WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2816

By Delegates Funkhouser, Ridenour, Horst, J. Cannon, Linville, and Masters

[Introduced February 24, 2025; referred to the Committee on the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding 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.

NOTE: The purpose of this bill is to clarify that 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.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.