

SB 383

**WEST VIRGINIA LEGISLATURE**  
**EIGHTY-FIRST LEGISLATURE**  
**REGULAR SESSION, 2013**



**ENROLLED**

**Senate Bill No. 383**

(By SENATORS COOKMAN, STOLLINGS, PLYMALE AND PALUMBO)

[PASSED APRIL 8, 2013; IN EFFECT NINETY DAYS FROM PASSAGE.]

WEST VIRGINIA  
SECRETARY OF STATE

2013 APR 18 PM 4:58

FILED

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**AN ACT to amend and reenact §29-21-9 and §29-21-20 of the Code of West Virginia, 1931, as amended, all relating to Public Defender Services; authorizing family court judges to appoint counsel in contempt cases when jail commitment is possible; and providing immunity to attorney appointed by family court judges.**

*Be it enacted by the Legislature of West Virginia:*

That §29-21-9 and §29-21-20 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 21. PUBLIC DEFENDER SERVICES.**

**§29-21-9. Panel attorneys.**

1       (a) In each circuit of the state, the circuit court shall  
2 establish and maintain regional and local panels of private  
3 attorneys-at-law who are available to serve as counsel for  
4 eligible clients. An attorney-at-law may become a panel  
5 attorney and be enrolled on the regional or local panel, or  
6 both, to serve as counsel for eligible clients by informing the  
7 court. An agreement to accept cases generally or certain  
8 types of cases particularly may not prevent a panel attorney  
9 from declining an appointment in a specific case.

10           (b) In all cases where an attorney-at-law is required to be  
11 appointed for an eligible client, the appointment shall be  
12 made by the circuit judge: *Provided*, That in family court  
13 contempt cases, the family court judge shall appoint an  
14 attorney-at-law when required, in the following order of  
15 preference:

16           (1) In circuits where a public defender office is in  
17 operation, the judge shall appoint the public defender office  
18 unless an appointment is not appropriate due to a conflict of  
19 interest or unless the public defender corporation board of  
20 directors or the public defender, with the approval of the  
21 board, has notified the court that the existing caseload cannot  
22 be increased without jeopardizing the ability of defenders to  
23 provide effective representation;

24           (2) If the public defender office is not available for  
25 appointment, the court shall appoint one or more panel  
26 attorneys from the local panel;

27           (3) If there is no local panel attorney available, the judge  
28 shall appoint one or more panel attorneys from the regional  
29 panel;

30           (4) If there is no regional panel attorney available, the  
31 judge may appoint a public defender office from an adjoining  
32 circuit if such public defender office agrees to the  
33 appointment;

34           (5) If the adjoining public defender office does not accept  
35 the appointment, the judge may appoint a panel attorney from  
36 an adjoining circuit; or

37           (6) If a panel attorney from an adjoining circuit is  
38 unavailable, the judge may appoint a panel attorney from any  
39 circuit;

40 (c) In any given case, the appointing judge may alter the  
41 order in which attorneys are appointed if the case requires  
42 particular knowledge or experience on the part of the attorney  
43 to be appointed: *Provided*, That any time a court, in  
44 appointing counsel pursuant to the provisions of this section,  
45 alters the order of appointment as set forth herein, the order  
46 of appointment shall contain the court's reasons for doing so.

**§29-21-20. Appointed counsel immune from liability.**

1 Any attorney who provides legal representation under the  
2 provisions of this article under appointment by a circuit court,  
3 family court or by the Supreme Court of Appeals, and whose  
4 only compensation therefor is paid under the provisions of  
5 this article, shall be immune from liability arising from that  
6 representation in the same manner and to the same extent that  
7 prosecuting attorneys are immune from liability.

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 Senate.

In effect ninety days from passage.

*[Signature]*  
.....  
Clerk of the Senate

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SECRETARY OF STATE  
FILED

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker of the House of Delegates

The within *is approved* this the *18th*  
Day of *April*, 2013.

*[Signature]*  
.....  
Governor

PRESENTED TO THE GOVERNOR

APR 15 2013

Time 4:05 pm