

1 **H. B. 2901**

2
3 (By Delegates Shott, Moore, Ellington,
4 Gearheart and L. Phillips)

5
6 [Introduced March 12, 2013; referred to the
7 Committee on the Judiciary then Finance.]

8 **FISCAL
NOTE**

9
10 A BILL to amend and reenact §49-5-11 of the Code of West Virginia,
11 1931, as amended, relating to juvenile proceedings; and
12 requiring the Supreme Court of Appeals and the county board of
13 education to each pay one half of the costs for hiring a
14 school-based juvenile probation officer under specified
15 circumstances.

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

17 That §49-5-11 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted to read as follows:

19 **ARTICLE 5. JUVENILE PROCEEDINGS.**

20 **§49-5-11. Adjudication for alleged status offenders and**
21 **delinquents; mandatory initial disposition of**
22 **status offenders.**

23 At the outset of an adjudicatory hearing, the court shall
24 inquire of the juvenile whether he or she wishes to admit or deny
25 the allegations in the petition. The juvenile may elect to stand

1 mute, in which event the court shall enter a general denial of all
2 allegations in the petition.

3 (a) If the respondent juvenile admits the allegations of the
4 petition, the court shall consider the admission to be proof of the
5 allegations if the court finds:

6 (1) The respondent fully understands all of his or her rights
7 under this article;

8 (2) The respondent voluntarily, intelligently and knowingly
9 admits all facts requisite for an adjudication; and

10 (3) The respondent in his or her admission has not set forth
11 facts which constitute a defense to the allegations.

12 (b) If the respondent juvenile denies the allegations, the
13 court shall dispose of all pretrial motions and the court or jury
14 shall proceed to hear evidence.

15 (c) If the allegations in a petition alleging that the
16 juvenile is delinquent are admitted or are sustained by proof
17 beyond a reasonable doubt, the court shall schedule the matter for
18 disposition pursuant to section thirteen of this article.

19 (d) If the allegations in a petition alleging that the
20 juvenile is a status offender are admitted or sustained by clear
21 and convincing proof, the court shall refer the juvenile to the
22 Department of Health and Human Resources for services, pursuant to
23 section eleven-a of this article and order the department to report
24 back to the court with regard to the juvenile's progress at least

1 every ninety days or until the court, upon motion or sua sponte,
2 orders further disposition under section eleven-a of this article
3 or dismisses the case from its docket: *Provided*, That in a
4 judicial circuit operating its own truancy program, a circuit judge
5 may in lieu of referring truant juveniles to the department, order
6 that the juveniles be supervised by his or her probation office:
7 *Provided, however*, That in a county that has established a truancy
8 program within a judicial circuit where a grant is provided by the
9 county board of education to the Supreme Court of Appeals to hire
10 a school-based juvenile probation officer to handle truancy
11 matters, then the Supreme Court of Appeals and the county board of
12 education shall each pay one half of the costs of the salary and
13 benefits for hiring a school-based juvenile probation officer.

14 (e) If the allegations in a petition are not sustained by
15 proof as provided in subsections (c) and (d) of this section, the
16 petition shall be dismissed and the juvenile shall be discharged if
17 he or she is in custody.

18 (f) Findings of fact and conclusions of law addressed to all
19 allegations in the petition shall be stated on the record or
20 reduced to writing and filed with the record or incorporated into
21 the order of the court.

NOTE: The purpose of this bill is to specify the allocation of payment of salary and benefits for school-based juvenile probation officers in counties which have established a truancy program in a judicial circuit where a grant is provided by the

county board of education to the Supreme Court of Appeals to hire a school-based juvenile probation officer to handle truancy matters.

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