WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981

ENROLLED

Comm. Sub. for
HOUSE BILL No. 817

(By Mr. Stapleton and 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; limita-
tion 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
to persons and property occasioned by the willful, malicious
and sometimes criminal acts of children under the age of
eighteen years; that the great majority of such children are
living with a parent or parents; that there arises or should
arise out of such relationship, a responsibility to recompense
persons injured by such acts of vandalism and willful and
malicious injury to persons and property. Therefore, it is the
intent of the Legislature to make parents responsible for the
torts of their minor children by reason of the parent-child
relationship, and to impose on said parent or parents for such
acts of their children, who live with them and who commit
acts of vandalism or willful and malicious injury to persons
and property, liability in accordance with the provisions here-
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; applica-

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

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

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

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

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

For purposes of this section, “custodial parent or parents”
shall mean the parent or parents with whom the minor is
living, or a divorced or separated parent who does not have
Persons entitled to recover damages under this article shall include, but not be limited to, the state of West Virginia, any municipal corporation, county commission and board of education, or other political subdivision of this state, or any person or organization of any kind or character. The action may be brought in magistrate or other court of competent jurisdiction. Recovery hereunder shall be limited to the actual damages based upon direct out-of-pocket loss, taxable court costs, and interest from date of judgment. The right of action and remedy granted herein shall be in addition to and not exclusive of any rights of action and remedies therefor against a parent or parents for the tortious acts of his or their children heretofore existing under the provisions of any law, statutory or otherwise, or now so existing independently of the provisions of this article.

The provisions of this article shall be applicable to causes of action arising on and after the effective date of this article. Causes of actions arising before the effective date of this article and proceedings thereon shall be governed by the previously enacted provisions of this article in force at the time such cause arose.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Tony E. Whitlow
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ___is approved____ this the ___26___ day of ___March____, 1981.

Governor