

1 HB258
2 110266-4
3 By Representative Ford
4 RFD: Judiciary
5 First Read: 14-JAN-10

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ENROLLED, An Act,

To amend Section 36-15-1, Code of Alabama 1975, to eliminate the requirement that the Attorney General print and distribute paper copies of his or her official opinions; and to require the Attorney General to post on the Internet and, upon request of any public official, to e-mail electronic copies of those opinions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 36-15-1, Code of Alabama 1975, is amended to read as follows:

"§36-15-1.

"The Attorney General shall keep his or her office at the capital city and perform the following duties:

"(1)a. He or she shall give his or her opinion in writing, or otherwise, on any question of law connected with the interests of the state or with the duties of any of the departments, when required by the Governor, Secretary of State, Auditor, Treasurer, Superintendent of Education, Commissioner of Agriculture and Industries, Director of Department of Finance, Comptroller, State Health Officer, Public Service Commissioners, Commissioner of Conservation and Natural Resources, or the Director of the Department of Revenue or any other officer or department of the state when it is made, by law, his or her duty so to do, and he or she

1 shall also give his or her opinion to the Chairman of the
2 Judiciary Committee of either house, when required, upon any
3 matter under the consideration of the committee.

4 "b. The Attorney General shall give his or her
5 opinion, in writing or otherwise, as to any question of law
6 connected with the duties of the following county or city
7 ~~officer~~ officers when requested so to do in writing: Judge of
8 probate, clerk of the circuit court, sheriff, city and county
9 boards of education, county commission, register of the
10 circuit court, tax collector, tax assessor, mayor or chief
11 executive officer of any incorporated municipality, city
12 council or like governing body of any incorporated
13 municipality, or any other officer required to collect,
14 disburse, handle, or account for public funds.

15 "c. Any officer or governing body of a municipality
16 or county or officer or governing body of any other elected or
17 appointed body shall submit with the request for an opinion a
18 resolution adopted by the governing body setting forth the
19 facts showing the nature and character of the question which
20 makes the advice or opinion sought necessary to the present
21 performance of some official act that the officer or governing
22 body must immediately perform.

23 "d. An officer or governing body shall not submit
24 moot, private, or personal questions in which the state,
25 county, or public is not materially or primarily interested to

1 the Attorney General, and any officer shall submit, with
2 request for an opinion, a certificate setting forth the facts
3 showing the nature and character of the question which makes
4 the advice sought necessary to present performance of some
5 official act that the officer must immediately perform.

6 "(2) He or she shall attend, on the part of the
7 state, to all criminal cases pending in the Supreme Court or
8 Court of Criminal Appeals, and to all civil actions in which
9 the state is a party in the Supreme Court or Court of Civil
10 Appeals. He or she shall also attend to all cases other than
11 criminal that may be pending in the courts of this state, in
12 which the state may be in any manner concerned, and shall
13 appear in the courts of other states or of the United States,
14 in any case in which the state may be interested in the
15 result.

16 "(3) He or she shall, ~~for each three months' period,~~
17 ~~cause to be published in pamphlet form~~ post on the Internet
18 searchable, electronic copies of the written official opinions
19 ~~as shall have been rendered by him or her during the period to~~
20 ~~the various departments and officials, who, under the law,~~
21 ~~have the right to require his or her opinion on matters~~
22 ~~affecting them or the operation of their offices or~~
23 ~~departments~~ pursuant to subdivision (1). On a timely basis, he
24 or she shall also send electronic copies of the opinions to
25 any public official who has asked to receive them and who has

1 ~~provided a working e-mail address for that purpose. He or she~~
2 ~~shall cause a sufficient number of pamphlets to be printed to~~
3 ~~enable him or her to supply each probate judge in the state~~
4 ~~with seven copies of the pamphlet and shall, as soon as~~
5 ~~practicable after publication, transmit the pamphlet to the~~
6 ~~probate judges of the several counties of the state, one copy~~
7 ~~of which is to be kept on file for the use of the probate~~
8 ~~judges and for the use of the public, and the probate judge is~~
9 ~~required to deliver one copy of the pamphlet to each of the~~
10 ~~following county officers: Clerk of the circuit court,~~
11 ~~sheriff, tax collector, tax assessor, and county~~
12 ~~superintendent of education. A copy of the report also shall~~
13 ~~be sent to each district attorney and to the chief executive~~
14 ~~officer of each incorporated municipality in this state.~~

