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**L A W S**  
GOVERNING THE  
**C H I L D**



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LAWS  
State of West Virginia  
Governing The Child

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A brief summary—with code reference of all the laws existing in the State of West Virginia affecting persons under the age of twenty-one, compiled in order that the citizens of the State might be supplied with the definite knowledge of the present legal provisions concerning children.

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## TABLE OF CONTENTS

---

### Section I. State and County Departments and Institutions Affecting Children.

#### Part 1.

##### —State.

1. State Board of Control.
2. State Board of Children's Guardians.
3. State Board of Education.
4. State Department of Education or State Department of Free Schools
5. State Department of Health.
6. State Industrial School for Boys.
7. State Industrial Schools for Girls.
8. a. Welch Hospital.  
b. McKendree Hospital.  
c. Fairmont Hospital.
9. West Virginia Children's Home.
10. West Virginia School for the Deaf and Blind.
11. a. Weston State Hospital.  
b. Spencer State Hospital.  
c. Huntington State Hospital.
12. West Virginia Training School for Feeble Minded.
13. State Colored Hospital for the insane.
14. West Virginia Home for Colored Children.
15. West Virginia School for Colored, Deaf and Blind.

#### Part 2.

##### —County.

1. The County Court.
2. County Health Officers.
3. Mental Hygiene Commission.
4. County Infirmary.

### Section II. Parent and Child.

1. Marriage.
2. Guardianship.
3. Inheritance.
4. Adoption.
5. Desertion and Non-Support.
6. Illigitimacy.

### Section III.

1. Apprenticeship.
2. Poor Relief.
3. Mother's Pensions.



**Section IV. Delinquent Child.**

1. Juvenile Courts.
2. Court of Domestic Relation.
3. Detention Homes.
4. Probation Officers.

**Section V. Offenses to Children.**

1. Criminal Assault.
2. Sale of Cigarettes.
3. Kidnapping.
4. Cruelty to Children.

**Section VI. Health and Sanitation.**

1. Vital Statistics.
2. Midwives.
3. Treatment of Eyes.

**Section VII. Educational Laws.**

1. County Superintendent of Schools.
2. School Districts.
3. District Board of Education.
4. Minimum Term.
5. Free Text Books.
6. Medical Inspector.
7. Compulsory Attendance.
8. State Aid.
9. Kindergartens.
10. Libraries.
11. Enumeration.

**Section VIII. Employment of Children.**

1. Provisions.
2. Work Permits.
3. Proof of Schooling.
4. Proof of Physical Fitness.

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**LAWS GOVERNING THE CHILDREN OF WEST VIRGINIA**

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**Sec. I. State and County Departments and Institutions Affecting Children.****Part 1.****1. State Board of Control—B. C. Chap. 15m.**

An administrative board of three members appointed by the Governor by the advice and consent of the Senate, having control and management of all state charitable and reformatory institutions. In the cases of educational institutions the financial management is under the Board of Control, while the educational policy is decided by the State Board of Education.

**2. State Board of Children's Guardians—1919 Acts Chap. 110 Amending B. C. Chap. 15.**

An administrative and supervisory board of three members which is appointed by and responsible to the Governor for the care of all dependent and neglected children who are proved to be normal mentally and physically. The children are brought to the Board through the action of the Court, and such children remain public wards until twenty-one unless they are returned by order of the Board, to parents or guardians, or are legally adopted. This Board has the authority to place children in private homes, to inspect and license all child caring in private homes and to inspect and license all child caring and child placing institutions whether public or private. The financial transactions of the Board are supervised by the State Board of Control.

**3. State Board of Education—1919—Acts Chap. 2. School Code Amending B. C. Chap. 15.**

A Board of seven members, six of whom are appointed by the Governor and the seventh the State Superintendent of schools a member ex-officio. The duties of this Board are to control the educational affairs, also State Educational institutions who have charge of the teachers training, to adopt text books for elementary schools except in cities of thirty-five hundred or more. To establish the general school policies and standards of the State.

