer of cases.**

1 And to the end that justice may be administered without  
2 delay and to expedite the dispatch of the business of the cir-  
3 cuit court and the court of common pleas of Wood County,  
4 the circuit court may by order entered of record certify down  
5 for trial by the court of common pleas, any suit or proceeding  
6 at law or in equity now, or which may hereafter be, upon the  
7 docket of said circuit court, and within the jurisdiction of said  
8 court of common pleas, and such cause shall thereupon be  
9 docketed, proceeded with, heard and determined the same in  
10 all respects as though originally brought, matured and docket-  
11 ed in said court of common pleas; and the court of common  
12 pleas may, likewise, by and with the consent of the circuit  
13 court, certify for trial by the circuit court, any cause upon its  
14 docket, the same to be proceeded with in the circuit court in  
15 like manner.

**§17. Indictments found or pending in circuit court may be certified to common pleas court.**

1 The circuit court of said county may in its discretion certify  
2 to said common pleas court for trial all indictments and prose-  
3 cutions for felonies, misdemeanors and offenses now pending  
4 in said circuit court or that may hereafter be found by the  
5 grand juries impaneled in said circuit court; and the said cir-  
6 cuit court may in its discretion take proper recognizances from  
7 the defendant in bailable cases, and also from witnesses for  
8 the state, for their appearance before the said court of com-  
9 mon pleas.

**§18. Cases where appeals allowed to common pleas court concurrent with circuit court.**

1 Every person sentenced to imprisonment by the judgment of  
2 a justice, or the judgment of the mayor of any incorporated  
3 city, town or village, in said county, or to the payment of a  
4 fine of ten dollars or more, shall be allowed an appeal, as pro-  
5 vided in section ten, article eighteen, chapter fifty of the code  
6 of West Virginia, to the common pleas court of said county,  
7 concurrent with the circuit court of said county, and all the  
8 provisions of said section shall apply to said appeal and  
9 govern the proceedings thereon, and the same shall be pro-  
10 ceeded in, heard and determined, and with like effect, as is  
11 provided in said section ten, article eighteen, chapter fifty of  
12 the code.

**§19. Appeals.**

1 Appeals from, or writs of error or supersedeas to, any judg-  
2 ment, decree or order of said court shall be governed by and  
3 subject to the provisions of article four, chapter fifty-eight of  
4 the official code of West Virginia, and of all enactments and  
5 reenactments thereof pertaining to the subject of "Appeals  
6 from Courts of Record of Limited Jurisdiction."

**§20. Prosecuting attorney or his assistant to attend terms of court; what duties to perform.**

1 The prosecuting attorney of Wood County shall attend the  
2 terms of said common pleas court either by himself or his  
3 assistant, and shall perform the duties of his office as required

- 4 by section one, article four, chapter seven of the code, and for  
5 the compensation therein stated and provided.

**§21. Certain sections of article eight, chapter seven made applicable.**

- 1 Sections three and four, article eight, chapter seven of the  
2 code of West Virginia shall apply to the court of common pleas  
3 of Wood County and the judge thereof in the same manner  
4 and to the same extent as they do to the circuit court of Wood  
5 County and the judge thereof.

**§22. Court reporter appointed; compensation.**

- 1 The judge of said common pleas court shall appoint a court  
2 reporter for said court, who shall attend the terms of said  
3 common pleas court and take the evidence and transcribe the  
4 same when required so to do. For his services he shall receive  
5 compensation as provided by law.

**§23. Contest of office of judge.**

- 1 If the office of judge of said court be contested, the con-  
2 test shall be heard and determined in the same manner as the  
3 election of judges of the circuit court are determined.

**§24. Vacancy; how filled.**

- 1 If from any cause the office of judge of said court shall  
2 become vacant, the vacancy shall be filled in the same man-  
3 ner as in the case of a vacancy in the office of judge of the  
4 circuit court.

**§25. Removal proceedings.**

- 1 The judge of said court may be removed from office for the  
2 same reasons and in the same manner as judges of the circuit  
3 courts.

**§26. Taxing of costs.**

- 1 In the taxation of costs in said court the clerk and court  
2 shall be governed by the same rules and provisions of law as  
3 are provided in the circuit court.

**§27. Writs of habeas corpus.**

1 The court of common pleas of Wood County and the judge  
 2 thereof in vacation shall, concurrent with the supreme court  
 3 of appeals, the circuit court of said county, or any judge of  
 4 either of said courts in vacation, grant the writ of habeas  
 5 corpus ad subjiciendum, as provided in the code of West  
 6 Virginia.

**§28. West Virginia reports and acts.**

1 The West Virginia reports and bound acts of the Legislature  
 2 are to be delivered to the said judge of the said court in the  
 3 same manner as they are required to be delivered to the circuit  
 4 courts of the state.

**§29. Liens, executions and remedies.**

1 Upon every judgment of said court the judgment creditors  
 2 shall be entitled to all liens, executions and remedies to secure  
 3 or recover the same to which they would be entitled if the  
 4 same were a judgment of the circuit court; judgments rendered  
 5 in said court of common pleas may be docketed in the judg-  
 6 ment lien docket kept in the county clerk's office of any  
 7 county in like manner and with like effect as other judgments,  
 8 and executions on said judgments may likewise be docketed  
 9 the same as executions from the circuit court.

**§30. Issuance of attachments.**

1 Attachments may be issued by the clerk of said court of  
 2 common pleas under the same regulations and in the same  
 3 cases as attachments are now issued by the clerks of the cir-  
 4 cuit courts, whenever applicable, and be served in the same  
 5 manner and with like effect.

**§31. Severability.**

1 The provisions of this act shall be construed as separable  
 2 and severable and should any provision or part hereof be held  
 3 unconstitutional or for any reason invalid the remaining pro-  
 4 visions or parts shall not be thereby affected.