

H. B. 4522

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MILEY, WHITE, FRAZIER AND SKAFF)

[Introduced February 14, 2012; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §51-2A-9 of the Code of West Virginia, 1931, as amended, relating to providing additional contempt powers for family court judges.

Be it enacted by the Legislature of West Virginia:

That §51-2A-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2A. FAMILY COURTS.

§51-2A-9. Contempt powers of family court judge.

- 1 (a) In addition to the powers of contempt established in
- 2 chapter forty-eight of this code, a family court judge may:
- 3 (1) Sanction persons through civil contempt proceedings
- 4 when necessary to preserve and enforce the rights of private
- 5 parties or to administer remedies granted by the court;

6 (2) Regulate all proceedings in a hearing before the
7 family court judge; and

8 (3) Punish direct contempts that are committed in the
9 presence of the court or that obstruct, disrupt or corrupt the
10 proceedings of the court.

11 (b) A family court judge may enforce compliance with his
12 or her lawful orders with remedial or coercive sanctions
13 designed to compensate a complainant for losses sustained and
14 to coerce obedience for the benefit of the complainant.
15 Sanctions must give the contemnor an opportunity to purge
16 himself or herself. In selecting sanctions, the court must use the
17 least possible power adequate to the end proposed. A person
18 who lacks the present ability to comply with the order of the
19 court may not be confined for a civil contempt. Sanctions may
20 include, but are not limited to, seizure or impoundment of
21 property to secure compliance with a prior order. Ancillary relief
22 may provide for an award of attorney's fees.

23 (c) Upon a finding that a person is in civil contempt, the
24 court, when otherwise appropriate and in its discretion, and

25 as an alternative to incarceration, may place the person on
26 work release, in a weekend jail program, in an existing
27 community service program, in an existing day-reporting
28 center program, in any other existing community corrections
29 program or on home confinement until the person has purged
30 himself or herself of the contempt.

NOTE: The purpose of this bill is to expand the authority of a family court judge in civil contempt cases.

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