**4. State Department of Free Schools—1919—Acts Chap. 2—Amending B. C. Chap. 15.**

This department has the active control and supervision of all free schools. It sees to the administration of State aid to individual districts unable to maintain their own schools and has the power, generally, to interpret the school law. Also, provides a supervisor for the education of the negro boy, girl.



**5. State Department of Health—Acts 1919, Chap. 96.**

This department is divided into four divisions, namely: preventable diseases, sanitary engineering, vital statistics and division of public health, education and child welfare. It is the function of this Department to enforce all laws of the State concerning public health, to take care of the life and health of the inhabitants of the State. It takes special charge in case of epidemics.

**Public Health Council.**

The public health council shall consist of the commissioner of health and six other members who are appointed by the Governor, by and with the consent of the Senate. It shall be the duty of this council to promulgate rules and regulations; take evidence in appeals; approve plans and appointments; hold hearings; advise with the commissioner of health; define the qualifications of local health authorities, and discharge other like duties required by law of the present state board of health.

**6. State Industrial School for Boys—B. C. Chap. 64, Sec. 236-266.**

This home is charged with the care and training of the delinquent boys of the State. Inmates are admitted through Juvenile Courts on charges of vagrancy, incorrigibility, vicious conduct, etc.

**7. State Industrial School for Girls—Acts 1897c 8 1908c-27.**

This home is charged with the care and training of the delinquent girls of the State. They are committed through Juvenile Courts or justice of the Peace, incorrigibility, vicious or immoral conduct and must not be of unsound mind, imbecilic, idiotic or epileptic. A physical or mental examination is required for entrance.

**8. Welch Hospital, McKendree Hospital, Fairmont Hospital—B. C. Chap. 15, Sec. 83-87a.**

The State hospitals are authorized to give crippled or deformed children orthoepedic treatment free of charge.

**9. West Virginia Children's Home—B. C. Chap. 80.**

This institution affords a temporary home to the children of the State, committed to the care and custody of the State Board of Children's Guardians.

**10. West Virginia School for the Deaf and Blind—Acts 1870 Chap. 116.**

Every parent or guardian having control of any mentally normal minor over eight years of age who is defective in sight or hearing, is required to send such minor to this institution where he shall continue to attend school until he has completed the course of instruction prescribed for that institution by the State Board of Education or until he has been discharged by the Superintendent.



**11. Weston State Hospital.**

Established before West Virginia seceded from Virginia.

**Spencer State Hospital—Acts of 1885—Resolution No. 8.****Huntington State Hospital—Acts of 1897—Chap. 7.**

These State hospitals are for the care of the insane of the State. The Huntington hospital also receives incurables and epileptics.

**12. West Virginia Training School for Feeble Minded—Act 1921-c.**

The establishment of the training school for mental defectives commonly classed as feeble minded was authorized by the 1921 session of the Legislature. No appropriation was made and the feeble minded are being cared for at present at Huntington and Spencer.

**13. State Colored Hospital for the Insane—Acts 1919.**

1919 session of the Legislature established the above hospital for the care and treatment of insane persons or persons who are mentally affected and other such mentally defectives, as the State Board of Control shall deem eligible, belonging to the Negro race.

**14. West Virginia Home for Colored Children—B. C. Chap. 57b—Sec. 1.**

This institution was burned to the ground in 1920 and at the present time the Board of Children's Guardians is caring for the children until a new home can be built.

**15. West Virginia School for Colored, Deaf and Blind—Acts 1919.**

The creation of this institution was authorized by the 1919 session of the Legislature. It has not yet been built, but at present they are being cared for at the Maryland school for the blind at Overleg, Maryland.

**Part 2.****1. The County Court—Constitution, Art. 23-23.**

There shall be in each county a court composed of three members, elected by the vote of the county for a term of 6 years.

They have charge of management of all internal police and fiscal affairs. Among its duties are the giving of poor relief and mother's pensions.

**2. County Health Officers—Acts 1919, Chap. 96.**

The public health council, upon the recommendation of the county court of the county, shall appoint in each county one legally qualified physician as the county health officer. He, together

with the President of the County Court and the Prosecuting Attorney, shall constitute the county board of health.



