

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-28-81

Time \_\_\_\_\_

No: 955

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981



# ENROLLED

Com. Sub. for  
HOUSE BILL No. 955

(By Mr. Stephens)



Passed April 11, 1981

In Effect Ninety Days From Passage



**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 955**  
(By MR. STEPTOE)

[Passed April 11, 1981; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article two, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections thirteen and seventeen, article two, chapter sixty-two of said code, all relating to criminal procedures generally and the authority of magistrates to admit persons to bail in certain cases, including cases where persons are held pursuant to *capias*; clarifying those cases in which magistrates may admit to bail; the issuance of *capias* or summons in criminal cases and the delivery of persons arrested under *capias* to court magistrate or jailer; the conditions for the admission of such persons to bail by a magistrate; and the authority of magistrates to admit to bail in all criminal cases except cases involving murder in the first degree.

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

That section three, article two, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections thirteen and seventeen, article two, chapter sixty-two of said code be amended and reenacted, all to read as follows:

**CHAPTER 50. MAGISTRATE COURTS.**

**ARTICLE 2. JURISDICTION AND AUTHORITY.**

**§50-2-3. Criminal jurisdiction.**

1 In addition to jurisdiction granted elsewhere to magistrate  
2 courts or a justice of the peace, magistrate courts shall have  
3 jurisdiction of all misdemeanor offenses committed in the  
4 county and to conduct preliminary examinations on warrants  
5 charging felonies committed within the county. A magistrate  
6 shall have the authority to issue arrest warrants in all criminal  
7 matters, to issue warrants for search and seizure and, except  
8 in cases involving murder in the first degree, to set and admit  
9 to bail.

10 Magistrate courts shall have the jurisdiction of violations  
11 of subsection (c), section four hundred one, article four,  
12 chapter sixty-a of this code under the provisions of section  
13 four hundred seven of such article, and may discharge the  
14 defendant under the provisions of section four hundred seven  
15 of said article four. The exercise of such jurisdiction shall not  
16 preclude the right of the accused to petition the circuit court  
17 of the county for probation under the provisions of section  
18 four, article twelve, chapter sixty-two of this code.

**CHAPTER 62. CRIMINAL PROCEDURE.**

**ARTICLE 2. PRESENTMENTS AND INDICTMENTS.**

**§62-2-13. Process, capias and summons in criminal cases.**

1 When an indictment or presentment is found or made, the  
2 court shall award process against the accused to answer to the  
3 same, if he be not in custody. Such process, if for a felony,  
4 may be a capias or a summons, at the discretion of the court;  
5 in all misdemeanor cases, it shall be, in the first instance,  
6 a summons, but if a summons be returned executed, or be  
7 returned not found, and the defendant does not appear, the  
8 court may award a capias.

**§62-2-17. Delivery of prisoner to court, jailer or magistrate.**

1 An officer who, under a capias from a court, arrests a per-  
2 son accused of an offense other than murder in the first degree

3 shall deliver the accused to such court, if sitting, and if such  
4 court is not sitting, the officer shall deliver the accused to a  
5 magistrate who may admit the accused to bail: *Provided*, That  
6 any such bail granted by a magistrate shall be conditioned upon  
7 the appearance by the accused before the court on the date  
8 provided in the capias for such appearance, or, if no such date  
9 is provided in the capias, then such bail shall be conditioned  
10 upon the appearance of the accused on the next day on which  
11 such court is sitting. No magistrate shall admit to bail any  
12 person arrested under an alias capias. Bail set by a magistrate  
13 may be made and posted before the magistrate court clerk and  
14 the recognizance and record thereof, together with any money  
15 received therefor, shall be forthwith delivered to the clerk of  
16 the circuit court.

17 An officer who, under a capias from a court, arrests a per-  
18 son accused of an offense not bailable, or for which bail is not  
19 given, shall deliver the accused to such court, if sitting, or  
20 to the jailer thereof, who shall receive and imprison him.

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

*R. P. Bayler*  
-----  
Chairman Senate Committee

*Jonny E. Whitlow*  
-----  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

*Judd C. Willis*  
-----  
Clerk of the Senate

*U. Blankenship*  
-----  
Clerk of the House of Delegates

*[Signature]*  
-----  
President of the Senate

*[Signature]*  
-----  
Speaker House of Delegates

The within *is approved* this the *28*  
day of *April*, 1981.

*[Signature]*  
-----  
Governor

RECEIVED

APR 27 12:02 PM '81

OFFICE OF THE GOVERNOR

RECEIVED

81 APR 29 11:24

OFFICE  
SECY. OF STATE