

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

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to the Attorney General; to amend Section
12 36-15-1, Code of Alabama 1975, to require the Attorney General
13 to give his or her opinion upon the request of any state
14 legislator on a question of law relating to the duties of the
15 state legislator; and to provide for an exception.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

19 "§36-15-1.

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

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

24 "1. ~~on any~~ Any question of law connected with the
25 interests of the state or with the duties of any of the
26 departments, when required by the Governor, Secretary of
27 State, Auditor, Treasurer, Superintendent of Education,

1 Commissioner of Agriculture and Industries, Director of
2 Finance, Comptroller, State Health Officer, Public Service
3 Commissioners, Commissioner of Conservation and Natural
4 Resources, or the Commissioner of the Department of Revenue or
5 any other officer or department of the state when it is made,
6 by law, his or her duty so to do, and he or she shall also
7 give his or her opinion to the ~~Chairman~~ Chair of the Judiciary
8 Committee of either house, when required, upon any matter
9 under the consideration of the committee.

10 "2. Any question of law relating to the duties of
11 any state legislator, excluding questions relating to pending
12 legislation, when requested by the legislator.

13 ~~"3. The Attorney General shall give his or her~~
14 ~~opinion, in writing or otherwise, as to any~~ Any question of
15 law connected with the duties of the following county or city
16 officers when requested so to do in writing: Judge of probate,
17 clerk of the circuit court, sheriff, city and county boards of
18 education, county commission, register of the circuit court,
19 tax collector, tax assessor, mayor or chief executive officer
20 of any incorporated municipality, city council or like
21 governing body of any incorporated municipality, or any other
22 officer required to collect, disburse, handle, or account for
23 public funds.

24 ~~"c.~~ b. Any officer or governing body of a
25 municipality or county or officer or governing body of any
26 other elected or appointed body shall submit with the request
27 for an opinion a resolution adopted by the governing body

1 setting forth the facts showing the nature and character of
2 the question which makes the advice or opinion sought
3 necessary to the present performance of some official act that
4 the officer or governing body must perform.

5 "~~d.~~ c. An officer or governing body shall not submit
6 to the Attorney General moot, private, or personal questions
7 in which the state, county, or public is not materially or
8 primarily interested or questions that are subject to ongoing
9 litigation. Any officer shall submit, with the request for an
10 opinion, a writing setting forth the facts showing the nature
11 and character of the question which makes the advice sought
12 necessary to present performance of some official act that the
13 officer must perform.

14 "(2) He or she shall attend, on the part of the
15 state, to all criminal cases pending in the Supreme Court or
16 Court of Criminal Appeals, and to all civil actions in which
17 the state is a party in the Supreme Court or Court of Civil
18 Appeals. He or she shall also attend to all cases other than
19 criminal that may be pending in the courts of this state, in
20 which the state may be in any manner concerned, and shall
21 appear in the courts of other states or of the United States,
22 in any case in which the state may be interested in the
23 result.

24 "(3) He or she shall post on the Internet
25 searchable, electronic copies of the written official opinions
26 rendered by him or her pursuant to subdivision (1). On a
27 timely basis, he or she shall also send electronic copies of

1 the opinions to any public official who has asked to receive
2 them and who has provided a working e-mail address for that
3 purpose.

4 "(4) He or she shall, in the month of October of the
5 last year of his or her term of office, compile a report,
6 which shall include suggestions for the suppression of crime
7 and the improvement of the criminal administration as he or
8 she may deem proper. ~~Such~~ The report shall also contain a
9 statement of the number of criminal cases disposed of in the
10 entire state for the past four years, as shown by reports of
11 district attorneys; and, taking each character of cases
12 separately, ~~it~~ the report shall show the number disposed of in
13 each judicial circuit and in each criminal court or other
14 court or territory having a separate district attorney, the
15 number of convictions, the number of acquittals, the number of
16 nolle prosequis entered, the number of cases ~~which~~ that were
17 abated or otherwise disposed of, the number of sentences to
18 death, the number of sentences to the Department of
19 Corrections, the number of other sentences, including fines
20 imposed, and the totals under each ~~head above mentioned~~
21 heading referenced in this subdivision. One copy of the report
22 shall be retained in the permanent files of the office of the
23 Attorney General, and one copy of the report shall be
24 transmitted to the Governor, the Clerk of the House of
25 Representatives, and the Secretary of the Senate, and two
26 copies of the report shall be transmitted to the Department of
27 Archives and History. The expense of printing and binding all

1 of the reports provided for in this section shall be paid by
2 the state in the same manner as is now or hereafter may be
3 provided for printing and binding for the state.

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

7 "(6) He or she shall keep, with proper index
8 thereto, a docket of all civil actions and claims in which the
9 state is in any manner concerned and to which he or she is
10 required to give attention, showing the names and addresses of
11 the parties, the nature and amount of the action or claim,
12 when and in what court action was brought, and steps taken
13 therein, and the final determination and result thereof, and,
14 as to claims for collection, showing also when and from whom
15 the claims were received and the name and address of any agent
16 or attorney to whom sent for collection and the date thereof
17 and, in all cases, the amount and date of each collection, the
18 amount of commissions or other expenses deducted, if any, the
19 net amount collected, when and to whom paid over, and the
20 receipt of the officer therefor.

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

26 "(8) At such time as the Attorney General deems
27 appropriate, the Attorney General may make a report in writing

1 to the Governor and to the Chairman of the Judiciary Committee
2 of the House of Representatives and of the Senate, pointing
3 out the laws or parts of laws of Alabama which have been held
4 invalid by courts of last resort since the last session of the
5 Legislature, and also making suggestions as to inaccuracies,
6 inadvertences, mistakes, and omissions in statutes, which, in
7 his or her opinion, should be corrected.

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

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

23 "(11) When requested so to do by the Governor, the
24 Attorney General shall examine all bills, resolutions, and
25 other documents submitted by the Legislature to the Governor
26 for his or her consideration under Section 125 of the

1 constitution, and advise him or her as to his or her action
2 thereon.

3 ~~"(12)~~ (b) The duties imposed by this section upon
4 the Attorney General and his or her assistants shall be
5 performed by the Attorney General personally or by his or her
6 assistants under his or her supervision, direction, and
7 control.

8 ~~"(13)~~ (c) Any statute to the contrary
9 notwithstanding, no attorney shall represent the State of
10 Alabama, or any agency, department, or instrumentality of the
11 state in any litigation in any court or tribunal unless the
12 attorney has been appointed as a deputy attorney general or
13 assistant attorney general. Nothing in this section shall
14 prevent the Governor from employing counsel pursuant to
15 Section 36-13-2."

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

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 23-FEB-21

Read for the second time and placed on the calen-
dar..... 03-MAR-21

Read for the third time and passed as amended 27-APR-21

Yeas 26
Nays 2

Patrick Harris,
Secretary.