**3. Mental Hygiene Commission—Acts 1921, Chap. 131.**

In every county the President and Clerk of the County Court and the Prosecuting Attorney shall form a Board of three members to pass on the sanity of all persons admitted to State Institutions.

**4. County Infirmary—B. C. Chap. 64, Sec. 3.**

Every County Court may purchase lands for the use of the poor and use said lands as a place of general reception for the poor. The Court may also provide a county infirmary, workhouse and other improvements necessary for the use and benefit of the poor.

**5. Acts 1918, 26a.**

The county may provide hospitals, surgical or institutional care for the poor of the county.

**6. Section 4a.**

The County Court shall have the power to provide a suitable equipment and employ a suitable teacher to educate the children at the place of reception for the poor.

**Section II. The Child in the Home.****1. Marriage—B. C. Chap. 63.**

If a person is under twenty-one years of age and not having previously been married, the consent of parents or guardian must be made in person or in writing, to the Clerk of the County Court who issues all marriage licenses. If made in writing, such writing must be subscribed by a witness, who shall make oath before said clerk that said writing was signed or acknowledged in his presence by the parent or guardian.

**Chap. 64.** The age of consent for a man is eighteen years, and for a girl, sixteen years. However, under these ages a marriage is presumed to be valid unless proceedings are instituted for the purpose of having the marriage declared void by the court.

In the case of divorce, the court decrees in whose custody to place the children.

**2. Guardianship—Acts 1921—Chap. 80.**

Every father or mother may appoint, by will, a guardian for his or her child. If there is no father or mother or next of kin the County Court shall appoint the guardian. A guardian shall have the custody of his ward, and the possession, care and management of his estate, and out of the proceeds of such estate shall provide for maintenance and education.

The father and mother of minor children, if living together, shall have joint guardianship of their minor children. If living apart, the Court shall appoint the parent or guardian who is best suited for the trust. If the child is over fourteen, he may nominate his own guardian, to be approved by the Court.



**3. Inheritance—B. C. Chap. 78—Same as old form.**

In case there are no children, the wife receives all personal property. A widow receives one-third of the personal property of her husband and the children two thirds. The children receive all of the father's real estate except the one-third of which the mother has the use during her life.

**4. Adoption—B. C. Chap. 122.**

Any single person, or any husband, with his wife's consent, or any wife with her husband's consent, or any husband and wife jointly, may petition the Circuit Court permission to adopt a minor child. If the child is 14 or over the written consent of the child must be given to the adoption. From the date of the decree of the Court, the rights, duties, privileges and relations theretofore existing between said child and its parents are transferred to its adopted parents, including the right of inheritance. If a person is adopted when a minor and wishes to set aside that adoption, he may do so within a year of coming of age by filing a petition with the court which ordered adoption.

**5. Desertion and Non-Support—B. C. 144, Sec. 16c.**

Any husband who deserts or neglects or refuses to provide for the support of his wife or child or children under 16 years of age, legitimate or illegitimate, is guilty of a misdemeanor and shall be punished by a fine not exceeding \$500.00 or by imprisonment in the County jail not longer than a year. In case the fine is not paid, the court may direct the court to cause such husband or parent to be worked on the public improvements at not less than \$.50 a day or more than \$1.00 per day which shall be paid said wife or child.

**6. Illegitimacy—B. C. Chap. 80.**

Any unmarried mother, after the child has been born, may go before a justice in the county where she has resided for the past year and accuse any person of being the father of her child and be examined, under oath, by that justice. Her examination being reduced to writing and the women having signed it. On such examination, unless the child be three years old or upwards, the Justice shall issue a warrant for the arrest of the accused who shall be taken before a Justice and be required to enter into a recognance for his appearance at the next term of the circuit court of the county. Upon the trial of such reputed father, if found guilty by a jury, the court must enter an order requiring said father to provide for said child in such amount as he deems proper.



