

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1990

—●—
ENROLLED

SENATE BILL NO. 307

(By Senators Chapin and Jackson)

—●—
PASSED March 10, 1990
In Effect July 1, 1990 **Passage**

ENROLLED

Senate Bill No. 307

(BY SENATORS CHAFIN AND JACKSON)

[Passed March 10, 1990; to take effect July 1, 1990.]

AN ACT to amend and reenact sections four, sixteen and seventeen, article five, chapter fifty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to reducing the time period for petitioning for an appeal from, or writ of error or supersedeas to a judgement, decree or order, and reducing other time limitations related to such petitions; providing for the dismissal of an appeal, writ of error or supersedeas upon failure to timely give bond; specifying the persons to whom a copy or copies of the record shall be delivered; and requiring that an unsuccessful party on appeal be assessed with the costs associated with the printing or reproduction of the copies of the documents submitted in support of, or in opposition to, any appeal.

Be it enacted by the Legislature of West Virginia:

That sections four, sixteen and seventeen, article five, chapter fifty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. APPELLATE RELIEF IN SUPREME COURT OF APPEALS.

§58-5-4. Time for appeal or writ of error; notice of intent to file petition in criminal cases to be filed with clerk stating grounds.

1 No petition shall be presented for an appeal from, or
2 writ of error or supersedeas to, any judgment, decree
3 or order, whether the state be a party thereto or not,
4 which shall have been rendered or made more than
5 four months before such petition is filed with the clerk
6 of the court where the judgment, decree or order
7 being appealed was entered: *Provided*, That the judge
8 of the circuit court may, prior to the expiration of such
9 period of four months, by order entered of record
10 extend and reextend such period for such additional
11 period or periods, not to exceed a total extension of
12 two months, for good cause shown, if the request for
13 preparation of the transcript was made by the party
14 seeking such appellate review within thirty days of the
15 entry of such judgment, decree or order.

16 In criminal cases no petition for appeal or writ of
17 error shall be presented unless a notice of intent to file
18 such petition shall have been filed with the clerk of
19 the court in which the judgment or order was entered
20 within thirty days after such judgment or order was
21 entered. The notice shall fairly state the grounds for
22 the petition without restricting the right to assign
23 additional grounds in the petition.

§58-5-16. Time for giving bond.

1 An appeal, writ of error or supersedeas allowed
2 from or to a final judgment, decree or order shall be
3 dismissed whenever it appears that two months have
4 elapsed since the date when the appeal, writ of error
5 or supersedeas was granted before such bond is given
6 as is required to be given before the appeal, writ of
7 error or supersedeas takes effect.

§58-5-17. Court to prescribe method and form of reproducing record; reproduction of record by clerk; distribution; costs.

1 The supreme court of appeals shall by order pre-
2 scribe the method and form of reproducing records.

3 Such order shall prescribe the number of copies to be
4 reproduced, the contents thereof, the type size and
5 quality of paper and the maximum rate per page that
6 may be charged for the printing or reproduction of
7 such records.

8 The cost of printing or reproduction, photostating
9 and blueprinting, if any, shall be included at the end
10 of the record with the date the same was printed or
11 otherwise reproduced.

12 The clerk shall have the record printed or repro-
13 duced when the party obtaining the appeal, writ of
14 error or supersedeas shall deposit with him a suffi-
15 cient sum to pay for same. The clerk shall deliver one
16 copy to counsel on each side and retain the remaining
17 copies in his office. He shall cause all copies of the
18 record remaining in his office to be compared with the
19 typewritten transcript certified to the supreme court
20 of appeals and correct all errors that may appear
21 therein. The cost of such printing or reproduction,
22 unless otherwise ordered by the court, shall be taxed
23 against the unsuccessful party. In every felony and
24 misdemeanor case, the clerk shall have the usual
25 number of records printed or otherwise reproduced at
26 a cost not exceeding the amount fixed by the court,
27 and dispose of the same as in other cases; and upon the
28 certificate of the chief justice of the supreme court of
29 appeals stating that such record has been printed or
30 otherwise reproduced as required by the court, and
31 the amount said clerk is entitled to, the cost of printing
32 or reproducing the same shall be paid to said clerk out
33 of the treasury of the state, and the auditor shall draw
34 his warrant on the treasury for the payment thereof
35 out of the fund for criminal charges.

36 Any increased rate for printing or reproducing
37 records, as may be prescribed by order of the court,
38 shall apply to all cases docketed in the supreme court
39 of appeals on the effective date of the order of the
40 court, pending reproduction of the record. Such latter
41 cases, however, shall not be subject to dismissal
42 because of any increased rate, where statement for
43 estimated costs has been rendered and paid as pro-

44 vided in this section, but they shall not be placed upon
45 the argument docket until the increased cost thereof
46 shall have been paid in full.

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

Fredric J. Pika
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1990.

James E. Adams
.....
Clerk of the Senate

Donald G. Kopp
.....
Clerk of the House of Delegates

Kath Sundette
.....
President of the Senate

B. Stoll
.....
Speaker House of Delegates

The within *is approved* this the *30th*
day of *March*, 1990.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/90

Time 10:24 am

RECEIVED

1990 MAR 30 AM 11:26

OFFICE OF THE GOVERNOR
SECRETARY OF STATE