

# **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]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,  
 2 designated §2-1-3, relating to clarifying secondary sources are not the law and public  
 3 policy of West Virginia in certain instances; and permitting the use of certified questions on  
 4 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.**

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

6 (b) On a legal issue of first impression regarding the creation, elimination, expansion, or  
 7 restriction of a cause of action, right, or remedy, the circuit court may certify its question of law to  
 8 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.