

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3432

By Delegate Hanshaw (Mr. Speaker)

[Introduced February 13, 2023; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §2-2-10 and §2-2-12 of the Code of West Virginia, 1931, as
2 amended; and to amend and reenact §4-1-13 of said code, all relating to statutory
3 construction; defining terms; and setting forth authority of the clerks.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 2. COMMON LAW, STATUTES, LEGAL HOLIDAYS,
DEFINITIONS AND LEGAL CAPACITY.**

**ARTICLE 2. LEGAL HOLIDAYS; SPECIAL MEMORIAL DAYS; CONSTRUCTION OF
STATUTES; DEFINITIONS.**

§2-2-10. Rules for construction of statutes.

1 ~~(a) The following terms are defined for this code: rules shall be observed in the~~
2 ~~construction of statutes, unless a different intent on the part of the Legislature is apparent from the~~
3 ~~context:~~

4 ~~(a) A word importing the singular number only may be applied to several persons or things,~~
5 ~~as well as to one person or thing; a word importing the plural number only may be applied to one~~
6 ~~person or thing as well as to several; and a word importing the masculine gender only may be~~
7 ~~applied to females as well as males;~~

8 ~~(b) Words purporting to give a joint authority to three or more persons confer the authority~~
9 ~~upon a majority of them, and not upon any less number;~~

10 ~~(c) The words "written" or "in writing" include any representation of words, letters or figures,~~
11 ~~whether by printing, engraving, writing or otherwise. But when the signature of any person is~~
12 ~~required, it must be in his or her own proper handwriting, or his or her mark, attested, proved or~~
13 ~~acknowledged. *Provided*, That Unless a provision of this code specifically provides otherwise, an~~
14 ~~electronic signature satisfies this signature requirement if the electronic signature meets the~~
15 ~~requirements of §39A-1-2 of this code;~~

16 ~~(d) The words "preceding", "succeeding" or "following" used in reference to any section or~~
17 ~~sections of a chapter or statute, mean next preceding, next succeeding or next following that in~~
18 ~~which the reference is made, unless a different interpretation be required by the context;~~

19 ~~(e) An officer has qualified when he or she has done all that is required by law to be done~~
20 ~~before proceeding to exercise the authority and discharge the duties of his or her office;~~

21 ~~(f) The words "the Governor" are equivalent to "the executive of the state" or "the person~~
22 ~~having the executive power";~~

23 ~~(g) "Justice" or "justices" as used in article one, chapter fifty one of this code and in other~~
24 ~~references to a member or members of the Supreme Court of Appeals means and applies to a~~
25 ~~judge or the judges of that court as provided in the Constitution of West Virginia. The word "justice"~~
26 ~~in most any other context is equivalent to the word "magistrate", except when used as an historical~~
27 ~~reference to the words "justice of the peace". The word "notary" is equivalent to "notary public";~~

28 ~~(h) The word "state", when applied to a part of the United States and not restricted by the~~
29 ~~context, includes the District of Columbia and the several territories, and the words "United States"~~
30 ~~also include the said district and territories;~~

31 ~~(i) The word "person" or "whoever" includes corporations, societies, associations and~~
32 ~~partnerships, and other similar legal business organizations; authorized by the Legislature, if not~~
33 ~~restricted by the context;~~

34 ~~(j) The words "personal representative" include the executor of a will, the administrator of~~
35 ~~the estate of a deceased person, the administrator of such estate with the will annexed, the~~
36 ~~administrator de bonis non of such estate, whether there be a will or not, the sheriff or other officer~~
37 ~~lawfully charged with the administration of the estate of a deceased person, and every other~~
38 ~~curator or committee of a decedent's estate for or against whom suits may be brought for causes~~
39 ~~of action which accrued to or against such decedent;~~

40 ~~(k) The word "will" embraces a testament, a codicil, an appointment by will or writing in the~~
41 ~~nature of a will in exercise of a power, also any other testamentary disposition;~~

42 ~~(l) The word "judgment" includes decrees and orders for the payment of money or the~~
43 ~~conveyance or delivery of land or personal property, or some interest therein, or any undertaking,~~
44 ~~bond or recognizance which has the legal effect of a judgment;~~