**Section III. Dependent and Neglected Child.****1. Apprenticeship—B. C. Chap. 81.**

By the consent of the court any minor may be bound out as an apprentice by the father, mother or guardian.

**Sec. 2.**

The County Court may bind out as an apprentice any minor who is found begging or is likely to become a public charge.

The period of apprenticeship for a boy is until he is 21 years and for a girl till she is 18 years old.

**Sec. 16d. (3).**

Any person having lawful or unlawful control of a child under the age of 18, who allows said child to participate in begging, singing, playing musical instruments on the public highway or to take part in any mendicant business shall be guilty of a misdemeanor and shall be fined not less than \$5.00 nor more than \$100.00. No child under age of 15 shall be bound out in occupations injurious to his health, life, limbs or morals.

**2. Poor Relief—Constitution—Art. 9, Chap. 46, Sec. 1.**

An over-seer of the poor is appointed by the County Court for each magisterial district, for a term of two years. It is his duty to see to the poor and needy of his district, and administer aid in the form of orders for fuel, food or clothing, etc. These orders are honored by the County Court, and a record is kept in the county of the amount of money expended.

**Section 26.**

The salary of the over-seer shall be such amount as the Court deems reasonable, not to exceed one dollar and fifty cents per day. His own affidavit is prima facie evidence as to the number of days so employed.

**3. Mother's Pensions—B. C. Chap. 46b.**

Mothers, widowed, deserted or whose husbands are totally incapacitated or in a state institution, may be granted aid by the County Court to the extent of \$15.00 per month if she has two children under the age of 13 and \$5 for each additional child up to a maximum of \$25.00 a month on condition that she is not receiving compensation, owns no real or personal property except household goods and has no relative who can help her financially to the extent of the aid given.

**Section IV. Delinquent Child.****1. Juvenile Courts—Acts 1919—Chap. 111—Amend. B. C. Chap. 46A.**

The circuit courts of this State shall have original jurisdiction in all cases coming within the terms of this act, except that in coun-



ties where a court of common pleas or intermediate court having chancery jurisdiction has been or may be created, such court shall have exclusive original jurisdiction in all such cases, subject to appeal to the circuit court of such county; provided, that in any county where there is a criminal court and no court of chancery jurisdiction other than the circuit court, such criminal court, on the law side thereof, shall have concurrent jurisdiction with such circuit court as to all cases arising under this act. In all trials under this act any person interested therein may demand a jury of twelve persons, or the judge, of his own motion, may order a jury of the same number to try the case. The powers conferred by this act upon any court may be exercised by the judge thereof at chambers in vacation.

**2. Court of Domestic Relation—Acts 1921, Chap. 168.**

A court is held in Cabel County for annulment of marriage, divorce alimony charges, care and disposition of delinquent, dependent and defecting children. Probation officers are appointed in connection with court.

**Detention Homes—Acts 1919—Chap. 11, Sec. 37.**

The establishment of probation homes must be put to the vote of the people of the county, except in counties where the site is already purchased.

**Probation Officers—Sec. 6.**

The circuit courts and other inferior courts which have chancery jurisdiction shall have authority to appoint any number of discreet persons of good moral character to serve as probation officers during the pleasure of the court. The number of probation officers vary with the population.

In counties of over thirty thousand population, whenever in the opinion of the judge, the board of county commissioners, and the superintendent of schools, additional probation officers to those allowed by law are necessary not to exceed two assistant probation officers, in addition to the ones provided for herein, may be appointed.

**Section V. Offenses to Children.**

**1. Criminal Assault—Acts 1921 Chap. 90.**

If any male person carnally know a female, not his wife, against her will by force, or if any male person who is over the age of sixteen years carnally know a female, not his wife, under that age, he shall be punished with death or with confinement in the penitentiary for life, or if the jury add to its verdict a recommendation for mercy, with confinement in the penitentiary for not less than five nor more than twenty years, provided, always that this section shall not apply to any male person under sixteen years of age who carnally knows a female over twelve years of age with her free consent.



