

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1977



ENROLLED

HOUSE BILL No. 1426

(By Mr. Gondwin & Mr. Tucker)



PASSED April 9, 1977

In Effect ninety days from Passage



**ENROLLED**

**H. B. 1426**

(By MR. GOODWIN and MR. TUCKER)

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[Passed April 9, 1977; in effect ninety days from passage.]

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AN ACT to amend and reenact section ten, article two, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend chapter seven of said code by adding thereto a new article, designated article fourteen-a, relating to bonds of county officers; providing that penalty on sheriff's bond shall be not less than one hundred thousand dollars and penalty on deputy sheriff's bond shall be not less than thirty-five thousand nor more than one hundred thousand dollars; defining deputy sheriff; relating to the general tort liability of sheriffs and certain deputy sheriffs; defining certain terms with respect thereto; requiring certain county commissions to provide for liability insurance for sheriffs and such deputies; limiting the liability of sheriffs, counties and county commissions in certain cases and defining the extent of such liability.

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

That section ten, article two, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that chapter seven, of said code be amended by adding thereto a new article, designated article fourteen-a, to read as follows:

## CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

### ARTICLE 2. OFFICIAL AND OTHER BONDS.

#### §6-2-10. Bonds of county officers.

1 Every commissioner of a county commission and every clerk  
2 of a circuit court shall give bond with good security, to be  
3 approved by the circuit court, or the judge thereof in vacation;  
4 and every sheriff, deputy sheriff, surveyor of lands, clerk of  
5 a county commission, assessor, county superintendent of  
6 schools, notary public and magistrate shall give bond with good  
7 security, to be approved, unless otherwise provided by law,  
8 by the county commission of the county in which such officer  
9 is to act. The penalty of the bond of each commissioner of a  
10 county commission shall be not less than twenty thousand  
11 dollars and not more than two hundred thousand dollars, the  
12 amount to be fixed by the circuit court of the county, or the  
13 judge thereof in vacation, by order entered of record on the  
14 proper order books of both the county and circuit courts; of  
15 the clerk of the circuit court, not less than ten thousand nor  
16 more than fifty thousand dollars; of the sheriff, not less than  
17 one hundred thousand dollars nor more than the aggregate  
18 amount of all state, county, district, school, municipal and  
19 other moneys which will probably come into his hands during  
20 any one year of his term of office; of the deputy sheriff, not less  
21 than thirty-five thousand nor more than one hundred thousand  
22 dollars; of the surveyor of lands, not less than one thousand  
23 nor more than three thousand dollars; of the clerk of the  
24 county commission, not less than ten thousand nor more  
25 than fifty thousand dollars; of the assessor, not less than two  
26 thousand nor more than five thousand dollars; of the county  
27 superintendent of schools, not less than ten thousand nor more  
28 than fifty thousand dollars; of a notary public, not less than  
29 two hundred fifty nor more than one thousand dollars. Any  
30 public body required to pay the premiums on official bonds  
31 may provide a blanket bond policy for two or more such of-  
32 ficial bonds: *Provided*, That the bond herein required to be  
33 given by a notary public may be given before the clerk of  
34 the county commission, in the vacation of said commission,  
35 and approved by it at its next regular session.

36 For the purposes of this section, "deputy sheriff" shall  
37 mean a person appointed by a sheriff as his deputy whose pri-  
38 mary duty as such deputy is within the scope of active, general  
39 law enforcement and as such is authorized to carry deadly wea-  
40 pons, patrol the highways, perform police functions, make  
41 arrests or safeguard prisoners.

## CHAPTER 7. COUNTY COURTS AND OFFICERS.

### ARTICLE 14A. DEPUTY SHERIFFS TORT LIABILITY.

#### §7-14A-1. Short title.

1 This article may be cited and referred to as the "West Vir-  
2 ginia Deputy Sheriff's Tort Liability Act."

#### §7-14A-2. Definitions.

1 For the purpose of this article and as used in this article:

2 (a) "Deputy sheriffs" or "deputies" shall have the same  
3 meaning as those terms are given in section two (a) (2),  
4 article fourteen, of this chapter and shall, when used in this  
5 article, be limited, except when specifically authorized or when  
6 the context in which used clearly requires a broader or dif-  
7 ferent application and meaning, to those deputy sheriffs  
8 serving under civil service protection pursuant to the pro-  
9 visions of article fourteen of this chapter.