45 ~~(m) The words "under disability" include persons under the age of eighteen years, insane~~
46 ~~persons and convicts while confined in a correctional facility;~~

47 ~~(n) The words "insane person" include everyone who has mental illness as defined in~~
48 ~~section two, article one, chapter twenty-seven of this code;~~

49 ~~(o) The word "convict" means a person confined in a penitentiary or correctional facility of~~
50 ~~this or any other state, or of the United States;~~

51 ~~(p) The word "land" or "lands" and the words "real estate" or "real property" include lands,~~
52 ~~tenements and hereditaments, all rights thereto and interests therein except chattel interests;~~

53 ~~(q) The words "personal estate" or "personal property" include goods, chattels, real and~~
54 ~~personal, money, credits, investments and the evidences thereof;~~

55 ~~(r) The word "property" or "estate" embraces both real and personal estate;~~

56 ~~(s) The word "offense" includes every act or omission for which a fine, forfeiture or~~
57 ~~punishment is imposed by law;~~

58 ~~(t) The expression "laws of the state" includes the Constitution of West Virginia and the~~
59 ~~Constitution of the United States, and treaties and laws made in pursuance thereof;~~

60 ~~(u) The word "town" includes a city, village or town, and the word "council", any body or~~
61 ~~board, whether composed of one or more branches, who are authorized to make ordinances for~~
62 ~~the government of a city, town or village;~~

63 ~~(v) When a council of a town, city or village, or any board, number of persons or~~
64 ~~corporations, are authorized to make ordinances, bylaws, rules, regulations or orders, the same~~
65 ~~must be consistent with the laws of this state;~~

66 ~~(w) The words "county court" include any existing tribunal created in lieu of a county~~
67 ~~commission; the words "commissioner of the county court" and "county commissioner" mean, and~~

68 ~~have reference to, the commissioners, or one of them, composing a county commission in~~
69 ~~pursuance of section nine, article IX of the Constitution, as amended, or any existing tribunal~~
70 ~~created in lieu of a county commission;~~

71 ~~(x) The word "horse" embraces a stallion, a mare and a gelding;~~

72 ~~(y) The words "railroad" and "railway" mean the same thing in law; and, in any proceeding~~
73 ~~in which a railroad company or a railway company is a party, it is not an error to call a railroad~~
74 ~~company a railway company or vice versa; nor may any demurrer, plea or any other defense be~~
75 ~~set up to a motion, pleading or indictment in consequence of the misdescription;~~

76 ~~(z) The sectional headings or headlines of the several sections of this code printed in~~
77 ~~black-faced type are intended as mere catchwords to indicate the contents of the section and are~~
78 ~~not titles of the sections, or any part of the statute, and, unless expressly so provided, they are not~~
79 ~~part of the statute when the sections, including the headlines, are amended or reenacted;~~

80 ~~(aa) The words "infant" and "minor" mean persons under the age of eighteen years as used~~
81 ~~in this code or in rules promulgated by the Supreme Court of Appeals~~

82 (1) "Convict" means a person confined in a penitentiary or correctional facility of this or any
83 other state, or of the United States;

84 (2) "County court" include any existing tribunal created in lieu of a county commission; the
85 words "commissioner of the county court" and "county commissioner" mean, and have reference
86 to, the commissioners, or one of them, composing a county commission in pursuance of section
87 nine, article IX of the Constitution, as amended, or any existing tribunal created in lieu of a county
88 commission;

89 (3) "The Governor" is equivalent to "the executive of the state" or "the person having the
90 executive power";

91 (4) "Judgment" includes decrees and orders for the payment of money or the conveyance
92 or delivery of land or personal property, or some interest therein, or any undertaking, bond or
93 recognizance which has the legal effect of a judgment;

94 (5) "Land" or "lands" and the words "real estate" or "real property" include lands, tenements
95 and hereditaments, all rights thereto and interests therein except chattel interests;

96 (6) "Laws of the state" includes the Constitution of West Virginia and the Constitution of the
97 United States, and treaties and laws made in pursuance thereof;

98 (7) "Minor" mean persons under the age of eighteen years;

99 (8) "Offense" includes every act or omission for which a fine, forfeiture or punishment is
100 imposed by law;

101 (9) "Person" or "whoever" includes corporations, societies, associations and partnerships,
102 and other similar legal business organizations;

