

# **WEST VIRGINIA LEGISLATURE**

**2016 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 414**

BY SENATORS WALTERS, LAIRD AND MILLER

[Originating in the Committee on the Judiciary;

reported on February 25, 2016.]

1 A BILL to amend and reenact §49-2-913 of the Code of West Virginia, 1931, as amended; to  
2 amend said code by adding thereto a new section, designated §49-2-914; and to amend  
3 and reenact §49-5-106 of said code, all relating to Juvenile Justice Reform Oversight  
4 Committee and averted costs reinvestment; requiring additional information for annual  
5 report; creating a special revenue account, known as the Juvenile Justice Account and  
6 providing its purpose, sources of funding and allowable disbursements; and requiring new  
7 data to be collected and compiled to allow calculation of juvenile recidivism and the  
8 outcome of programs and making this information available to the public.

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

1 That §49-2-913 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted; that said code be amended by adding thereto a new section, designated §49-2-914;  
3 and that §49-5-106 of said code be amended and reenacted, all to read as follows:

**ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.**

**§49-2-913. Juvenile Justice Reform Oversight Committee.**

1 (a) The Juvenile Justice Reform Oversight Committee is ~~hereby created~~ continued to  
2 oversee the implementation of reform measures intended to improve the state juvenile justice  
3 system.

4 (b) The committee shall be comprised of seventeen members, including the following  
5 individuals:

6 (1) The Governor, or his or her designee, who shall preside as chair of the committee;

7 (2) Two members from the House of Delegates, appointed by the Speaker of the House  
8 of Delegates, who shall serve as nonvoting, ex officio members;

9 (3) Two members from the Senate, appointed by the President of the Senate, who shall  
10 serve as nonvoting, ex officio members;

11 (4) The Secretary of the Department of Health and Human Resources, or his or her  
12 designee;

- 13 (5) The Director of the Division of Juvenile Services, or his or her designee;
- 14 (6) The Superintendent of the State Board of Education, or his or her designee;
- 15 (7) The Administrative Director of the Supreme Court of Appeals, or his or her designee,
- 16 who shall serve as nonvoting, ex officio member;
- 17 (8) The Director of the Division of Probation Services, or his or her designee;
- 18 (9) Two circuit court judges, appointed by the Chief Justice of the Supreme Court of
- 19 Appeals, who shall serve as nonvoting, ex officio members;
- 20 (10) One community member juvenile justice stakeholder, appointed by the Governor;
- 21 (11) One juvenile crime victim advocate, appointed by the Governor;
- 22 (12) One member from ~~the~~ a law-enforcement agency, appointed by the Governor;
- 23 (13) One member from a county prosecuting attorney's office, appointed by the Governor;
- 24 and
- 25 (14) The Director of the Juvenile Justice Commission.
- 26 (c) The committee shall perform the following duties:
- 27 (1) Guide and evaluate the implementation of the provisions adopted in the year 2015
- 28 relating to juvenile justice reform;
- 29 (2) Obtain and review the juvenile recidivism and program outcome data collected
- 30 pursuant to section one hundred six, article five of this chapter;
- 31 (3) Calculate any state expenditures that have been avoided by reductions in the number
- 32 of youth placed in out-of-home placements by the Division of Juvenile Services or the Department
- 33 of Health and Human Resources as reported under section one hundred six, article five of this
- 34 chapter; and
- 35 (4) Institute a uniform process for developing and reviewing performance measurement
- 36 and outcome measures through data analysis. The uniform process shall include:
- 37 (A) The performance and outcome measures for the court, the Department of Health and
- 38 Human Resources and the Division of Juvenile Services; and

39 (B) The deadlines and format for the submission of the performance and outcome  
40 measures; and

41 (5) Ensure system accountability and monitor the fidelity of implementation efforts or  
42 programs;

43 (6) Study any additional topics relating to the continued improvement of the juvenile justice  
44 system; and

45 (7) Issue an annual report to the Governor, the President of the Senate, the Speaker of  
46 the House of Delegates and the Chief Justice of the Supreme Court of Appeals of West Virginia  
47 on or before November 30 of each year, starting in 2016, which shall include:

