

1 **Senate Bill No. 387**

2 (By Senators Cookman, Unger, Plymale and Palumbo)

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4 [Introduced February 27, 2013; referred to the Committee on the
5 Judiciary.]
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10 A BILL to amend and reenact §51-2A-7 of the Code of West Virginia,
11 1931, as amended, relating generally to the powers of family
12 court judges; and granting family court judges the authority
13 to compel and supervise the production of criminal background
14 investigations when appropriate.

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

16 That §51-2A-7 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 2A. FAMILY COURTS.**

19 **§51-2A-7. Powers; administrative and judicial functions of family**
20 **court judge.**

21 (a) The family court judge will exercise any power or
22 authority provided ~~for~~ in this article, in chapter forty-eight of

1 this code or as otherwise provided by general law. Additionally,
2 the family court judge has the authority to:

- 3 (1) Manage the business before them;
- 4 (2) Summon witnesses and compel their attendance in court;
- 5 (3) Exercise reasonable control over discovery;
- 6 (4) Compel and supervise the production of evidence, including
7 criminal background investigations when appropriate;
- 8 (5) Discipline attorneys;
- 9 (6) Prevent abuse of process; and
- 10 (7) Correct errors in a record.

11 (b) The family court judge has responsibility for the
12 supervision and administration of the family court. A family court
13 judge may promulgate local administrative rules governing the
14 conduct and administration of the family court. In family court
15 circuits with more than one family court judge, all family court
16 judges must agree to the rules. If all of the family court judges
17 in a family court circuit cannot agree, the chief judge of each
18 circuit court in the counties in which the family court circuit is
19 located shall promulgate the local administrative rules. If the
20 chief judges of the circuit courts cannot agree, the Supreme Court
21 of Appeals may promulgate the local administrative rules. Local
22 administrative rules are subordinate and subject to the rules of
23 the Supreme Court of Appeals or the orders of the chief justice.

1 Rules promulgated by the family or circuit court are made by order
2 entered upon the order book of the circuit court and are effective
3 when filed with the Clerk of the Supreme Court of Appeals.

4 (c) Prior to the 2003 regular session of the Legislature and
5 annually thereafter, the Supreme Court of Appeals shall report to
6 the Legislature on the caseload in each family court circuit and
7 shall recommend changes to the management of the family court as
8 the Supreme Court of Appeals deems warranted or necessary to
9 improve the family court.

10 (d) The Supreme Court of Appeals shall promulgate a procedural
11 rule to establish time-keeping requirements for family court
12 judges, family case coordinators and secretary-clerks of family
13 court judges so as to assure the maximum funding of incentive
14 payments, grants and other funding sources available to the state
15 for the processing of cases filed for the location of absent
16 parents, the establishment of paternity and the establishment,
17 modification and enforcement of child support orders.

(NOTE: The purpose of this bill is to grant family court judges the authority to compel and supervise the production of criminal background investigations when appropriate.

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