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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1991



ENROLLED

SENATE BILL NO. 429

(By Senators Wooten and Humphreys)



PASSED March 9, 1991

In Effect 90 days from Passage

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Senate Bill No. 429

(By SENATORS WOOTON AND HUMPHREYS)

[Passed March 9, 1991; in effect 90 days from passage.]

AN ACT to amend and reenact section seventeen, article twenty-one, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to prohibiting the private practice of law by public defenders.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 21. PUBLIC DEFENDER SERVICES.

§29-21-17. Private practice of law by public defenders.

1 (a) No full-time public defender or full-time assis-
2 tant public defender may engage in any private
3 practice of law except as provided in this section.

4 (b) A board of directors may permit a newly
5 employed full-time public defender or full-time assis-
6 tant public defender to engage in the private practice
7 of law for compensation for the sole purpose of
8 expeditiously closing and withdrawing from existing
9 private cases from a prior private practice. In no event
10 shall any person employed for more than ninety days

11 as a full-time public defender or full-time assistant
12 public defender be engaged in any other private
13 practice of law for compensation: *Provided*, That until
14 the first day of January, one thousand nine hundred
15 ninety-three, the prohibition against the private
16 practice of law does not apply to full-time public
17 defenders employed in Class II, III or IV counties as
18 defined by article seven, chapter seven of this code.

19 (c) A board of directors may permit a full-time
20 public defender or full-time assistant public defender
21 to engage in private practice for compensation if the
22 defender is acting pursuant to an appointment made
23 under a court rule or practice of equal applicability to
24 all attorneys in the jurisdiction and if the defender
25 remits to the public defender corporation all compen-
26 sation received.

27 (d) A board of directors may permit a full-time
28 public defender or full-time assistant public defender
29 to engage in uncompensated private practice of law if
30 the public defender or assistant public defender is
31 acting:

32 (1) Pursuant to an appointment made under a court
33 rule or practice of equal applicability to all attorneys
34 in the jurisdiction; or

35 (2) On behalf of a close friend or family member; or

36 (3) On behalf of a religious, community or charitable
37 group.

38 (e) Violation of the requirements of this section is
39 sufficient grounds for immediate summary dismissal.

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

Somer Heck
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Harold E. Helms
.....
Clerk of the Senate

Donald L. Kopp
.....
Clerk of the House of Delegates

Nick Fustite
.....
President of the Senate

Robert C. ...
.....
Speaker House of Delegates

The within *is approved* this the *29th*
day of *March*, 1991.

Gaston Caperton
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/20/91

Time 4:35 PM