

HB 2402

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995

— ● —

# ENROLLED

Com. Sub. for  
HOUSE BILL No. 2402

(By Delegate Amores, et al.)

— ● —

Passed March 10, 1995

In Effect 90 days from Passage



**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**

**H. B. 2402**

(BY DELEGATES AMORES, HUNT, FARRIS AND SEACRIST)

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[Passed March 10, 1995; in effect ninety days from passage.]

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AN ACT to amend and reenact section thirteen-b, article five, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section two, article seven-a, chapter fifty-five of said code, all relating to the liability of parents for the acts of their children; providing for parental liability for restitution not made by a juvenile; providing for parental liability for willful, malicious or criminal acts of children; and increasing the monetary liability of parents for such acts.

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

That section thirteen-b, article five, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section two, article seven-a, chapter fifty-five of said code be amended and reenacted, all to read as follows:

**ARTICLE 5. JUVENILE PROCEEDINGS.**

**§49-5-13b. Authority of the courts to order fines; revocation of vehicle privileges and restitution.**

- 1           (a) In addition to the methods of disposition provided  
2   in section thirteen of this article, the court may enter an

3 order imposing one or more of the following penalties,  
4 conditions and limitations:

5 (1) Impose a fine not to exceed one hundred dollars  
6 upon such child;

7 (2) Require the child to make restitution or reparation  
8 to the aggrieved party or parties for actual damages or loss  
9 caused by the offense for which the child was found to be  
10 delinquent, or if the child does not make full restitution,  
11 require the custodial parent or parents, as defined in  
12 section two, article seven-a, chapter fifty-five, of the child  
13 to make partial or full restitution to the victim to the extent  
14 the child fails to make full restitution;

15 (3) Require the child to participate in a public service  
16 project under such conditions as the court prescribes,  
17 including participation in the litter control program  
18 established pursuant to the authority of section twenty-  
19 five, article seven, chapter twenty of this code;

20 (4) When the child is fifteen years of age or younger  
21 and has been adjudged delinquent, the court may order  
22 that the child is not eligible to be issued a junior  
23 probationary operator's license or when the child is  
24 between the ages of sixteen and eighteen years and has  
25 been adjudged delinquent, the court may order that the  
26 child is not eligible to operate a motor vehicle in this state,  
27 and any junior or probationary operator's license shall be  
28 surrendered to the court. Such child's driving privileges  
29 shall be suspended for a period not to exceed two years,  
30 and the clerk of the court shall notify the commissioner of  
31 the department of motor vehicles of such order.

32 (b) Nothing herein stated shall limit the discretion of  
33 the court in disposing of a juvenile case: *Provided*, That  
34 the juvenile shall not be denied probation or any other  
35 disposition pursuant to this article because the juvenile is  
36 financially unable to pay a fine or make restitution or  
37 reparation: *Provided, however*, That all penalties, condi-  
38 tions and limitations imposed under this section shall be  
39 based upon a consideration by the court of the seriousness  
40 of the offense, the child's ability to pay, and a program of  
41 rehabilitation consistent with the best interests of the child.

42 (c) Notwithstanding any other provisions of this code  
43 to the contrary, in the event a child charged with  
44 delinquency under this chapter is transferred to adult  
45 jurisdiction and there convicted, the court may never-  
46 theless, in lieu of sentencing such person as an adult, make  
47 its disposition in accordance with this section.

**ARTICLE 7A. LIABILITY OF PARENTS.**

**§55-7A-2. Parental liability for willful, malicious or criminal acts of children.**

1 The custodial parent or parents of any minor child  
2 shall be personally liable in an amount not to exceed five  
3 thousand dollars for damages which are the proximate  
4 result of any one or a combination of the following acts of  
5 the minor child:

6 (a) The malicious and willful injury to the person of  
7 another; or

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

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

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

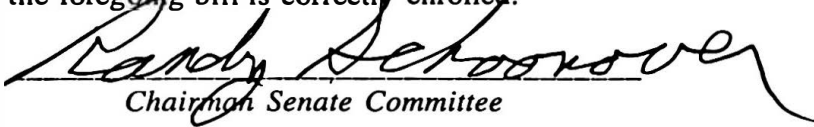
16 For purposes of this section, "custodial parent or  
17 parents" shall mean the parent or parents with whom the  
18 minor child is living, or a divorced or separated parent  
19 who does not have legal custody but who is exercising  
20 supervisory control over the minor child at the time of the  
21 minor child's act.

22 Persons entitled to recover damages under this article  
23 shall include, but not be limited to, the state of West  
24 Virginia, any municipal corporation, county commission  
25 and board of education, or other political subdivision of  
26 this state, or any person or organization of any kind or  
27 character. The action may be brought in magistrate or  
28 another court of competent jurisdiction. Recovery here-

29 under shall be limited to the actual damages based upon  
30 direct out-of-pocket loss, taxable court costs, and interest  
31 from date of judgment. The right of action and remedy  
32 granted herein shall be in addition to and not exclusive of  
33 any rights of action and remedies therefor against a parent  
34 or parents for the tortious acts of his or their children  
35 heretofore existing under the provisions of any law,  
36 statutory or otherwise, or now so existing independently of  
37 the provisions of this article.

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

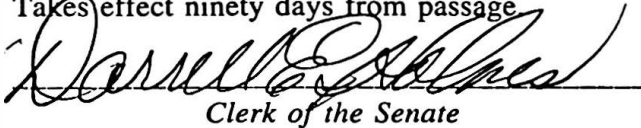
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman Senate Committee

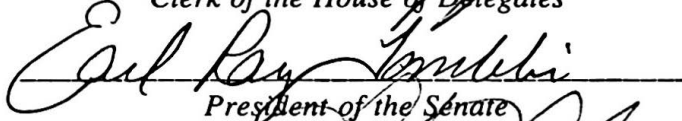
  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 1995.

\_\_\_\_\_  
Governor



PRESENTED TO THE

GOVERNOR

Date

3/31/95

Time

2:27 pm