103 (10) "Personal estate" or "personal property" include goods, chattels, real and personal,
104 money, credits, investments and the evidences thereof;

105 (11) "Property" or "estate" embraces both real and personal estate;

106 (12) "Railroad" and "railway" mean the same thing in law; and, in any proceeding in which a
107 railroad company or a railway company is a party, it is not an error to call a railroad company a
108 railway company or vice versa; nor may any demurrer, plea or any other defense be set up to a
109 motion, pleading or indictment in consequence of the misdescription;

110 (13) "State", when applied to a part of the United States and not restricted by the context,
111 includes the District of Columbia and the several territories, and the words "United States" also
112 include the said district and territories;

113 (14) "Town" includes a city, village or town, and the word "council", any body or board,
114 whether composed of one or more branches, who are authorized to make ordinances for the
115 government of a city, town or village;

116 (15) "Written" or "in writing" include any representation of words, letters or figures, whether
117 by printing, engraving, writing or otherwise. But when the signature of any person is required, it
118 must be in his or her own proper handwriting, or his or her mark, attested, proved or

119 acknowledged. Unless a provision of this code specifically provides otherwise, an electronic
120 signature satisfies this signature requirement if the electronic signature meets the requirements of
121 §39A-1-2 of this code;

122 (b) The following rules shall be observed in the construction of statutes, unless a different
123 intent on the part of the Legislature is expressed:

124 (1) A word importing the singular number only may be applied to several persons or things,
125 as well as to one person or thing; a word importing the plural number only may be applied to one
126 person or thing as well as to several; and a word importing the masculine gender only may be
127 applied to females as well as males;

128 (2) Words purporting to give a joint authority to three or more persons confer the authority
129 upon a majority of them, and not upon any less number;

130 (3) The sectional headings or headlines of the several sections of this code printed in
131 black-faced type are intended as mere catchwords to indicate the contents of the section and are
132 not titles of the sections, or any part of the statute, and, unless expressly so provided, they are not
133 part of the statute when the sections, including the headlines, are amended or reenacted;

134 (4) When a council of a town, city or village, or any board, number of persons or
135 corporations, are authorized to make ordinances, bylaws, rules, regulations or orders, the same
136 must be consistent with the laws of this state;

137 (5) An officer has qualified when he or she has done all that is required by law to be done
138 before proceeding to exercise the authority and discharge the duties of his or her office;

139 ~~(bb)~~ (6) A statute is presumed to be prospective in its operation unless expressly made
140 retrospective;

141 ~~(cc)~~ (7) Unless there is a provision in a section, article or chapter of this code specifying
142 that its provisions are not severable, the provisions of every section, article or chapter of this code,
143 whether enacted before or subsequent to the effective date of this subdivision, are severable so

144 that if any provision of any section, article or chapter is held to be unconstitutional or void, the
145 remaining provisions of the section, article or chapter remain valid, unless the court finds the valid
146 provisions are so essentially and inseparably connected with, and so dependent upon, the
147 unconstitutional or void provision that the court cannot presume the Legislature would have
148 enacted the remaining valid provisions without the unconstitutional or void one, or unless the court
149 finds the remaining valid provisions, standing alone, are incomplete and are incapable of being
150 executed in accordance with the legislative intent. ~~Provided, That if any section, article or chapter~~
151 ~~of this code has its own severability clause, then that severability clause governs and controls with~~
152 ~~respect to that section, article or chapter in lieu of the provisions of this subdivision~~ The provisions
153 of this subdivision are fully applicable to all future amendments or additions to this code, with like
154 effect as if the provisions of this subdivision were set forth in extenso in every amendment or
155 addition and were reenacted as a part thereof; ~~unless the amendment or addition contains its own~~
156 ~~severability clause~~

157 ~~(dd)~~ (8) A reference to any section, article or chapter of this code applies to all
158 reenactments, revisions or amendments thereof;

159 ~~(ee)~~ (9) If a statute refers to a series of numbers or letters, the first and the last numbers or
160 letters in the series are considered to be included;

