

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

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8 SYNOPSIS: Under existing law, the Attorney General is  
9 required to print and distribute paper copies of  
10 his or her opinions every three months.

11 This bill would eliminate the requirement  
12 that the Attorney General distribute paper copies  
13 of his or her opinions and would require the  
14 Attorney General to post on the Internet and, upon  
15 the request of any public official, to e-mail  
16 electronic copies of his or her official opinions.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT  
21

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

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4 "§36-15-1.

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

7 "(1)a. He or she shall give his or her opinion in  
8 writing, or otherwise, on any question of law connected with  
9 the 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 Department of Finance, Comptroller, State Health Officer,  
14 Public Service Commissioners, Commissioner of Conservation and  
15 Natural Resources, or the Director of the Department of  
16 Revenue or any other officer or department of the state when  
17 it is made, by law, his or her duty so to do, and he or she  
18 shall also give his or her opinion to the Chairman of the  
19 Judiciary Committee of either house, when required, upon any  
20 matter under the consideration of the committee.

21 "b. The Attorney General shall give his or her  
22 opinion, in writing or otherwise, as to any question of law  
23 connected with the duties of the following county or city  
24 ~~officer~~ officers when requested so to do in writing: Judge of  
25 probate, clerk of the circuit court, sheriff, city and county  
26 boards of education, county commission, register of the  
27 circuit court, tax collector, tax assessor, mayor or chief

1 executive officer of any incorporated municipality, city  
2 council or like governing body of any incorporated  
3 municipality, or any other officer required to collect,  
4 disburse, handle, or account for public funds.

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

13 "d. An officer or governing body shall not submit  
14 moot, private, or personal questions in which the state,  
15 county, or public is not materially or primarily interested to  
16 the Attorney General, and any officer shall submit, with  
17 request for an opinion, a certificate setting forth the facts  
18 showing the nature and character of the question which makes  
19 the advice sought necessary to present performance of some  
20 official act that the officer must immediately perform.

21 "(2) He or she shall attend, on the part of the  
22 state, to all criminal cases pending in the Supreme Court or  
23 Court of Criminal Appeals, and to all civil actions in which  
24 the state is a party in the Supreme Court or Court of Civil  
25 Appeals. He or she shall also attend to all cases other than  
26 criminal that may be pending in the courts of this state, in  
27 which the state may be in any manner concerned, and shall

1 appear in the courts of other states or of the United States,  
2 in any case in which the state may be interested in the  
3 result.

4 " (3) He or she shall, ~~for each three months' period,~~  
5 ~~cause to be published in pamphlet form~~ post on the Internet  
6 searchable, electronic copies of the written official opinions  
7 ~~as shall have been rendered by him or her during the period to~~  
8 ~~the various departments and officials, who, under the law,~~  
9 ~~have the right to require his or her opinion on matters~~  
10 ~~affecting them or the operation of their offices or~~  
11 ~~departments~~ pursuant to subdivision (1). On a timely basis, he  
12 or she shall also send electronic copies of the opinions to  
13 any public official who has asked to receive them and who has  
14 provided a working e-mail address for that purpose. ~~He or she~~  
15 ~~shall cause a sufficient number of pamphlets to be printed to~~  
16 ~~enable him or her to supply each probate judge in the state~~  
17 ~~with seven copies of the pamphlet and shall, as soon as~~  
18 ~~practicable after publication, transmit the pamphlet to the~~  
19 ~~probate judges of the several counties of the state, one copy~~  
20 ~~of which is to be kept on file for the use of the probate~~  
21 ~~judges and for the use of the public, and the probate judge is~~  
22 ~~required to deliver one copy of the pamphlet to each of the~~  
23 ~~following county officers: Clerk of the circuit court,~~  
24 ~~sheriff, tax collector, tax assessor, and county~~  
25 ~~superintendent of education. A copy of the report also shall~~  
26 ~~be sent to each district attorney and to the chief executive~~  
27 ~~officer of each incorporated municipality in this state.~~

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

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

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

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

23           "(8) At such time as the Attorney General deems  
24 appropriate, the Attorney General may make a report in writing  
25 to the Governor and to the Chairman of the Judiciary Committee  
26 of the House of Representatives and of the Senate, pointing  
27 out the laws or parts of laws of Alabama which have been held

1 invalid by courts of last resort since the last session of the  
2 Legislature, and also making suggestions as to inaccuracies,  
3 inadvertences, mistakes and omissions in statutes, which, in  
4 his or her opinion, should be corrected.

5 "(9) Upon the codification of the statutes provided  
6 for in Section 85 of the constitution, he or she shall advise  
7 with and assist the committees of the Senate and House of  
8 Representatives or the joint committee of the Legislature  
9 charged with the duty of examining and investigating the  
10 documents submitted by the code commission or any other agency  
11 provided by law for the preparation of a code of laws for  
12 submission to the Legislature.

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

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



1           "(12) When requested so to do by the Governor, the  
2 Attorney General shall examine all bills, resolutions, and  
3 other documents submitted by the Legislature to the Governor  
4 for his or her consideration under Section 125 of the  
5 constitution, and advise him or her as to his or her action  
6 thereon.

7           "(13) The duties imposed by this section upon the  
8 Attorney General and his or her assistants shall be performed  
9 by the attorney general personally or by his or her assistants  
10 under his or her supervision, direction, and control.

11           "(14) Any statute to the contrary notwithstanding,  
12 no attorney shall represent the State of Alabama, or any  
13 agency, department, or instrumentality of the state in any  
14 litigation in any court or tribunal unless the attorney has  
15 been appointed as a deputy attorney general or assistant  
16 attorney general."

17           Section 2. This act shall become effective  
18 immediately following its passage and approval by the  
19 Governor, or its otherwise becoming law.