15 "(4) He or she shall, in the month of October of the
16 last year of his or her term of office, compile a report,
17 which shall include suggestions for the suppression of crime
18 and the improvement of the criminal administration as he or
19 she may deem proper. Such report shall also contain a
20 statement of the number of criminal cases disposed of in the
21 entire state for the past four years, as shown by reports of
22 district attorneys; and, taking each character of cases
23 separately, it shall show the number disposed of in each
24 judicial circuit and in each criminal court or other court or
25 territory having a separate district attorney, the number of

1 convictions, the number of acquittals, the number of nolle
2 prosequis entered, the number of cases which were abated or
3 otherwise disposed of, the number of sentences to death, the
4 number of sentences to the penitentiary, the number of other
5 sentences, including fines imposed, and the totals under each
6 head above mentioned. One copy of the report shall be retained
7 in the permanent files of the office of the Attorney General,
8 and one copy of the report shall be transmitted to the
9 Governor, the Clerk of the House of Representatives, and the
10 Secretary of the Senate, and two copies of the report shall be
11 transmitted to the Department of Archives and History. The
12 expense of printing and binding all of the reports provided
13 for in this section shall be paid by the state in the same
14 manner as is now or hereafter may be provided for printing and
15 binding for the state.

16 "(5) He or she shall keep and preserve, with proper
17 indexes thereto, copies of all his or her official opinions
18 and correspondence.

19 "(6) He or she shall keep, with proper index
20 thereto, a docket of all civil actions and claims in which the
21 state is in any manner concerned and to which he or she is
22 required to give attention, showing the names and addresses of
23 the parties, the nature and amount of the action or claim,
24 when and in what court action was brought, and steps taken
25 therein, and the final determination and result thereof, and,

1 as to claims for collection, showing also when and from whom
2 the claims were received and the name and address of any agent
3 or attorney to whom sent for collection and the date thereof
4 and, in all cases, the amount and date of each collection, the
5 amount of commissions or other expenses deducted, if any, the
6 net amount collected, when and to whom paid over, and the
7 receipt of the officer therefor.

8 "(7) At such time as the Attorney General deems
9 appropriate, the Attorney General shall carefully examine all
10 of the general statutes now in force, or which hereafter may
11 be enacted by the Legislature from time to time, as to their
12 clarity and constitutional validity.

13 "(8) At such time as the Attorney General deems
14 appropriate, the Attorney General may make a report in writing
15 to the Governor and to the Chairman of the Judiciary Committee
16 of the House of Representatives and of the Senate, pointing
17 out the laws or parts of laws of Alabama which have been held
18 invalid by courts of last resort since the last session of the
19 Legislature, and also making suggestions as to inaccuracies,
20 inadvertences, mistakes and omissions in statutes, which, in
21 his or her opinion, should be corrected.

22 "(9) Upon the codification of the statutes provided
23 for in Section 85 of the constitution, he or she shall advise
24 with and assist the committees of the Senate and House of
25 Representatives or the joint committee of the Legislature

1 charged with the duty of examining and investigating the
2 documents submitted by the code commission or any other agency
3 provided by law for the preparation of a code of laws for
4 submission to the Legislature.

5 "(10) He or she may, when requested to do so by the
6 chief executive authority of any municipality in the State of
7 Alabama, represent said municipality before the appellate
8 courts of this state in any case appealed to such courts
9 involving the constitutionality of a municipal ordinance.

10 "(11) When extradition papers are presented to the
11 Governor by the executive authority of another state seeking
12 to extradite a person from Alabama, or by the proper authority
13 of the State of Alabama seeking to extradite a person from
14 another state, the extradition papers shall be submitted to
15 the Attorney General for examination and shall be approved by
16 him or her both as to form and legality before the papers are
17 acted upon by the Governor, and, when requested so to do by
18 the Governor, the Attorney General shall advise him or her as
19 to his or her action thereon.

20 "(12) When requested so to do by the Governor, the
21 Attorney General shall examine all bills, resolutions, and
22 other documents submitted by the Legislature to the Governor
23 for his or her consideration under Section 125 of the
24 constitution, and advise him or her as to his or her action
25 thereon.

1 "(13) The duties imposed by this section upon the
2 Attorney General and his or her assistants shall be performed
3 by the attorney general personally or by his or her assistants
4 under his or her supervision, direction, and control.

5 "(14) Any statute to the contrary notwithstanding,
6 no attorney shall represent the State of Alabama, or any
7 agency, department, or instrumentality of the state in any
8 litigation in any court or tribunal unless the attorney has
9 been appointed as a deputy attorney general or assistant
10 attorney general."

11 Section 2. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 28-JAN-10.

Greg Pappas
Clerk

Senate

22-APR-10

Passed