

**H. B. 2124**

(By Delegate Hunt)

[Introduced January 12, 2011; referred to the  
Committee on the Judiciary.]

A BILL to amend of the Code of West Virginia, 1931, as amended, by  
adding thereto a new article, designated §30-2A-1, §30-2A-2,  
§30-2A-3, §30-2A-4 and §30-2A-5, all relating to establishing  
the "Certified Legal Assistant Act"; defining terms;  
establishing minimum qualifications; setting forth  
responsibilities of the lawyer and the certified legal  
assistant; and providing rule-making authority to the Supreme  
Court of Appeals in conjunction with the West Virginia State  
Bar.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended  
by adding thereto a new article, designated §30-2A-1, §30-2A-2,  
§30-2A-3, §30-2A-4 and §30-2A-5, all to read as follows:

**ARTICLE 2A. CERTIFIED LEGAL ASSISTANT ACT.****§30-2A-1. Short title.**

This article is known and cited as "Certified Legal Assistant Act."

**§30-2A-2. Definitions.**

For the purposes of this article:

"Certified legal assistant" means a person qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity who performs specifically delegated substantive legal work for which a lawyer is responsible; and

"Law firm" means a lawyer, law office, corporation, governmental agency or other entity that performs substantive legal work.

**§30-2A-3. Qualifications for certified legal assistants.**

A certified legal assistant shall meet certain minimum qualifications. A certified legal assistant shall either:

(1) Successfully complete the Certified Legal Assistant (CLA)/Certified Paralegal (CP) certifying examination of the National Association of Legal Assistants, Inc.;

(2) Graduate from an ABA approved program of study for legal assistants;

(3) Graduate from a course of study for legal assistants which is institutionally accredited but not ABA approved, and which requires not less than the equivalent of sixty semester hours of classroom study;

1       (4) Graduate from a course of study for legal assistants,  
2 other than those set forth in (2) and (3) above, plus not less than  
3 six months of in-house training as a legal assistant; or

4       (5) Demonstrate through life experience and previous  
5 employment in the specialty which they are certified, that they  
6 should be grandfathered with all rights and privileges thereof.  
7 Grandfather request must be made within twenty-four months of the  
8 date of enactment of this article.

9 **§30-2A-4. Responsibilities of lawyer and certified legal**  
10 **assistants.**

11       (a) A lawyer may ethically assign responsibility to a legal  
12 assistant for the performance of tasks relating to the  
13 representation of a client and the law firm's delivery of legal  
14 services, commensurate with the experience and training of the  
15 legal assistant, and where the lawyer directly supervises the legal  
16 assistant and reviews the legal assistants work product before it  
17 is communicated outside the law firm if:

18       (1) The legal assistants participation as a nonlawyer is  
19 clear;

20       (2) The legal assistant preserves the confidences and secrets  
21 of all clients;

22       (3) The legal assistant does not convey to persons outside the  
23 law firm the legal assistant's opinion regarding the applicability  
24 of laws to the particular legal situation of another, the legal

1 effect of acts or omissions of another or the legal rights,  
2 responsibilities or obligations of another person regarding their  
3 particular legal matter, except for their certified area of  
4 practice; or

5 (4) The legal assistant does not appear on behalf of any  
6 person or entity in proceedings before state or federal courts,  
7 except for their certified area of practice; administrative  
8 agencies, and tribunals, and including participation on behalf of  
9 another in depositions, discovery, and settlement negotiation,  
10 except to the extent that a nonlawyer is authorized by law to  
11 represent the interests of another person or entity and the lawyer  
12 has obtained the other person's or entity's consent to the legal  
13 assistants participation as representative in those proceedings  
14 except for their certified area of practice.

15 (b) A lawyer may not delegate to a legal assistant:

16 (1) Responsibility for establishing a lawyer-client  
17 relationship; and

18 (2) Responsibility for establishing intakes, fee arrangements  
19 with clients and concluding normal agreements.

20 (c) A lawyer may identify legal assistants by name and title  
21 on the lawyers letterhead and on business cards identifying the  
22 lawyer's firm.

23 (d) In employing a legal assistant, or assigning a legal  
24 assistant to any particular client matter, a lawyer should take

1 reasonable measures to ensure that no conflict of interest is  
2 presented arising out of the legal assistants current or prior  
3 employment or from the legal assistants other business or personal  
4 interests.

5 (e) In establishing a fee arrangement with a client, a lawyer  
6 may include a reasonable charge for work performed by a legal  
7 assistant, provided that the client consents after consultation.

8 (f) A lawyer may not split legal fees with a legal assistant  
9 nor pay a legal assistant for the referral of legal business. A  
10 lawyer may compensate a legal assistant based on the quantity and  
11 quality of the legal assistant's work and the value of that work to  
12 the law practice. A lawyer may include nonlawyer employees in a  
13 compensation or retirement plan, even though the plan is based, in  
14 whole or in part, on a profit-sharing arrangement.

15 (g) A lawyer who employs a legal assistant should facilitate  
16 the legal assistant's participation in appropriate continuing  
17 education and public service activities.

18 **§30-2A-5. Rulemaking.**

19 The Supreme Court of Appeals in conjunction with the West  
20 Virginia State Bar shall propose rules for legislative approval in  
21 accordance with the provisions of chapter twenty-nine-a of this  
22 code in order to carry out and implement the provisions of this  
23 article.

NOTE: The purpose of this bill is to establish the "Certified Legal Assistant Act"; to define terms; to establish minimum qualifications; to set forth responsibilities of the lawyer and the certified legal assistant; and to provide rule-making authority to the Supreme Court of Appeals in conjunction with the West Virginia State Bar.

This article is new; therefore, it has been completely underscored.