**2. Sale of Cigarettes—B. C. 150—Sec. 20c (1).**

It is unlawful for any person, firm or corporation to sell or furnish or cause to be given away to any person under the age of 21 years, any cigarettes or cigarette paper or any other paper prepared to be filled with smoking tobacco or cigarette use. And it shall be unlawful for any person, firm or corporation to sell, give away or furnish to any person under the age of 16 years any cigar, pipe or tobacco in any form.

**Sec. 20e (2).**

It is unlawful for any person under 21 years to smoke or have about his person any cigarette or cigarette paper. Any person violating this provision shall be punished by a fine not exceeding \$5.00.

**3. Kidnapping—B. C.—Chap. 144, Sec. 14.**

Any person secreting a child under fourteen from the person having legal charge of child with the intention to extort money or other thing of value shall be confined in the penitentiary not less than two nor more than ten years. If the child is held for immoral purposes, the penalty is not less than one nor more than five years in the penitentiary or by discretion of the court, confinement in a county jail, for not more than one year and a fine of not more than a thousand dollars.

**4. Cruelty to Children—B. C. Chap. 144, Sec. 16d.**

Any person who cruelly ill-treats or abuses or inflicts unnecessarily cruel punishment upon any infant or minor child and any person, having the care, custody and control of any minor child, who shall woefully abandon or neglect the same, shall be guilty of a misdemeanor and shall be fined not less than ten nor more than \$50.00 for each offense.

**Section VI. Health and Sanitation.****1. Vital Statistics—Acts 1921—Chap. 137.**

All births and deaths must be reported within ten days, to the local registrar of the vital statistics, who is appointed by the State Commissioner of Health with the advice of the Public Health Council. All marriages must be registered with the State Registrar. The penalty for violating these provisions is a fine of not less than \$1.00 nor more than \$5.00.

**2. Midwives—B. C. Chap. 63, Sec. 18.**

Every midwife shall register her name and post office address, with the clerk of the County Court of the county in which she



resides, and with the clerk of the County Court of every other county in which she intends to practice. For failing to register, there is a fine of \$10.00, for making a false report, a fine of \$50.00 to \$300.00.—Sec. 35-38, Chap. 63.

**3. Treatment of Eyes—Acts 1919—Chap. 125.**

It is absolutely unlawful for any physician or mid-wife or any person assisting the mother at child birth to fail to instill or have instilled, immediately, in the eyes of a new born child, one or two drops of 1% solution of silver nitrate, furnished, if necessary, by the Public Health Council.

**Section VII. Educational Laws.**

**1. County Superintendent of Schools—Sec. 31-40.**

The County Superintendent of Schools is elected by the people and is the chief executive school officer in the county. He enforces the school law and rules of the State Board of Education throughout the county except in independent districts. He visits the schools, advises the supervisors, principals and teachers. Holds conferences, is the County Financial Secretary and makes annual reports to the State Superintendent of Schools.

**2. School Districts.**

Every magisterial district in each of the counties of the State, shall be divided into such number of sub-districts as may be necessary to carry on the work of the free schools.

**3. District Board of Education—Sec. 41.**

In each district there is a Board of Education of three members. This Board has control and management of the finances, property and policy of the district. The Board appoints the teachers, controls the transfer of pupils, may provide kindergardens, evening schools and libraries. It also lays the levy for the district school fund.

**4. Minimum Term—Sec. 54.**

There is a minimum term of school per year based on a scale which increases ten days per year until 1924. If the district, after levying the full amount allowed for the district, does not have such funds to continue the school the prescribed minimum term, state financial aid shall be given to the district.

**5. Free Text Books—Sec. 65.**

The Board of Education of any district may furnish free text books to the pupils of their schools or to those pupils whose parents are not able to supply the books.



**6. Medical Inspection—Sec. 64.**

Boards of Education in independent district shall and all other boards may employ proper medical and dental inspection of all pupils. Boards of Education of all districts shall, also, have authority to employ school nurses.

