

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974

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ENROLLED

HOUSE BILL No. 1152

(By Mr. Speaker, Mr. McManus)

— ● —

PASSED March 9 1974

In Effect from Passage

 C 641

RECEIVED
RECORDS SECTION
SECRETARY OF STATE
THIS DATE 3-22-74

1152

ENROLLED

H. B. 1152

(By MR. SPEAKER, MR. MCMANUS)

[Passed March 9, 1974; in effect from passage.]

AN ACT to amend and reenact sections three, five, eight and nine, chapter twenty-nine, acts of the Legislature, regular session, one thousand nine hundred seven, as last amended by chapter thirty-eight, acts of the Legislature, regular session, one thousand nine hundred seventy-two, relating to the intermediate court of Raleigh County, providing that such court shall have jurisdiction in criminal matters, increasing the salary of the judge thereof, changing terms of the court and authorizing grand juries and petit juries for criminal matters.

Be it enacted by the Legislature of West Virginia:

That sections three, five, eight and nine, chapter twenty-nine, acts of the Legislature, regular session, one thousand nine hundred seven, as last amended and reenacted by chapter thirty-eight, acts of the Legislature, regular session, one thousand nine hundred seventy-two, be amended and reenacted to read as follows:

INTERMEDIATE COURT OF RALEIGH COUNTY.

§3. Jurisdiction.

1 The court shall have jurisdiction within Raleigh County,
2 concurrent with the circuit court of said county, of actions,
3 causes, matters, proceedings and suits relating to (a) those
4 matters within the purview of article one, chapter forty-eight
5 of the code of West Virginia and of all amendments and
6 reenactments thereof, of which the circuit court now has

7 exclusive jurisdiction, including the issuance of a marriage
8 license in an emergency or under extraordinary circumstances
9 as now provided in section six-c of said article and chapter;
10 (b) affirmation of marriages, annulment of marriages, separate
11 maintenance, divorce, alimony, the care, custody, maintenance
12 and education of children of litigants and the adjudication
13 of property rights arising out of same and all other causes
14 and matters arising within the provisions of article two,
15 chapter forty-eight of the code of West Virginia, commonly
16 known as "the divorce law," and of all amendments and
17 reenactments thereof; (c) adoption proceedings arising out of
18 article four of the chapter last aforesaid and of all amendments
19 and reenactments thereof; (d) proceedings for a change of
20 name arising out of article five of the chapter last aforesaid
21 and of all amendments and reenactments thereof; (e) the
22 enforcement of support of dependents arising out of article
23 nine of the chapter last aforesaid and of all amendments and
24 reenactments thereof; (f) the care and disposition of delin-
25 quent, defective, neglected and dependent children and juve-
26 nile offenders arising out of articles five, six and seven,
27 chapter forty-nine of the code of West Virginia and of all
28 amendments and reenactments thereof; (g) all proceedings
29 arising out of article eight, chapter forty-nine of the code
30 of West Virginia, known as the "Interstate Compact on
31 Juveniles," and of all amendments and reenactments thereof;
32 (h) compulsory school attendance and truancy arising out
33 of article eight, chapter eighteen of the code of West Virginia
34 and of all amendments and reenactments thereof; (i) habeas
35 corpus proceedings involving the award and custody of
36 children under the age of eighteen years; (j) the collec-
37 tion of recognizances and bonds taken by said court, or of
38 bonds taken by the clerk thereof in vacation, to secure the
39 payment of judgments for fines and costs rendered by said
40 court; (k) the approval of compromise by fiduciaries of
41 liabilities where acting as guardian for an infant in accordance
42 with the provisions of section seven, article five, chapter
43 forty-four of the code of West Virginia and of all amend-
44 ments and reenactments thereof; (l) concerning the transfer
45 of securities the property of an infant in the name of a
46 fiduciary in accordance with the provisions of section eight,
47 article five, chapter forty-four of the code of West Virginia

