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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1976



ENROLLED

Committee Substitute for

SENATE BILL NO. 491

(By Mr. *Hilli, et al*)



PASSED March 13, 1976

In Effect ninty days from Passage



FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/29/76

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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 491

(MR. WILLIS, MR. STEPTOE and MISS HERNDON,
original sponsors)

[Passed March 13, 1976; in effect ninety days from passage.]

AN ACT to amend chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article one-a, relating to the adoption of the uniform certification of questions of law act; setting forth power of supreme court of appeals of West Virginia to answer questions certified to it; method of invoking power; contents of certification order; preparation of certification order; costs of certification; briefs and arguments; providing for written opinion; power to certify; providing for procedure on certification; severability; construction; and providing a short title.

Be it enacted by the Legislature of West Virginia:

That chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article one-a, to read as follows:

ARTICLE 1A. UNIFORM CERTIFICATION OF QUESTIONS OF LAW ACT.

§51-1A-1. Power to answer.

1 The supreme court of appeals of West Virginia may
2 answer questions of law certified to it by the supreme
3 court of the United States, a court of appeals of the
4 United States, a United States district court or the highest
5 appellate court or the intermediate appellate court of
6 any other state, when requested by the certifying court

7 if there are involved in any proceeding before it ques-
8 tions of law of this state which may be determinative of
9 the cause then pending in the certifying court and as to
10 which it appears to the certifying court there is no con-
11 trolling precedent in the decisions of the supreme court
12 of appeals of this state.

§51-1A-2. Method of invoking.

1 This act may be invoked by an order of any of the
2 courts referred to in section one of this article upon the
3 court's own motion or upon the motion of any party to
4 the cause.

§51-1A-3. Contents of certification order.

1 A certification order shall set forth:
2 (1) The questions of law to be answered; and
3 (2) A statement of all facts relevant to the questions
4 certified and showing fully the nature of the controversy
5 in which the questions arose.

§51-1A-4. Preparation of certification order.

1 The certification order shall be prepared by the certi-
2 fying court, signed by the judge presiding at the hearing,
3 and forwarded to the supreme court of appeals of West
4 Virginia by the clerk of the certifying court under its
5 official seal. The supreme court of appeals of West Vir-
6 ginia may require the original or copies of all or of any
7 portion of the record before the certifying court to be
8 filed with the certification order, if, in the opinion of
9 the supreme court, the record or portion thereof may be
10 necessary in answering the questions.

§51-1A-5. Costs of certification.

1 Fees and costs shall be the same as in civil appeals
2 docketed before the supreme court of appeals and shall be
3 equally divided between the parties unless otherwise
4 ordered by the certifying court in its order of certifica-
5 tion.

§51-1A-6. Briefs and arguments.

1 Proceedings in the supreme court shall be those pro-
2 vided in the rules of the supreme court governing briefs
3 and arguments.

§51-1A-7. Opinion.

1 The written opinion of the supreme court stating the
2 law governing the questions certified shall be sent by the
3 clerk under the seal of the supreme court to the certify-
4 ing court and to the parties.

§51-1A-8. Power to certify.

1 The supreme court of appeals of West Virginia, on its
2 own motion or the motion of any party, may order
3 certification of questions of law to the highest court of
4 any state when it appears to the certifying court that
5 there is involved in any proceeding before the court a
6 question or questions of law of the receiving state which
7 may be determinative of the cause then pending in the
8 certifying court, and it appears to the certifying court
9 that there are no controlling precedents in the decisions
10 of the highest court or intermediate appellate courts of
11 the receiving state.

§51-1A-9. Procedure on certifying.

1 The procedures for certification from this state to the
2 receiving state shall be those provided in the laws of the
3 receiving state.

§51-1A-10. Severability.

1 If any provision of this act or the application thereof
2 to any person, court, or circumstance is held invalid, the
3 invalidity does not affect other provisions or applica-
4 tions of the act which can be given effect without the
5 invalid provision or application, and to this end the
6 provisions of this act are severable.

§51-1A-11. Construction.

1 This act shall be construed as to effectuate its general
2 purpose to make uniform the law of those states which
3 enact it.

§51-1A-12. Short title.

1 This act may be cited as the uniform certification of
2 questions of law act.

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

James L. Davis
Chairman Senate Committee

Clarence L. Chestnut
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

J. C. Wilson, Jr.
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

W. J. Brotherton
President of the Senate

Lewis F. McManus
Speaker House of Delegates

The within approved this the 26th
day of March, 1976

Anna Rouse Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 3/22/76

Time 11:40a.m.