**7. Compulsory Attendance—Sec. 122.**

All children between 7 and 16 years of age must attend the public school every day that school is in session except when

- a. Instructions in a private or parochial school;
- b. Instructions at home approved by the Board of Education;
- c. Physical or mental incapacity;
- d. Death or serious illness in the immediate family;
- e. Extreme destitution of parents;
- f. Conditions of weather, roads, etc., making school attendance dangerous for pupil;
- g. Residence two miles from school when transportation is not provided;
- h. Observance of regular church ordinances;
- i. Special causes to be approved by the superintendent;
- j. Written permission to engage in regular employment which must be for at least six hours per day.

Being absent for one day without legal exemptions constitutes a violation of the law.

**8. State Aid—Sec. 80.**

1. State guarantees to every district a minimum term of school (seven months) with a minimum salary to the teachers, based in the teachers' training and experience.

2. The high schools are divided into classes according to the length of their course of study and their number of thoroughly qualified teachers. To each high school of the first class shall be given out of the state fund \$800.00; to each one of second class \$600.00, and each of the third class \$400.00.

**9. Sec. 60.**

The Board of Education of any district may establish in connection with the schools of such district, kindergarden classes to which may be admitted children between the ages of 4 to 6 years.

**10. Section 62.**

The Board of Education of every district may provide libraries for their schools from an approved list prepared by the State Superintendent of Schools.

**11. Section 91—Enumeration.**

The teacher or teachers in each sub-district shall annually, before the close of the school or schools therein, and not later than the first day of April, take and report an enumeration of all the youth



residing in the sub-district who will be between the ages of 6 and 21 on the first day of July, following, distinguishing between male and female and between white and colored.

**Section VIII. Employment of Children—Acts 1919, Chap. 17.**

**1. Provisions.**

No child under fourteen years of age shall be employed, permitted or suffered to work in, about or in connection with any gainful occupations except agriculture or domestic service.

However, boys of twelve years of age or over, may be employed in mercantile establishments and business offices outside of school hours, provided they obtain special permit from the school authorities. It is unlawful for any person, firm or corporation to employ, permit or suffer any child under fourteen years of age, to work in any business or service, whatever, during the hours when the public schools of the district in which the child resides, are in session.

No child under sixteen years of age shall be employed, permitted or suffered to work in any occupation dangerous to life or limb or injurious to the child's health or morals. (The State Commissioner of Health, and the State Superintendent of Schools may decide whether or not a specific employment does or does not come under the above conditions.) It is specified, moreover, that work in the mines, quarries, tunnels or any excavations, is considered a dangerous employment.

**2. Work Permits.**

No child between the ages of fourteen and sixteen years shall be employed in any gainful occupation, unless the person, firm or corporation by whom a child is employed obtains and keeps on file, and accessible to office, charged with enforcement of the law, a work permit issued by the Superintendent of Schools of the city or county where the child resides. Such permits are given on the following conditions: proof of the child's age based on a birth certificate, a record of baptism, a bona fide contemporary record of the date and place of the child's birth kept in the bible in which the records of the births of the family of the child are preserved or any other documentary policy or certificate signed by the public health physician or school physician, specifying what in his opinion is the physical age of the child.

**3. Proof of Schooling.**

That the child has satisfactorily completed the studies covered in the first six grades of the public schools or their equivalent.

**4. Proof of Physical Fitness.**

A certificate signed by the school doctor or public health officer, stating that the child has reached the normal development for his age and is in sound health, and physically able to be employed.



If the employer has any doubt as to the age of a child he must require proof that the child is sixteen years or over, so that if the child be under sixteen he may procure a working permit.

No child under the age of sixteen shall be employed, permitted or suffered to work in, about, or in connection with, any occupation except agriculture and domestic science, for more than six days in any one week nor more than forty-eight hours in any one week nor more than eight hours in any one day, nor before the hour of six in the morning nor after the hour of seven in the evening.

It shall be the duty of the State Commissioner of Labor, his assistants, factory inspectors, school truancy officer, agents of the Board of Children's Guardians and mine inspectors, to enforce provisions of this law.