48 and of all amendments and reenactments thereof; (m) di-
49 rection to fiduciaries concerning moneys belonging to a
50 minor in accordance with the provisions of section one,
51 article six, chapter forty-four of the code of West Virginia
52 and of all amendments and reenactments thereof; (n) author-
53 ity for investment by a fiduciary when the beneficiary of
54 trust funds is the property of a minor in accordance with
55 the provisions of section three, article six, chapter forty-four
56 of the code of West Virginia and of all amendments and
57 reenactments thereof, and authority for investments or dis-
58 bursement by a guardian or committee for a person receiving
59 veteran's benefits, in accordance with the provisions of article
60 fifteen, chapter forty-four of the code of West Virginia and
61 of all amendments and reenactments thereof; (o) instruction
62 of fiduciaries where minor is beneficiary of an estate or trust
63 as provided in section four, article six, chapter forty-four of
64 the code of West Virginia and of all amendments and re-
65 enactments thereof; (p) authorization of disbursements by
66 guardians from income and corpus of the estate of infant
67 wards as provided in section eight, article ten, chapter forty-
68 four of the code of West Virginia and of all amendments and
69 reenactments thereof; (q) sale of personal estate by guardian
70 in accordance with the provisions of section nine, article
71 ten, chapter forty-four of the code of West Virginia and
72 of all amendments and reenactments thereof; (r) proceedings
73 between guardians and wards in accordance with the provisions
74 of section thirteen, article ten, chapter forty-four of the code
75 of West Virginia and of all amendments and reenactments
76 thereof; (s) the approval of compromising an infant's claim
77 for damages in accordance with the provisions of section
78 fourteen, article ten, chapter forty-four of the code of West
79 Virginia and of all amendments and reenactments thereof;
80 (t) the transfer of property of nonresident infant or nonresident
81 insane person to foreign guardian in accordance with the
82 provisions of section three, article eleven, chapter forty-four
83 of the code of West Virginia and of all amendments and
84 reenactments thereof; (u) the transfer of proceeds of sale
85 belonging to nonresident infant to foreign guardian in ac-
86 cordance with section four, article eleven, chapter forty-four
87 of the code of West Virginia and of all amendments and re-
88 enactments thereof; (v) the approval of the sale, lease,

89 mortgage or deeding in trust of infants' lands or insane
90 persons' lands in accordance with the provisions of article
91 one, chapter thirty-seven of the code of West Virginia and
92 of all amendments and reenactments thereof; (w) release of
93 dower of an infant in accordance with the provisions of
94 section nine, article one, chapter thirty-seven of the code of
95 West Virginia and of all amendments and reenactments
96 thereof; (x) all matters coming within the purview of section
97 one, article one, chapter forty-eight of the code of West
98 Virginia, relating to the age of consent and of all amendments
99 and reenactments thereof; (y) all felonies, misdemeanors and
100 offenses committed within said county, and jurisdiction as to
101 the supervision and control of such proceedings before justices
102 of said county, or the mayor or police judge or police court of
103 any incorporated city, town or village of said county, by ap-
104 peal, mandamus, prohibition and certiorari.

105 Said court shall have jurisdiction in actions, causes, matters,
106 proceedings and suits which would have been matters in
107 equity prior to the adoption of the West Virginia rules of civil
108 procedure, which are before it within its jurisdiction with power
109 to grant injunctions and to require and take recognizances.

110 The proceedings, modes of procedures, power and jurisdic-
111 tion conferred by law upon the circuit court of Raleigh county
112 in any and all said actions, causes, matters, proceedings and
113 suits, are hereby conferred upon and shall be exercised by said
114 court.

115 It shall not be necessary in any such actions, causes, matters,
116 proceedings or suits to set forth upon the record the facts
117 authorizing said court to take jurisdiction thereof, but jurisdic-
118 tion shall be presumed unless the contrary plainly appears
119 from the record.

§5. Salary.

1 The judge of the intermediate court of Raleigh County shall,
2 from and after the first day of January, one thousand nine
3 hundred seventy-five, receive for his services a salary in the
4 amount of twenty-four thousand dollars per annum, to be paid
5 in monthly installments out of the county treasury of Raleigh
6 County, out of the funds of said treasury, in the manner pro-

7 vided by statute. The salary of said judge shall continue as
8 provided in chapter thirty-eight, acts of the Legislature, regular
9 session, one thousand, nine hundred seventy-two, until the
10 first day of January, one thousand nine hundred seventy-five.
11 The county court of Raleigh County shall annually make
12 provisions by appropriate levy and appropriation for the
13 payment of said salary.

§8. Transfer of pending causes.

