

COMMITTEE SUBSTITUTE

for

H. B. 2048

(BY DELEGATE(S) SHOTT)

(Originating in the House Committee on Finance)

[February 26, 2015]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. JUVENILE PROCEEDINGS.

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

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

6 (a) If the respondent juvenile admits the allegations of the
7 petition, the court shall consider the admission to be proof of the
8 allegations if the court finds:

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

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

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

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

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

22 (d) If the allegations in a petition alleging that the juvenile
23 is a status offender are admitted or sustained by clear and
24 convincing proof, the court shall refer the juvenile to the
25 Department of Health and Human Resources for services,
26 pursuant to section eleven-a of this article and order the
27 department to report back to the court with regard to the
28 juvenile's progress at least every ninety days or until the court,
29 upon motion or sua sponte, orders further disposition under
30 section eleven-a of this article or dismisses the case from its
31 docket: *Provided*, That in a judicial circuit operating its own
32 truancy program, a circuit judge may in lieu of referring truant
33 juveniles to the department, order that the juveniles be
34 supervised by his or her probation officer: *Provided, however,*
35 That for a truancy program established in a county by a judicial
36 circuit in conjunction with a county board of education in which
37 a school-based juvenile probation officer is utilized to handle

38 truancy matters within that county, the Supreme Court of
39 Appeals and the county board of education shall share equally
40 the costs of the salary and benefits of the school-based juvenile
41 probation officer.

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

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