

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1977



ENROLLED

HOUSE BILL No. 1426

(By Mr. Goodwin & Mr. Tucker)



PASSED April 9, 1977

In Effect ninety days from Passage



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H. B. 1426

(By MR. GOODWIN 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.

§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.

James L. Davis
Chairman Senate Committee

Clarence C. Chestnut, Jr.
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

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

C. A. Blankenship
Clerk of the House of Delegates

W. F. Bratherton, Jr.
President of the Senate

Donald L. Hoopp
Speaker House of Delegates

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

John D. Rulyea
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.

RECEIVED

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OFFICE
SECY. OF STATE