

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2048**

4 (By Delegate Shott)

5
6 (Originating in the House Committee on Finance)

7
8 [February 26, 2015]

9
10 A BILL to amend and reenact §49-5-11 of the Code of West Virginia, 1931, as amended, relating
11 to juvenile proceedings; and providing that costs for a school-based juvenile probation
12 officer will be shared equally when a judicial circuit and a county board of education jointly
13 establish a truancy program.

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

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

17 **ARTICLE 5. JUVENILE PROCEEDINGS.**

18 **§49-5-11. Adjudication for alleged status offenders and delinquents; mandatory initial**
19 **disposition of status offenders.**

20 At the outset of an adjudicatory hearing, the court shall inquire of the juvenile whether he or
21 she wishes to admit or deny the allegations in the petition. The juvenile may elect to stand mute, in
22 which event the court shall enter a general denial of all allegations in the petition.

23 (a) If the respondent juvenile admits the allegations of the petition, the court shall consider

1 the admission to be proof of the allegations if the court finds:

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

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

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

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

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

12 (d) If the allegations in a petition alleging that the juvenile is a status offender are admitted
13 or sustained by clear and convincing proof, the court shall refer the juvenile to the Department of
14 Health and Human Resources for services, pursuant to section eleven-a of this article and order the
15 department to report back to the court with regard to the juvenile's progress at least every ninety days
16 or until the court, upon motion or sua sponte, orders further disposition under section eleven-a of this
17 article or dismisses the case from its docket: *Provided*, That in a judicial circuit operating its own
18 truancy program, a circuit judge may in lieu of referring truant juveniles to the department, order that
19 the juveniles be supervised by his or her probation office: *Provided, however, That for a truancy*
20 *program established in a county by a judicial circuit in conjunction with a county board of education*
21 *in which a school-based juvenile probation officer is utilized to handle truancy matters within that*
22 *county, the Supreme Court of Appeals and the county board of education shall share equally the*
23 *costs of the salary and benefits of the school-based juvenile probation officer.*

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

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