

No: 1213

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986



ENROLLED

HOUSE BILL No. 1213

(By #*Del. M. Harman + Del. J. Martin*)



Passed *January 31,* 1986

In Effect *From* Passage

ENROLLED
H. B. 1213

(By DELEGATE M. HARMAN and DELEGATE J. MARTIN)

[Passed January 31, 1986; in effect from passage.]

AN ACT to amend article nine, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section one-b; and to amend and reenact section six of said article nine, all relating to a presumption of death of persons not found nor heard from within six months and whose disappearance can reasonably be believed to have been caused by the flooding on or about the fourth day of November, one thousand nine hundred eighty-five; and issuance of death certificates upon entry of an order that a presumption of death has been established.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section one-b; and that section six of said article nine be amended and reenacted, all to read as follows:

ARTICLE 9. PRESUMED TO BE DEAD AND THEIR ESTATES.

§44-9-1b. When person in area proclaimed to be in a state of emergency presumed dead.

1 A person last seen at any site within the area
2 proclaimed by the governor on the fifth day of No-
3 vember, one thousand nine hundred eighty-five, to be in
4 a state of emergency as a result of the flooding in this
5 state on or about the fourth day of November, one

6 thousand nine hundred eighty-five, whose body has not
7 been found or identified within six months of the date
8 last seen at such site, and who is unheard of by those
9 who, had he been alive, would naturally have heard of
10 him, and whose disappearance can reasonably be
11 believed to have been caused by such flooding shall in
12 any case where his death shall come in question be
13 presumed in law to be dead, in the absence of proof to
14 the contrary or unless proof be made that he was alive
15 within that time.

§44-9-6. Order declaring presumption established; probate of will; letters testamentary or of administration; their effect; death certificate issued upon order.

1 If the commission is satisfied, upon the hearing or
2 from the report of the fiduciary commissioner, that the
3 legal presumption of death is established, the commis-
4 sion shall so declare by order, shall then proceed to hear,
5 and to grant, if proper, the application for probate of
6 the will of such supposed decedent, if such there be, and
7 to grant letters testamentary or of administration, as the
8 case may require, to the party entitled thereto, who shall
9 qualify and give bonds as in cases of persons known to
10 be dead. The probate of any such will and such letters,
11 until revoked, and all acts done in pursuance thereof and
12 in reliance thereupon, shall be as valid as if the supposed
13 decedent were in fact dead.

14 Immediately upon the entry of such order declaring
15 that the legal presumption of death is established, the
16 commission shall direct the clerk thereof forthwith to
17 make and deliver to the state registrar of vital statistics
18 the order and such personal data and other information
19 from the records of the proceedings as may enable the
20 state registrar of vital statistics to issue a death
21 certificate. Upon receipt of the order, personal data and
22 other information, the registrar of vital statistics shall
23 forthwith issue and deliver by mail unto the clerk of the
24 county commission wherein such order was entered, a
25 death certificate in the form prescribed by law, except
26 that no medical certification shall be required. The clerk
27 shall record such death certificate in the manner set

28 forth in section nineteen, article five, chapter sixteen of
29 this code.

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

[Handwritten Signature]

Chairman Senate Committee

[Handwritten Signature]

Chairman House Committee

Originating in the House.

Takes effect from passage.

[Handwritten Signature]

Clerk of the Senate

[Handwritten Signature]

Clerk of the House of Delegates

[Handwritten Signature]

President of the Senate

[Handwritten Signature]

Speaker of the House of Delegates

The within *approved* this the *11th*
day of *February*, 1986.

[Handwritten Signature]

Governor

PRESENTED TO THE
GOVERNOR

Date 2/6/86

Time 2:33 p.m.

RECEIVED

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SECRETARY OF STATE

FILE IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 2/13/86