1 The judge of the circuit court of Raleigh County may,
2 in his discretion, after the effective date of this act or by
3 the first day of July, one thousand nine hundred seventy-four,
4 certify to the intermediate court of Raleigh County all
5 criminal matters yet to be tried or otherwise to be disposed
6 of and any and all other matters pending in said court
7 and properly coming within the jurisdiction of this court as
8 defined in section three hereof, and all such matters, suits,
9 actions, petitions and proceedings so certified to the inter-
10 mediate court of Raleigh County shall be docketed and there-
11 after proceeded with therein according to law. The judge of
12 the said circuit court, in his discretion, may also direct the
13 clerk of his court to certify to and to docket all such matters,
14 suits, actions, petitions, and proceedings properly within
15 the jurisdiction of the intermediate court of Raleigh County
16 as may be instituted on and after the effective date of this act
17 or not later than the first day of July, one thousand nine
18 hundred seventy-four, in the circuit court in the intermediate
19 court of Raleigh County. In the event of the absence or
20 disqualification of the judge of the circuit court, any matter
21 coming within the purview of this act, pending in said court,
22 may be certified by the judge of the intermediate court of
23 Raleigh County, docketed therein and proceeded within ac-
24 cording to law. In any civil action or proceeding where a
25 party is entitled to a jury trial, and demands the same, or
26 the court orders a jury trial, the said action or proceeding
27 shall be transferred by the judge of the intermediate court
28 of Raleigh County in its entirety to the circuit court for
29 disposition as though the same had been originally instituted
30 in the circuit court. For the purpose of effecting such
31 transfer, the intermediate court of Raleigh County shall have
32 jurisdiction in all matters brought before it.

§9. Terms of court; maturity of causes; procedure; appointment of probation staff, clerical, and secretarial assistants and fixing salaries.

1 For the purpose of maturing, docketing, hearing and deter-
2 mining all matters, suits, petitions and other proceedings
3 properly determinable in the intermediate court of Raleigh
4 County there shall be regularly continued and held three
5 jury terms of court each year, at which grand and petit
6 juries shall be called, beginning on the first Monday in the
7 months of February, June and October of each year. Special
8 terms of said court, with grand and petit juries, may be
9 called and held whenever, in the discretion of the judge of
10 the court, public interest requires such special terms. The
11 judge of the court shall have like jurisdiction and authority,
12 in vacation of the court, to make and enter such proper
13 orders in any matter, suit, action, petition or proceeding
14 pending in the court as the judges of the circuit courts have
15 under the laws of the state. All matters arising under the
16 jurisdiction of the court may be heard and determined
17 either in term time or in vacation: *Provided*, That proper
18 notice of any such proceedings be given as provided by law
19 for the particular case: *Provided, however*, That all felonies,
20 misdemeanors, and offenses committed within said county
21 shall be heard and determined at a regular or special term
22 of said court.

23 The mode of procedure in cases instituted in this court
24 shall be the same as that prescribed for the circuit court
25 in similar causes. The court is authorized and empowered to
26 appoint such additional officers, commissioners and pro-
27 bation officers, and clerical and secretarial assistance as
28 may be authorized by law and as shall enable the court to
29 discharge all the duties required of it under the provisions
30 of this chapter, and the general laws of the state, which
31 appointments shall be entered of record in the office of the
32 circuit clerk, with a copy to be filed with the county court.
33 Such personnel or staff of the judge shall be paid such
34 salaries, fees and expenses as may be determined by the court
35 and authorized by law from any available source, including
36 federal grant money or by the county court: *Provided*, That

37 for all such sums as shall be paid by the county court, the
38 judge shall first obtain the approval of the county court of
39 Raleigh County of the expenses to be incurred and the salary
40 or salaries to be paid. The county court shall at its next
41 meeting, regular or special, approve or disapprove in whole
42 or in part, said appointments, in writing, and shall notify
43 the judge of said court of its action. If the county court
44 fails or refuses to act on said appointments as herein
45 provided, said appointments shall be deemed to have been
46 approved. If the county court disapproves any appointment,
47 such appointment shall be nullified to the extent that the
48 county court shall not be obligated to pay any expenses or
49 salary for such disapproved appointment. Such appointment
50 shall be made by the judge and the appointees shall serve
51 during the pleasure of the judge.

52 The appointment of the probation officer and secretarial
53 and other assistants, when made by the judge, shall be
54 entered on the law order book of the court. A copy of the
55 order of appointment shall be transmitted to the clerk of
56 the county court. Thereupon, the county court shall make
57 provision for payment and shall pay the salaries of the
58 probation officer, clerical and secretarial assistants as shown
59 by the order of appointment. The annual salaries provided
60 for in said order of appointment shall be paid in equal monthly
61 installments. Expenses and mileage accounts of the proba-
62 tion officer shall be itemized and verified and presented to
63 and paid by the county court, if such accounts are approved
64 by the judge. The county court shall provide such office
65 space, equipment and supplies for the probation staff, clerical
66 and secretarial assistants as the judge shall deem necessary
67 and adequate.

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

H. Daniel Darity
Chairman Senate Committee

Clarence C. Chustain Jr.
Chairman House Committee

Originated in the House.

Takes effect from passage.

Howard W. Carson
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

H. T. Brotherton, Jr.
President of the Senate

Levin P. McMane
Speaker House of Delegates

The within approved this the 20th
day of March, 1974.

Anna. Phares Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 3/18/74

Time 3:05 p.m.