WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1982

ENROLLED
Committee Substitute for
HOUSE BILL No. 1228

(By Mr. Tucker & Mr. Hutchins)

Passed March 13, 1982

In Effect ninety days from Passage
AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-eight, relating to reports concerning veterans who may have been exposed to certain chemical defoliants or herbicides or other causative agents and assistance to those veterans; providing definitions; reports made to West Virginia state department of health; reports by department of health; confidentiality of reports; physician or hospital to be immune from civil or criminal liability; attorney general authorized to represent veterans in class action suit; institution of assistance programs authorized if funding is available; providing dates for application by veterans; and termination of programs and duties of the department of health.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-eight, to read as follows:
ARTICLE 28. ASSISTANCE TO KOREAN AND VIETNAM VETERANS
EXPOSED TO CERTAIN CHEMICAL DEFOLIANTS
OR HERBICIDES OR OTHER CAUSATIVE AGENTS,
INCLUDING AGENT ORANGE.

§16-28-1. Definitions.

As used in this article, unless otherwise indicated by the
context:

(1) "Veteran" means a person who was a resident of this
state at the time of his induction into the armed forces of
the United States of America, or was a resident of this state
as of the thirty-first day of March, one thousand nine hun-
dred eighty-one, who served in Vietnam, Cambodia or Laos
during the Vietnam conflict, or who served in Korea during
the Korean conflict;

(2) "Agent orange" means the herbicide composed pri-
marily of trichlorophenoxyacetic acid and dichlorophenoxy-
acetic acid;

(3) "Department" means the West Virginia department of
health; and

(4) "Director" means the director of the department of
health.

§16-28-2. Reports to the department of health.

(a) A physician who has primary responsibility for treat-
ing a veteran who believes he may have been exposed to
chemical defoliants or herbicides or other causative agents,
including agent orange, while serving in the armed forces of
the United States, shall, at the request of the veteran, sub-
mit a report to the department on a form provided by the
department. If there is no physician having primary respon-
sibility for treating the veteran, the hospital treating the veteran
shall, at the request of the veteran, submit the report to the
department.

(b) The form provided by the department to the physician
shall request the following information:

(1) Symptoms of the veteran which may be related to ex-
posure to a chemical defoliant or herbicide or other causative agent, including agent orange;

(2) Diagnosis of the veteran; and

(3) Methods of treatment prescribed.

c) The department may require the veteran to provide such other information as determined by the director.

§ 16-28-3. Reports by the department; studies on veterans; consent required.

(a) The department, in consultation and cooperation with a board-certified medical toxicologist, shall compile and evaluate information submitted under this article into a report to be distributed annually to members of the Legislature and to the veterans administration, the West Virginia Department of Veterans Affairs, and other veterans' groups. The report shall contain current research findings on the effects of exposure to chemical defoliants or herbicides or other causative agents, including agent orange, and statistical information compiled from reports submitted by physicians or hospitals.

(b) The department, in consultation and cooperation with a board-certified medical toxicologist, shall conduct epidemiological studies on veterans who have cancer or other medical problems associated with exposure to a chemical defoliant or herbicide or any other causative agent, including agent orange, or who have children born with birth defects after the veterans' suspected exposure to a chemical defoliant or herbicide or any other causative agent, including agent orange. The department must obtain consent from each veteran to be studied under this subsection. The department shall compile and evaluate information obtained from these studies into a report to be distributed as provided by subsection (a) of this section.


The identity of a veteran about whom a report has been made under section two or three of this article may not be disclosed unless the veteran consents to the disclosure. Sta-
4 statistical information collected under this article is public information.

§16-28-5. Immunity from liability.

1 A physician or a hospital subject to this article who complies with this article may not be held civilly or criminally liable for providing the information required.

§16-28-6. Class action representation by attorney general.

1 The attorney general may represent a class of individuals composed of veterans who may have been injured because of contact with chemical defoliants or herbicides or other causative agents, including agent orange, in a suit for release of information relating to exposure to such chemicals during military service and for release of individual medical records.

§16-28-7. Assistance programs.

1 (a) The department of health, the West Virginia University school of medicine, the Marshall University school of medicine, and the West Virginia school of osteopathic medicine, shall institute a cooperative program to:

5 (1) Refer veterans to appropriate state and federal agencies for the purpose of filing claims to remedy medical and financial problems caused by the veterans' exposure to chemical defoliants or herbicides or other causative agents, including agent orange; and

10 (2) Provide veterans with fat tissue biopsies, genetic counseling and genetic screening to determine if the veteran has suffered physical damage as a result of substantial exposure to chemical defoliants or herbicides or other causative agents, including agent orange.

15 (b) The director of the department of health shall adopt rules necessary to the administration of the programs authorized by this section.


1 Sections two and three of this article apply to all cases of veterans treated on or after the first day of January,
one thousand nine hundred eighty-two, for symptoms typical of a person who has been exposed to a chemical defoliant or herbicide or any other causative agent, including agent orange. Sections six and seven of this article apply to all veterans.


If the director of the department of health determines that an agency of the federal government is performing the referral and screening functions required by section seven of this article, the director may discontinue any program required by this article or any duty required of a physician or hospital under this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating 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 approved this the 29th day of March, 1982.

[Signature]
Governor