48 (A) An assessment of the progress made in implementation of juvenile justice reform  
49 efforts;

50 (B) A summary of the committee's efforts in fulfilling its duties as set forth in this section;  
51 and

52 (C) An analysis of the recidivism data obtained by the committee under this section;

53 (D) ~~A summary of~~ The costs to the state and federal government averted over the previous  
54 fiscal year calculated by the committee under this section and a summary of the methodology  
55 used by the committee; a recommendation for any reinvestment of the averted costs to fund  
56 services or programs to expand West Virginia's continuum of alternatives for youth who would  
57 otherwise be placed in out-of-home placement

58 (E) A recommendation for any reinvestment of the averted costs to fund services or  
59 programs to expand the state's continuum of alternatives for youth who would otherwise be placed  
60 in out-of-home placement;

61 (E) (E) Recommendations for continued improvements to the juvenile justice system.

62 (d) The Division of Justice and Community Services shall provide staff support for the  
63 committee. The committee may has subpoena power to request and receive copies of subpoena  
64 all data, reports, performance measures and other evaluative material regarding juvenile justice

65 ~~submitted~~ from any agency, branch of government or political subdivision to carry out its duties.

66 (e) The committee shall meet ~~within ninety days after appointment and shall thereafter~~  
67 ~~meet~~ at least quarterly, upon notice by the chair. Eight members ~~shall be considered~~ constitutes  
68 a quorum.

69 (f) ~~After initial appointment, members~~ Members appointed to the committee by the  
70 Governor, the President of the Senate, the Speaker of the House of Delegates or the Chief Justice  
71 of the Supreme Court of Appeals, pursuant to subsection (b) of this section, shall serve for a term  
72 of two years from his or her appointment and shall be eligible for reappointment to that position.  
73 All members appointed to the committee shall serve until his or her successor has been duly  
74 appointed.

75 (g) The committee shall sunset on December 31, 2020, unless reauthorized by the  
76 Legislature.

**§49-2-914. Creation of juvenile justice account; purpose; funding; disbursements.**

1 (a) There is hereby created in the State Treasury a separate special revenue account,  
2 which shall be an interest bearing account, to be known as the "Juvenile Justice Account." The  
3 special revenue account shall consist of appropriations made by the Legislature, income from the  
4 investment of moneys held in the special revenue account and all other sums available for deposit  
5 to the special revenue account from any source, public or private. Expenses incurred under this  
6 section shall not be charged against the General Funds of the state.

7 (b) The Governor shall submit the amount of the state savings described in paragraph (D),  
8 subdivision (7), subsection (c), section nine hundred thirteen of this article to be deposited into  
9 the Juvenile Justice Account described in this section as part of the annual budget submission or  
10 in an executive message to the Legislature.

11 (c) Moneys in the special revenue account shall be appropriated to the Juvenile Justice  
12 Reform Oversight Committee and used exclusively, in accordance with appropriations by the  
13 Legislature, to pay costs, fees and expenses incurred, or to be incurred for the following purposes:

14 (1) A per diem to members of the committee not to exceed the per diem rate paid to  
15 members of the West Virginia Legislature pursuant to section seven, article two-a, chapter four of  
16 this code;

17 (2) Grants or funds to establish, staff or otherwise fund new services or programs  
18 recommended in paragraph (E), subdivision (7), subsection (c), section nine hundred thirteen of  
19 this article that are evidence based;

20 (3) Grants or funds to establish, staff or otherwise fund pilot programs or experimental  
21 community based services recommended in said paragraph (E) for which there is not substantial  
22 evidence regarding efficacy or outcomes;

23 (4) Grants or funds to improve, expand, support or expand access to juvenile justice  
24 programs pursuant to paragraph (F), subdivision (7), subsection (c), section nine hundred thirteen  
25 of this article: *Provided*, That expanding access means providing for juveniles, parents and  
26 guardians to receive services without a court referral; and

27 (5) All costs incurred in the administration of the special revenue account.

