

1 SB242
2 208410-1
3 By Senators McClendon and Whatley
4 RFD: Judiciary
5 First Read: 23-FEB-21

SYNOPSIS: Under existing law, an opinion of the Attorney General may be requested by the Chair of the Judiciary Committee of either house upon any matter under consideration of the committee.

This bill would require the Attorney General to give his or her opinion upon the request of any state legislator on a question of law relating to the duties of the state legislator.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Attorney General; to amend Section 36-15-1, Code of Alabama 1975, to require the Attorney General to give his or her opinion upon the request of any state legislator on a question of law relating to the duties of the state legislator.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 "§36-15-1.

4 "(a) The Attorney General shall keep his or her
5 office at the capital city and perform the following duties:

6 "(1)a. He or she shall give his or her opinion in
7 writing, or otherwise, on any of the following:

8 "1. ~~on any~~ Any question of law connected with the
9 interests of the state or with the duties of any of the
10 departments, when required by the Governor, Secretary of
11 State, Auditor, Treasurer, Superintendent of Education,
12 Commissioner of Agriculture and Industries, Director of
13 Finance, Comptroller, State Health Officer, Public Service
14 Commissioners, Commissioner of Conservation and Natural
15 Resources, or the Commissioner of the Department of Revenue or
16 any other officer or department of the state when it is made,
17 by law, his or her duty so to do, and he or she shall also
18 give his or her opinion to the ~~Chairman~~ Chair of the Judiciary
19 Committee of either house, when required, upon any matter
20 under the consideration of the committee.

21 "2. Any question of law relating to the duties of
22 any state legislator when requested by the legislator.

23 "3. ~~The Attorney General shall give his or her~~
24 ~~opinion, in writing or otherwise, as to any~~ Any question of
25 law connected with the duties of the following county or city
26 officers when requested so to do in writing: Judge of probate,
27 clerk of the circuit court, sheriff, city and county boards of

1 education, county commission, register of the circuit court,
2 tax collector, tax assessor, mayor or chief executive officer
3 of any incorporated municipality, city council or like
4 governing body of any incorporated municipality, or any other
5 officer required to collect, disburse, handle, or account for
6 public funds.

7 "~~c.~~ b. Any officer or governing body of a
8 municipality or county or officer or governing body of any
9 other elected or appointed body shall submit with the request
10 for an opinion a resolution adopted by the governing body
11 setting forth the facts showing the nature and character of
12 the question which makes the advice or opinion sought
13 necessary to the present performance of some official act that
14 the officer or governing body must perform.

15 "~~d.~~ c. An officer or governing body shall not submit
16 to the Attorney General moot, private, or personal questions
17 in which the state, county, or public is not materially or
18 primarily interested or questions that are subject to ongoing
19 litigation. Any officer shall submit, with the request for an
20 opinion, a writing setting forth the facts showing the nature
21 and character of the question which makes the advice sought
22 necessary to present performance of some official act that the
23 officer must perform.

24 "(2) He or she shall attend, on the part of the
25 state, to all criminal cases pending in the Supreme Court or
26 Court of Criminal Appeals, and to all civil actions in which
27 the state is a party in the Supreme Court or Court of Civil

1 Appeals. He or she shall also attend to all cases other than
2 criminal that may be pending in the courts of this state, in
3 which the state may be in any manner concerned, and shall
4 appear in the courts of other states or of the United States,
5 in any case in which the state may be interested in the
6 result.

7 "(3) He or she shall post on the Internet
8 searchable, electronic copies of the written official opinions
9 rendered by him or her pursuant to subdivision (1). On a
10 timely basis, he or she shall also send electronic copies of
11 the opinions to any public official who has asked to receive
12 them and who has provided a working e-mail address for that
13 purpose.

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

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

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

17 "(6) He or she shall keep, with proper index
18 thereto, a docket of all civil actions and claims in which the
19 state is in any manner concerned and to which he or she is
20 required to give attention, showing the names and addresses of
21 the parties, the nature and amount of the action or claim,
22 when and in what court action was brought, and steps taken
23 therein, and the final determination and result thereof, and,
24 as to claims for collection, showing also when and from whom
25 the claims were received and the name and address of any agent
26 or attorney to whom sent for collection and the date thereof
27 and, in all cases, the amount and date of each collection, the

1 amount of commissions or other expenses deducted, if any, the
2 net amount collected, when and to whom paid over, and the
3 receipt of the officer therefor.

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

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

18 "(9) He or she ~~may~~, when requested to do so by the
19 chief executive authority of any municipality in the State of
20 Alabama, may represent the municipality before the appellate
21 courts of this state in any case appealed to such courts
22 involving the constitutionality of a municipal ordinance.

23 "(10) When extradition papers are presented to the
24 Governor by the executive authority of another state seeking
25 to extradite a person from Alabama, or by the proper authority
26 of the State of Alabama seeking to extradite a person from
27 another state, the extradition papers shall be submitted to

1 the Attorney General for examination and ~~shall be approved by~~
2 ~~him or her~~ approval both as to form and legality before the
3 papers are acted upon by the Governor, and, when requested so
4 to do by the Governor, the Attorney General shall advise ~~him~~
5 ~~or her~~ the Governor as to his or her action thereon.

6 "(11) When requested so to do by the Governor, the
7 Attorney General shall examine all bills, resolutions, and
8 other documents submitted by the Legislature to the Governor
9 for his or her consideration under Section 125 of the
10 constitution, and advise him or her as to his or her action
11 thereon.

12 "~~(12)~~ (b) The duties imposed by this section upon
13 the Attorney General and his or her assistants shall be
14 performed by the Attorney General personally or by his or her
15 assistants under his or her supervision, direction, and
16 control.

17 "~~(13)~~ (c) Any statute to the contrary
18 notwithstanding, no attorney shall represent the State of
19 Alabama, or any agency, department, or instrumentality of the
20 state in any litigation in any court or tribunal unless the
21 attorney has been appointed as a deputy attorney general or
22 assistant attorney general. Nothing in this section shall
23 prevent the Governor from employing counsel pursuant to
24 Section 36-13-2."

25 Section 2. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

