

APPROVED AND SIGNED BY THE GOVERNOR

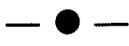
Date 3-26-81

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no: 817

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981



ENROLLED

Com. Sub. for

HOUSE BILL No. 817

(By Mr. Stephens & Mr. Martin, 35th Dist.)



Passed March 16, 1981

In Effect Ninety Days From Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 817

(By MR. STEPTOE and MR. MARTIN, 35th Dist.)

[Passed March 16, 1981; in effect ninety days from passage.]

AN ACT to amend and reenact sections one and two, article seven-a, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the liability of parents for malicious and willful personal injury of destruction of property or setting fire to a forest or wooded area, and willful taking, stealing and carrying away of property by minor children; defining the term, "custodial parent or parents"; legislative findings; legislative intent; limitation on damages recoverable; describing persons or entities entitled to recovery; restricting actual damages to out-of-pocket loss; providing that remedy under article is not exclusive; and providing for applicability.

Be it enacted by the Legislature of West Virginia:

That sections one and two, article seven-a, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 7A. LIABILITY OF PARENTS.

§55-7A-1. Legislative findings; declaration of legislative intent.

1 The Legislature hereby finds and declares that there are
2 now and have been repeated and widespread acts of vandalism,
3 willful and malicious destruction of property and other injury

4 to persons and property occasioned by the willful, malicious
5 and sometimes criminal acts of children under the age of
6 eighteen years; that the great majority of such children are
7 living with a parent or parents; that there arises or should
8 arise out of such relationship, a responsibility to recompense
9 persons injured by such acts of vandalism and willful and
10 malicious injury to persons and property. Therefore, it is the
11 intent of the Legislature to make parents responsible for the
12 torts of their minor children by reason of the parent-child
13 relationship, and to impose on said parent or parents for such
14 acts of their children, who live with them and who commit
15 acts of vandalism or willful and malicious injury to persons
16 and property, liability in accordance with the provisions here-
17 inafter set forth.

**§55-7A-2. Liability of parent for malicious and willful personal
injury or destruction of property or setting fire to a
forest or wooded area, and willful taking, stealing and
carrying away of property by minor; limitation on
damages recoverable; remedy not exclusive; applic-
ability of article.**

1 The custodial parent or parents of any minor shall be per-
2 sonally liable in an amount not to exceed twenty-five hundred
3 dollars for damages which are the proximate result of any one
4 or a combination of the following acts of such minor:

5 (a) The malicious and willful injury to the person of an-
6 other; or

7 (b) The malicious and willful injury or damage to the
8 property of another, whether such property be real, personal
9 or mixed; or

10 (c) The malicious and willful setting fire to a forest or
11 wooded area belonging to another; or

12 (d) The willful taking, stealing and carrying away of the
13 property of another, with the intent to permanently deprive
14 the owner of possession.

15 For purposes of this section, "custodial parent or parents"
16 shall mean the parent or parents with whom the minor is
17 living, or a divorced or separated parent who does not have

18 legal custody but who is exercising supervisory control over
19 the minor at the time of the minor's act.

20 Persons entitled to recover damages under this article shall
21 include, but not be limited to, the state of West Virginia,
22 any municipal corporation, county commission and board of
23 education, or other political subdivision of this state, or any
24 person or organization of any kind or character. The action
25 may be brought in magistrate or other court of competent
26 jurisdiction. Recovery hereunder shall be limited to the actual
27 damages based upon direct out-of-pocket loss, taxable court
28 costs, and interest from date of judgment. The right of action
29 and remedy granted herein shall be in addition to and not
30 exclusive of any rights of action and remedies therefor against
31 a parent or parents for the tortious acts of his or their
32 children heretofore existing under the provisions of any law,
33 statutory or otherwise, or now so existing independently of
34 the provisions of this article.

35 The provisions of this article shall be applicable to causes
36 of action arising on and after the effective date of this article.
37 Causes of actions arising before the effective date of this
38 article and proceedings thereon shall be governed by the
39 previously enacted provisions of this article in force at the
40 time such cause arose.

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

R. P. Blythe
Chairman Senate Committee

Tony E. Whitlow
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Todd C. Willis
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

Walter R. McDrew
President of the Senate

James H. Lee, Jr.
Speaker House of Delegates

The within is approved this the 26
day of March, 1981.

John A. Royster
Governor

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SECY. OF STATE