

No: 80

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987



ENROLLED

Committee Substitute for
SENATE BILL NO. 80

(By Senator *Holliday, et al*)



PASSED *March 14* 1987

In Effect *mority days from* Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 80

(SENATORS HOLLIDAY AND TONKOVICH, MR. PRESIDENT, *original*
sponsors)

[Passed March 14, 1987; in effect ninety days from passage.]

AN ACT to amend and reenact section two, article three, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the attorney general prosecuting crimes committed by persons incarcerated in state institutions of corrections when requested by a prosecuting attorney and upon approval by the circuit court or a justice of the supreme court.

Be it enacted by the Legislature of West Virginia:

That section two, article three, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3. ATTORNEY GENERAL.

§5-3-2. Act as counsel for state; duties and powers as to prosecuting attorneys; defense of national guardsmen.

- 1 The attorney general shall appear as counsel for the state
- 2 in all causes pending in the supreme court of appeals, or in
- 3 any federal court, in which the state is interested; he shall

4 appear in any cause in which the state is interested that is
5 pending in any other court in the state, on the written
6 request of the governor, and when such appearance is
7 entered he shall take charge of and have control of such
8 cause; he shall defend all actions and proceedings against
9 any state officer in his official capacity in any of the courts
10 of this state or any of the federal courts when the state is not
11 interested in such cause against such officer, but should the
12 state be interested against such officer, he shall appear for
13 the state; he shall institute and prosecute all civil actions
14 and proceedings in favor of or for the use of the state which
15 may be necessary in the execution of the official duties of
16 any state officer, board or commission on the written
17 request of such officer, board or commission; he shall, when
18 requested by the prosecuting attorney of a county wherein a
19 state institution of correction is located, provide attorneys
20 for appointment as special prosecuting attorneys to assist
21 the prosecuting attorney of said county in the prosecution
22 of criminal proceedings when, in the opinion of the circuit
23 judge of said county, or a justice of the West Virginia
24 supreme court of appeals, extraordinary circumstances
25 exist at said institution which render the financial
26 resources of the office of the prosecuting attorney
27 inadequate to prosecute said cases; he may consult with and
28 advise the several prosecuting attorneys in matters relating
29 to the official duties of their office, and may require a
30 written report from them of the state and condition of the
31 several causes, in which the state is a party, pending in the
32 courts of their respective counties; he may require the
33 several prosecuting attorneys to perform, within the
34 respective counties in which they are elected, any of the
35 legal duties required to be performed by the attorney
36 general which are not inconsistent with the duties of the
37 prosecuting attorneys as the legal representatives of their
38 respective counties; when the performance of any such
39 duties by the prosecuting attorney conflicts with his duties
40 as the legal representative of his county, or for any reason
41 any prosecuting attorney is disqualified from performing
42 such duties, the attorney general may require the
43 prosecuting attorney of any other county to perform such
44 duties in any county other than that in which such
45 prosecuting attorney is elected and for the performance of
46 which duties outside of the county in which he is elected the

47 prosecuting attorney shall be paid his actual traveling and
48 other expenses out of the appropriation for contingent
49 expenses for the department for which such services are
50 rendered; the attorney general shall keep in proper books, a
51 register of all causes prosecuted or defended by him in
52 behalf of the state or its officers and of the proceedings had
53 in relation thereto, and deliver the same to his successor in
54 office; and he shall preserve in his office all his official
55 opinions and publish the same in his biennial report.

56 Upon request of any member of the West Virginia
57 national guard who has been named defendant in any civil
58 action arising out of that guardsman's action while under
59 orders from the governor relating to national guard
60 assistance in disasters and civil disorders, the attorney
61 general shall appear as counsel for and represent such
62 guardsman.

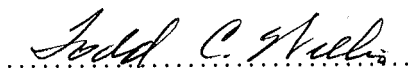
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee

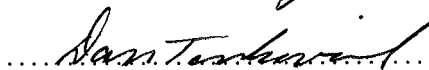

Chairman House Committee

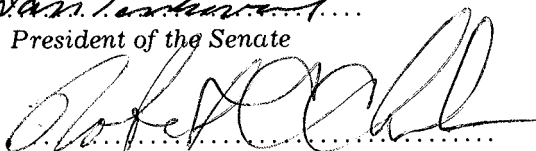
Originated in the Senate.


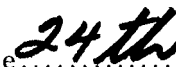

In effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within  approved this the 
day of  1987.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/19/87

Time 1:39 p.m.

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OFFICE OF THE
SECRETARY OF THE
NAVY