10 (b) "County commissions" shall mean the county com-  
11 mission, or tribunal in lieu thereof, in counties wherein a civil  
12 service system for deputy sheriffs is required to be in effect  
13 or wherein such system is put into effect pursuant to article  
14 fourteen of this chapter.

15 (c) "Professional liability insurance" means an insuring  
16 agreement wherein the insurer agrees, subject to policy agree-  
17 ments, exclusions, conditions and limits, to pay all sums  
18 which the insured deputy sheriff shall or may become legally  
19 obligated to pay as damages because of bodily injury (in-  
20 cluding death) or property damages sustained by others and  
21 caused by an occurrence and arising out of such deputy sheriff's  
22 occupancy, maintenance or use of official operations or con-  
23 duct in the performance of official duties.

**§7-14A-3. County commission to purchase professional liability insurance; limits; additional insurance authorized; contribution from deputies.**

1 Effective the first day of January, one thousand nine hun-  
2 dred seventy-eight, the county commission of each county  
3 wherein the provisions of this article are applicable, shall  
4 purchase a professional liability insurance policy covering  
5 all deputy sheriffs subject to this article, which policy shall  
6 provide for minimum coverage of fifty thousand dollars for  
7 each person injured or damaged in each occurrence and one  
8 hundred thousand dollars total coverage for each occurrence.  
9 Every such policy shall be written on an occurrence basis only.  
10 Such policy shall be paid for out of the county general  
11 revenue fund. The county commission may purchase addi-  
12 tional coverage and, as to such additional coverage, may pay  
13 all or any part of the premiums as it and its sole discretion  
14 deems appropriate or, as to such additional coverage may  
15 require contributions in whole or in part from the sheriff  
16 and from the deputy sheriffs required to be covered by such  
17 insurance. Such additional insurance may not be purchased  
18 and the premiums in whole or in part paid by such deputies  
19 except with the consent of the majority of the deputies to  
20 be covered thereby.

**§7-14A-4. Liability of sheriff, county and county commission limited.**

1 Any other provision of this code or rule of law to the  
2 contrary notwithstanding, on and after the first day of Jan-  
3 uary, one thousand nine hundred seventy-eight, no sheriff  
4 shall be held jointly or severally liable on his official bond  
5 or otherwise for any act or conduct of any deputies subject  
6 to the provisions of this article committed on or after such  
7 date, except in cases where such deputy is acting in the  
8 presence of and under the direct, immediate and personal  
9 supervision of such sheriff, nor shall the county commission  
10 of a county nor the county itself be held so liable, and the  
11 liability of such sheriff, county or county commission in such  
12 cases shall be no greater than would be the liability of the  
13 superintendent of the department of public safety, or such

- 14 department or the state of West Virginia under the same or  
15 substantially similar circumstances.

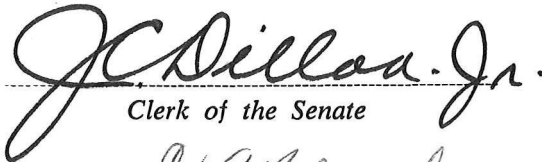
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman Senate Committee

  
Chairman House Committee

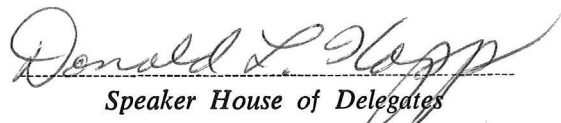
Originated in the House.

Takes effect ninety days from passage.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker House of Delegates

The within is approved this the 27  
day of April, 1977.

  
Governor

APPROVED AND SIGNED BY THE GOVERNOR

RECEIVED

APR 21 2 23 PM '77

OFFICE OF THE GOVERNOR

Date

April 27, 1977

Time

11:30 A.M.

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OFFICE  
SECY. OF STATE