161 ~~(ff)~~ ~~The words "board of regents", wherever they appear in the code, mean the Higher~~
162 ~~Education Policy Commission created in article one b, chapter eighteen b of this code or the West~~
163 ~~Virginia Council for Community and Technical College Education created in article two b of said~~
164 ~~chapter unless the term is used in relation to activities conducted solely by an institution or~~
165 ~~institutions governed by article two a of said chapter in which case it only means the board of~~
166 ~~governors of the specific institution or institutions; and~~

167 ~~(gg)~~ (10) No legislative enactment of a regulatory, noncriminal nature may be construed to
168 prohibit a lawful business or business structure in existence and operating in this state prior to the

169 effective date of the enactment of legislation prohibiting the operation of such business or
170 business structure absent an express legislative declaration in the enactment that the existing
171 business or business structure is prohibited from continuing after the effective date of the
172 enactment.

173 (11) Statutes are presumed to be constitutional and the party challenging the enactment
174 bears the burden of proving unconstitutionality;

175 (12) Statutes are construed to avoid absurd results;

176 (13) Statutes are to be read as a whole, in context, and, if possible, the court is to give
177 effect to every word of the statute; and

178 (14) When two or more bills amending the same statute are passed during the same
179 session of the Legislature, the form of the statute in the enrolled bill passed latest in time shall
180 control.

**§2-2-12. Headlines, etc., not part of act; notes, etc., attached to bills not to be construed as
expressing legislative intent.**

1 Chapter, article or section headings, headlines or headnotes of any act of the Legislature,
2 whether in the act at the time of passage or inserted by the Clerk of the House of Delegates in
3 editing, compiling and publishing the acts of the Legislature, are ~~hereby declared to be mere~~
4 catchwords and shall not be deemed or construed to be titles of such chapters, articles or sections,
5 or as any part thereof, or as indicating or expressing legislative intent or purpose.

6 Abstracts of bills or of changes proposed in existing statutes, explanatory notes and
7 declarations of purpose accompanying bills at the time of introduction in the Legislature or
8 appended or attached thereto after introduction, and included with copies of such bills printed or
9 otherwise reproduced by the Legislature or either house thereof, are ~~hereby declared~~ not to be a
10 part of such bills or of reports of committees thereon, and shall not be construed or interpreted as
11 indicating or expressing legislative intent.

CHAPTER 4. THE LEGISLATURE.

ARTICLE 1. OFFICERS, MEMBERS AND EMPLOYEES; APPROPRIATIONS; INVESTIGATIONS; DISPLAY OF FLAGS; RECORDS; USE OF CAPITOL BUILDING; PREFILING OF BILLS AND RESOLUTIONS; STANDING COMMITTEES; INTERIM MEETINGS; NEXT MEETING OF THE SENATE.

§4-1-13. Clerk of house to be keeper of rolls; compensation; duties as to acts; copies; fees; printing.

1 (a) The Clerk of the House of Delegates shall be the keeper of the rolls, and for his or her
2 duties as such ~~he~~ the clerk shall receive \$300 in addition to his salary as clerk. After a bill or joint
3 resolution has passed both houses, ~~he~~ the clerk shall cause the same to be correctly recorded, in
4 a legible manner, in a well-bound book, to be kept for that purpose exclusively, which recording
5 shall be equivalent to enrollment. ~~He~~ The clerk shall have the custody of the acts and joint
6 resolutions of the Legislature and shall make a certified copy of them for any person requiring the
7 same. For a copy of an act or joint resolution, ~~he~~ the clerk may demand of the person at whose
8 request it was made 50¢, or, at his the clerk's option, 3¢ for every thirty words contained therein.
9 As soon as possible after the close of each session, ~~he~~ the clerk shall prepare a well-arranged
10 index to the acts and joint resolutions passed at such session, and shall furnish to the printer who
11 has the contract for such printing the manuscript of such acts, resolutions and index and all matter
12 directed by law to be printed therewith, properly prepared and arranged for publication, and shall
13 superintend the printing thereof.

14 (b) When two or more bills amending the same statute are passed during the same session
15 of the Legislature, the form of the statute in the enrolled bill passed latest in time shall control.

NOTE: The purpose of this bill is to provide for statutory construction. The bill defines terms.
Finally, the bill sets forth authority of the clerks.

Strike-throughs indicate language that would be stricken from a heading or the present law
and underscoring indicates new language that would be added.