

1 HB652
2 168879-1
3 By Representative Coleman-Evans
4 RFD: Judiciary
5 First Read: 12-MAY-15

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8 SYNOPSIS: Under existing law, the Attorney General,
9 either before or after indictment, may superintend
10 and direct the prosecution of any criminal case in
11 any of the courts of this state, with or without
12 the assistance of the district attorney.

13 Also under existing law, the State Bureau of
14 Investigations of the Alabama Law Enforcement
15 Agency provides investigative services in support
16 of other members of the criminal justice system in
17 Alabama.

18 This bill would require the State Bureau of
19 Investigations to investigate and the Attorney
20 General to prosecute criminal offenses committed by
21 a county or municipal law enforcement officer
22 arising during the performance of the officer's
23 official duties.

24
25 A BILL
26 TO BE ENTITLED
27 AN ACT

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2 To amend Sections 36-15-1 and 41-27-5, Code of
3 Alabama 1975, to require the State Bureau of Investigations to
4 investigate and the Attorney General to prosecute certain
5 criminal offenses committed by county or municipal law
6 enforcement officers.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 36-15-1 and 41-27-5, Code of
9 Alabama 1975, are amended to read as follows:

10 "§36-15-1.

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

13 "(1)a. He or she shall give his or her opinion in
14 writing, or otherwise, on any question of law connected with
15 the interests of the state or with the duties of any of the
16 departments, when required by the Governor, Secretary of
17 State, Auditor, Treasurer, Superintendent of Education,
18 Commissioner of Agriculture and Industries, Director of
19 Finance, Comptroller, State Health Officer, Public Service
20 Commissioners, Commissioner of Conservation and Natural
21 Resources, or the Commissioner of the Department of Revenue or
22 any other officer or department of the state when it is made,
23 by law, his or her duty so to do, and he or she shall also
24 give his or her opinion to the Chairman of the Judiciary
25 Committee of either house, when required, upon any matter
26 under the consideration of the committee.

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

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

20 "d. An officer or governing body shall not submit to
21 the Attorney General moot, private, or personal questions in
22 which the state, county, or public is not materially or
23 primarily interested or questions that are subject to ongoing
24 litigation. Any officer shall submit, with the request for an
25 opinion, a writing setting forth the facts showing the nature
26 and character of the question which makes the advice sought

1 necessary to present performance of some official act that the
2 officer must perform.

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

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

20 "(4) He or she shall, in the month of October of the
21 last year of his or her term of office, compile a report,
22 which shall include suggestions for the suppression of crime
23 and the improvement of the criminal administration as he or
24 she may deem proper. Such report shall also contain a
25 statement of the number of criminal cases disposed of in the
26 entire state for the past four years, as shown by reports of
27 district attorneys; and, taking each character of cases

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

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

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

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

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

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

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

1 "(10) When extradition papers are presented to the
2 Governor by the executive authority of another state seeking
3 to extradite a person from Alabama, or by the proper authority
4 of the State of Alabama seeking to extradite a person from
5 another state, the extradition papers shall be submitted to
6 the Attorney General for examination and shall be approved by
7 him or her both as to form and legality before the papers are
8 acted upon by the Governor, and, when requested so to do by
9 the Governor, the Attorney General shall advise him or her as
10 to his or her action thereon.

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

17 "(12) The Attorney General shall assume jurisdiction
18 to prosecute any alleged criminal offense committed by a
19 municipal or county law enforcement officer arising from the
20 performance of his or her official duties.

21 "~~(12)~~ (b) The duties imposed by this section upon the
22 Attorney General and his or her assistants shall be performed
23 by the Attorney General personally or by his or her assistants
24 under his or her supervision, direction, and control.

25 "~~(13)~~ (c) Any statute to the contrary
26 notwithstanding, no attorney shall represent the State of
27 Alabama, or any agency, department, or instrumentality of the

1 state in any litigation in any court or tribunal unless the
2 attorney has been appointed as a deputy attorney general or
3 assistant attorney general. Nothing in this section shall
4 prevent the Governor from employing counsel pursuant to
5 Section 36-13-2.

6 "§41-27-5.

7 "(a) The State Bureau of Investigations is hereby
8 created in the Alabama State Law Enforcement Agency. The
9 bureau shall succeed to and be vested with all powers of the
10 Alabama Bureau of Investigation. A reference in any law to the
11 Alabama Bureau of Investigation shall be deemed a reference to
12 the State Bureau of Investigations.

13 "(b) The position of Director of the State Bureau of
14 Investigations is created. The director shall be appointed by
15 the Secretary of the Alabama State Law Enforcement Agency,
16 after consultation with the Governor, and shall hold office at
17 the pleasure of the secretary. The director shall be appointed
18 from a legacy agency as defined in Section 41-27-7. The salary
19 of the director shall be set by the secretary, and shall not
20 be subject to Section 36-6-6. A person appointed director
21 shall have an extensive law enforcement background and, by
22 virtue of office, is a state law enforcement officer with the
23 immunity set forth in Section 6-5-338.

24 "(c) The bureau succeeds to and is vested with all
25 functions of the Alabama Criminal Justice Information Center.
26 A reference in any law to the Alabama Criminal Justice
27 Information Center shall be deemed a reference to a division

1 of the State Bureau of Investigations. The Alabama Criminal
2 Justice Information Center Commission shall be renamed the
3 Alabama Justice Information Commission. The commission shall
4 retain its regulatory and policymaking authority regarding
5 information in the Criminal Justice Information System and
6 uniform crime reports, including its adjudicatory authority
7 for misuse of information, but is divested of any employee
8 selection or supervision responsibility.

9 "(d) The bureau succeeds to and is vested with all
10 investigative functions of the following investigative and
11 enforcement units, and a reference in any law to these
12 investigation and enforcement units shall be deemed a
13 reference to the State Bureau of Investigations:

14 "(1) The law enforcement unit of the Alabama
15 Alcoholic Beverage Control Board.

16 "(2) The investigative unit of the Alabama Forestry
17 Commission.

18 "(3) The investigative unit of the Department of
19 Agriculture and Industries.

20 "(e) The Director of the State Bureau of
21 Investigations shall have overall supervision and management
22 of functions transferred to the bureau pursuant to this
23 section, subject to approval by the secretary, including the
24 power to change the working title of any position or to
25 reorganize or rename any of the divisions, units, or functions
26 specified in this section. Any change of working title shall

1 not alter the classification or compensation of any person in
2 the state Merit System.

3 "(f) The State Bureau of Investigations shall
4 investigate any alleged criminal offense committed by a
5 municipal or county law enforcement officer arising from the
6 performance of his or her official duties and shall cooperate
7 with the Attorney General in any prosecution of the offense."

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