

MAR 13 9 23 AM '72

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1972

ENROLLED

HOUSE BILL No. 516

(By Mr. KOPELMAN)

PASSED MARCH 6, 1972

In Effect 90 DAYS Passage



FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3-13-72

516

ENROLLED

House Bill No. 516

(By MR. KOPELMAN)

[Passed March 6, 1972; in effect ninety days from passage.]

AN ACT to amend and reenact section two, article three, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the attorney general acting as counsel in defense of national guardsmen.

Be it enacted by the Legislature of West Virginia:

That section two, article three, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3. ATTORNEY GENERAL.

§5-3-2. Act as counsel for state; duties and powers as to prosecuting attorneys; defense of national guardsmen.

1 The attorney general shall appear as counsel for the
2 state in all causes pending in the supreme court of ap-
3 peals, or in any federal court, in which the state is in-
4 terested; he shall appear in any cause in which the state
5 is interested that is pending in any other court in the
6 state, on the written request of the governor, and when
7 such appearance is entered he shall take charge of and
8 have control of such cause; he shall defend all actions
9 and proceedings against any state officer in his official
10 capacity in any of the courts of this state or any of the
11 federal courts when the state is not interested in such
12 cause against such officer, but should the state be in-
13 terested against such officer, he shall appear for the

14 state; he shall institute and prosecute all civil actions and
15 proceedings in favor of or for the use of the state which
16 may be necessary in the execution of the official duties of
17 any state officer, board or commission on the written re-
18 quest of such officer, board or commission; he may con-
19 sult with and advise the several prosecuting attorneys in
20 matters relating to the official duties of their office, and
21 may require a written report from them of the state and
22 condition of the several causes, in which the state is a
23 party, pending in the courts of their respective counties;
24 he may require the several prosecuting attorneys to per-
25 form, within the respective counties in which they are
26 elected, any of the legal duties required to be performed
27 by the attorney general which are not inconsistent with
28 the duties of the prosecuting attorneys as the legal rep-
29 resentatives of their respective counties; when the per-
30 formance of any such duties by the prosecuting attorney
31 conflicts with his duties as the legal representative of his
32 county, or for any reason any prosecuting attorney is
33 disqualified from performing such duties, the attorney
34 general may require the prosecuting attorney of any
35 other county to perform such duties in any county other
36 than that in which such prosecuting attorney is elected
37 and for the performance of which duties outside of the
38 county in which he is elected the prosecuting attorney
39 shall be paid his actual traveling and other expenses out
40 of the appropriation for contingent expenses for the de-
41 partment for which such services are rendered; the at-
42 torney general shall keep in proper books, a register of
43 all causes prosecuted or defended by him in behalf of the
44 state or its officers and of the proceedings had in re-
45 lation thereto, and deliver the same to his successor in
46 office; and he shall preserve in his office all his official
47 opinions and publish the same in his biennial report.

48 Upon request of any member of the West Virginia
49 national guard who has been named defendant in any
50 civil action arising out of that guardsman's action while
51 under orders from the governor relating to national guard
52 assistance in disasters and civil disorders, the attorney
53 general shall appear as counsel for and represent such
54 guardsman.

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

Russell B. Seane
Chairman Senate Committee

Phyllis Rutledge
Chairman House Committee

Originated in the House.

In effect ninety days from passage.

Howard W. Carson
Clerk of the Senate

CA Blankenship
Clerk of the House of Delegates

E. H. Rouse
President of the Senate

Lewis F. M. Mann
Speaker House of Delegates

The within approved this the 10th
day of March, 1972.

Hubert H. H. H.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/8/72

Time 10:00 a.m.