WEST virginia legislature

2023 regular session

Introduced

Senate Bill 138

By Senators Azinger, Trump, and Clements

[Introduced January 11, 2023]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §2-1-3, relating to clarifying secondary sources are not the law and public policy of West Virginia in certain instances; and permitting the use of certified questions on issues of first impression in certain circumstances.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. COMMON LAW.

§2-1-3. Secondary sources not controlling.

(a) A secondary source, including a legal treatise, scholarly publication, textbook, or other explanatory text, does not constitute the law or public policy of this state and is only persuasive authority to the extent its adoption would create, eliminate, expand, or restrict a cause of action, right, or remedy, or to the extent it is inconsistent with, or in conflict with, or otherwise not addressed by, West Virginia law.

(b) On a legal issue of first impression regarding the creation, elimination, expansion, or restriction of a cause of action, right, or remedy, the circuit court may certify its question of law to the Supreme Court of Appeals of West Virginia.