WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1977

ENROLLED

HOUSE BILL No. 1426

(By Mr. Grodin and Mr. Tucker)

PASSED April 9, 1977
In Effect ninety days from Passage
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.


Every commissioner of a county commission and every clerk of a circuit court shall give bond with good security, to be approved by the circuit court, or the judge thereof in vacation; and every sheriff, deputy sheriff, surveyor of lands, clerk of a county commission, assessor, county superintendent of schools, notary public and magistrate shall give bond with good security, to be approved, unless otherwise provided by law, by the county commission of the county in which such officer is to act. The penalty of the bond of each commissioner of a county commission shall be not less than twenty thousand dollars and not more than two hundred thousand dollars, the amount to be fixed by the circuit court of the county, or the judge thereof in vacation, by order entered of record on the proper order books of both the county and circuit courts; of the clerk of the circuit court, not less than ten thousand nor more than fifty thousand dollars; of the sheriff, not less than one hundred thousand dollars nor more than the aggregate amount of all state, county, district, school, municipal and other moneys which will probably come into his hands during any one year of his term of office; of the deputy sheriff, not less than thirty-five thousand nor more than one hundred thousand dollars; of the surveyor of lands, not less than one thousand nor more than three thousand dollars; of the clerk of the county commission, not less than ten thousand nor more than fifty thousand dollars; of the assessor, not less than two thousand nor more than five thousand dollars; of the county superintendent of schools, not less than ten thousand nor more than fifty thousand dollars; of a notary public, not less than two hundred fifty nor more than one thousand dollars. Any public body required to pay the premiums on official bonds may provide a blanket bond policy for two or more such official bonds: Provided, That the bond herein required to be given by a notary public may be given before the clerk of the county commission, in the vacation of said commission, and approved by it at its next regular session.
For the purposes of this section, "deputy sheriff" shall mean a person appointed by a sheriff as his deputy whose primary duty as such deputy is within the scope of active, general law enforcement and as such is authorized to carry deadly weapons, patrol the highways, perform police functions, make arrests or safeguard prisoners.

CHAPTER 7. COUNTY COURTS AND OFFICERS.

ARTICLE 14A. DEPUTY SHERIFFS TORT LIABILITY.

§7-14A-1. Short title.

This article may be cited and referred to as the "West Virginia Deputy Sheriff's Tort Liability Act."

§7-14A-2. Definitions.

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

(a) "Deputy sheriffs" or "deputies" shall have the same meaning as those terms are given in section two (a) (2), article fourteen, of this chapter and shall, when used in this article, be limited, except when specifically authorized or when the context in which used clearly requires a broader or different application and meaning, to those deputy sheriffs serving under civil service protection pursuant to the provisions of article fourteen of this chapter.

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

(c) "Professional liability insurance" means an insuring agreement wherein the insurer agrees, subject to policy agreements, exclusions, conditions and limits, to pay all sums which the insured deputy sheriff shall or may become legally obligated to pay as damages because of bodily injury (including death) or property damages sustained by others and caused by an occurrence and arising out of such deputy sheriff's occupancy, maintenance or use of official operations or conduct in the performance of official duties.
§7-14A-3. County commission to purchase professional liability insurance; limits; additional insurance authorized; contribution from deputies.

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

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

Any other provision of this code or rule of law to the contrary notwithstanding, on and after the first day of January, one thousand nine hundred seventy-eight, no sheriff shall be held jointly or severally liable on his official bond or otherwise for any act or conduct of any deputies subject to the provisions of this article committed on or after such date, except in cases where such deputy is acting in the presence of and under the direct, immediate and personal supervision of such sheriff, nor shall the county commission of a county nor the county itself be held so liable, and the liability of such sheriff, county or county commission in such cases shall be no greater than would be the liability of the superintedent 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.

[Signature]

Chairman Senate Committee

[Signature]

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

[Signature]

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

[Signature]

President of the Senate

[Signature]

Speaker House of Delegates

The within _____ is approved _____ this the _____ day of _____, 1977.

[Signature]

Governor