

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1977

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ENROLLED

Committee Substitute for

HOUSE BILL No. 861

(By Mr. Copeland)

— ● —

PASSED April 8, 1977

In Effect ninety days from Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 861

(By MR. COPELAND)

(Originating in the Committee on the Judiciary)

[Passed April 8, 1977; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article ten, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the compromise of actions and suits in behalf of infants and insane persons and distribution of funds arising therefrom; and requiring reference to commissioners of accounts where such compromises do not exceed ten thousand dollars.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 10. MISCELLANEOUS PROVISIONS RELATING TO PROCEDURE.

§56-10-4. Compromise of actions and suits in behalf of infants and insane persons and disbursement of funds arising therefrom.

- 1 In any action or suit wherein an infant or insane person is
- 2 a party, the court in which the same is pending, or the judge

3 thereof in vacation, shall have the power to approve and con-
4 firm a compromise of the matters in controversy on behalf
5 of such infant or insane person, if such compromise shall be
6 deemed to be the best interest of the infant or insane person.
7 Such approval or confirmation shall never be granted except
8 upon written application therefor by the guardian, committee,
9 curator, or next friend of the infant or insane person, setting
10 forth under oath all the facts of the case and the reason why
11 such compromise is deemed to be for the best interest of the
12 infant or insane person. And the court or judge, before ap-
13 proving such compromise, shall, in order to determine whether
14 to approve or disapprove the compromise, hear the testimony
15 of witnesses relating to the subject matter of the compromise
16 and cause said testimony to be reduced to writing and filed
17 with the papers in the case. The court or judge, upon approv-
18 ing and confirming such compromise, shall enter judgment or
19 decree accordingly. Such judgment or decree shall bind the
20 respective parties thereto, including such infant or insane per-
21 son, with like force and effect, and shall be subject to review,
22 modification or reversal to the same extent only, as if it were
23 a consent judgment or decree, entered under similar circum-
24 stances, in a case in which all the parties were adults and sane.
25 In any such compromise wherein the amount paid to the
26 guardian or committee does not exceed the sum of ten
27 thousand dollars, the court or judge approving and confirm-
28 ing the compromise and entering judgment or decree thereon
29 may, in its or his discretion, dispense with or withdraw a refer-
30 ence to a commissioner of accounts as to said compromise,
31 authorize the disbursement of the fund so created by the com-
32 promise and may discharge the guardian or committee and the
33 surety on his bond as to the proceeding then pending in the
34 circuit court, and in all such cases a certified copy of the order
35 of the court or judge, as the case may be, shall be recorded in
36 the office of the clerk of the county commission wherein the
37 guardian or committee was appointed.

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

James L. Davis
Chairman Senate Committee

Clarence C. Chuston Jr.
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

John Dillon, Jr.
Clerk of the Senate

W. B. Blankenship
Clerk of the House of Delegates

M. I. Brothman
President of the Senate

Donald L. Kopp
Speaker House of Delegates

The within is disapproved this the 25
day of April, 1977.

James R. Ralston
Governor

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SECY. OF STATE