28 (d) Any balance remaining in the special revenue account at the end of any state fiscal  
29 year shall not revert to the General Revenue Fund but shall remain in the special revenue account  
30 and shall be used solely in a manner consistent with this section: *Provided*, That at the sunset of  
31 the Juvenile Justice Committee pursuant to subsection (g) of section nine hundred thirteen of this  
32 article, any moneys remaining in the special revenue account shall revert to the General Revenue  
33 Fund.

34 (e) Disbursements from the special revenue account shall be authorized by a simple  
35 majority vote of present voting members of the Juvenile Justice Reform Oversight Committee:  
36 *Provided*, That a quorum of at least eight voting members are present.

## **ARTICLE 5. RECORD KEEPING AND DATABASE.**

### **§49-5-106. Data collection.**

1 (a) The Division of Juvenile Services, the department and the Supreme Court of Appeals

2 shall establish procedures to jointly collect and compile data necessary to calculate juvenile  
3 recidivism and the outcome of programs.

4 (b) For each juvenile who enters into a diversion agreement, is placed on an improvement  
5 period, is placed on probation or is placed in an out-of-home placement as defined by section two  
6 hundred six, article one of this chapter, the data and procedures developed in subsection (a) shall  
7 include:

8 (1) New offense referrals to juvenile court or criminal court within three years of completion  
9 of the diversion agreement, release from court jurisdiction or release from agency custody;

10 (2) Adjudications for a delinquent or status offense by a juvenile or a conviction by a  
11 criminal court within three years of completion of the diversion agreement, release from court  
12 jurisdiction or release from agency custody;

13 (3) Commitments to the Division of Juvenile Services, the department, excluding out-of-  
14 home placements made for child welfare or abuse and neglect purposes, or incarceration with  
15 the Division of Corrections within three years of completion of the diversion agreement, release  
16 from court jurisdiction or release from agency custody; ~~and~~

17 (4) The number of out-of-home placements ordered where the judge found by clear and  
18 convincing evidence the existence of a significant and likely risk of harm to the juvenile, a family  
19 member or the public;

20 (5) The average length of stay for out-of-home placements for any reason, broken down  
21 by the agency with jurisdiction;

22 (6) The average daily population in out-of-home facilities, broken down by type of facility  
23 and agency with jurisdiction; and

24 (7) The costs of out-of home placement broken down by facility, placement level and  
25 agency.

26 (c) For youth placed in programs operated or funded by the Division of Juvenile Services,  
27 the department or the Supreme Court of Appeals, including youth reporting centers, juvenile drug

28 courts, restorative justice programs and teen courts, the division, department and Supreme Court  
29 shall develop procedures using, at a minimum, the measures in subsection (b) of this section to  
30 track and record outcomes of each program, and to demonstrate that the program reduces the  
31 likelihood of reoffending for the youth referred to the program.

32 (d) For youth referred to truancy diversion specialists or other truancy diversion programs  
33 operated or funded by the Supreme Court of Appeals, the Division of Juvenile Services, the  
34 Department of Health and Human Resources, the Department of Education or other political  
35 subdivisions, that branch of government or agency shall develop procedures to track and record  
36 outcomes of each program, and to evaluate the effectiveness in reducing unexcused absences  
37 for the youth referred to the program. At a minimum, this outcome data shall include:

38 (1) The number of youth successfully completing the truancy diversion program;

39 (2) The number of youth who are referred to the court system after failing to complete a  
40 truancy diversion program; and

41 (3) The number of youth who, after successfully completing a truancy diversion program,  
42 accumulate five or more unexcused absences in the current or subsequent school year.

43 (e) The Supreme Court of Appeals, the Division of Juvenile Services, the Department of  
44 Health and Human Resources and the Department of Education shall also establish procedures  
45 to jointly collect and compile data relating to disproportionate minority contact, which is defined  
46 as the proportion of minority youth who come into contact with the juvenile justice system in  
47 relation to the proportion of minority youth in the general population, and the compilation shall  
48 include data indicating the prevalence of such disproportionality in each county. Data shall  
49 include, at a minimum, the race and gender of youth arrested or referred to court, entered into a  
50 diversion program, adjudicated and disposed.

51 (f) The data collected under this section is public information and shall be made available  
52 for public review.