

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2056

By Delegate D. Smith

[Introduced February 12, 2025; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §1-1-4 and §49-4-701 of the Code of West Virginia, 1931, as
2 amended; and to amend said code by adding a new section designated §1-1-6, relating to
3 concurrent juvenile jurisdiction on military installations; addresses concurrent juvenile
4 jurisdiction and allowing the transfer of exclusive federal legislative jurisdiction back to the
5 state with respect to juveniles.

Be it enacted by the Legislature of West Virginia:

CHAPTER 1. THE STATE AND ITS SUBDIVISIONS.

ARTICLE 1. LIMITS AND JURISDICTION.

§1-1-4. Execution of process and other jurisdiction as to land acquired by United States.

1 The state of West Virginia reserves the right to execute process, juvenile, civil or criminal,
2 within the limits of any lot or parcel of land heretofore or hereafter acquired by the United States as
3 aforesaid, and such other jurisdiction and authority over the same as is not inconsistent with the
4 jurisdiction ceded to the United States by virtue of such acquisition.

§1-1-6. Execution of process and other jurisdiction as to land acquired by United States.

1 (a) Consent of State. West Virginia consents to the establishment of concurrent jurisdiction
2 with the United States over land now owned or hereafter acquired by the United States for military
3 purposes within the boundaries of this state.

4 (b) Administrative Authority Delegated. West Virginia authorizes and directs the Governor
5 to grant United States requests to establish concurrent jurisdiction over land owned by the United
6 States for military purposes within the boundaries of this state, which shall be effective upon
7 completion of:

8 (1) Request. The principal officer of the Military Installation or other authorized
9 representative of the United States having supervision and control over the land shall send a
10 written Request for Concurrent Jurisdiction to the Governor. The request shall:

11 (A) Clearly state the subject matter for the concurrent jurisdiction request, specifically

12 identifying whether it includes juvenile delinquency and status offenses;

13 (B) Provide a metes and bounds description of the boundary of the concurrent jurisdiction
14 request; and

15 (C) Indicate whether the request includes future contiguous expansions of land acquired
16 for military purposes.

17 (2) Acceptance. The Governor's written acceptance shall confirm each of the elements of
18 the request that are accepted.

19 (3) Filing. The Governor shall cause the:

20 (A) United States' request for concurrent jurisdiction;

21 (B) Governor's Written Acceptance; and

22 (C) Metes and bounds description of the land to be recorded and indexed with the
23 Secretary of State.

24 (c) Upon filing, the Governor shall cause a certified copy of the recorded documents to be
25 sent to the Requestor.

26 (d) Local Agreements Authorized. Upon the establishment of concurrent jurisdiction, any
27 state or local agency may enter into a reciprocal agreement or memorandum of understanding
28 with any agency of the United States for coordination and designation of responsibilities related to
29 the concurrency.

CHAPTER 49. CHILD WELFARE.

ARTICLE 4. COURT ACTIONS.

Part VII. Juvenile Proceedings

§49-4-701. Juvenile jurisdiction of circuit courts, magistrate courts and municipal courts;
Constitutional guarantees; requirements; hearings; right to counsel; opportunity to
be heard; evidence and transcripts.

1 (a) The circuit court has original jurisdiction of proceedings brought under this article. A

2 person under the age of 18 years who appears before the circuit court in proceedings under this
3 article is a ward of the court and protected accordingly.

4 (b) If during a criminal proceeding in any court it is ascertained or appears that the
5 defendant is under the age of 19 years and was under the age of 18 years at the time of the alleged
6 offense, the matter shall be immediately certified to the juvenile jurisdiction of the circuit court. The
7 circuit court shall assume jurisdiction of the case in the same manner as cases which are originally
8 instituted in the circuit court by petition.

9 (c) Notwithstanding any other provision of this article, magistrate courts have concurrent
10 juvenile jurisdiction with the circuit court for a violation of a traffic law of West Virginia, for a
11 violation of §60-6-9, §16-9A-3 or, §16-9A-3-4, or §11-16-19 of this code, or for any violation of
12 Chapter 20 of this code. Juveniles are liable for punishment for violations of these laws in the same
13 manner as adults except that magistrate courts have no jurisdiction to impose a sentence of
14 incarceration for the violation of these laws.

15 (d) Notwithstanding any other provision of this article, municipal courts have concurrent
16 juvenile jurisdiction with the circuit court for a violation of any municipal ordinance regulating traffic,
17 for any municipal curfew ordinance which is enforceable or for any municipal ordinance regulating
18 or prohibiting public intoxication, drinking or possessing alcoholic liquor or nonintoxicating beer in
19 public places, any other act prohibited by §60-6-9 or §11-16-19 of this code or underage
20 possession or use of tobacco or tobacco products, as provided in §16-9A-1 *et seq.* of this code.
21 Municipal courts may impose the same punishment for these violations as a circuit court
22 exercising its juvenile jurisdiction could properly impose, except that municipal courts have no
23 jurisdiction to impose a sentence of incarceration for the violation of these laws.

24 (e) A juvenile may be brought before the circuit court for proceedings under this article only
25 by the following means:

26 (1) By a juvenile petition requesting that the juvenile be adjudicated as a status offender or
27 a juvenile delinquent; or

(2) By certification or transfer to the juvenile jurisdiction of the circuit court from the criminal jurisdiction of the circuit court, from any foreign court, or from any magistrate court or municipal court in West Virginia.

(f)(1) If a juvenile commits an act which would be a crime if committed by an adult, and the juvenile is adjudicated delinquent for that act, the jurisdiction of the court which adjudged the juvenile delinquent continues until the juvenile becomes 21 years of age. The court has the same power over that person that it had before he or she became an adult, and has the power to sentence that person to a term of incarceration: *Provided*, That any term of incarceration may not exceed six months. This authority does not preclude the court from exercising criminal jurisdiction over that person if he or she violates the law after becoming an adult or if the proceedings have been transferred to the court's criminal jurisdiction pursuant to section seven hundred four of this article.

(2) If a juvenile is adjudicated as a status offender because he or she is habitually absent from school without good cause, the jurisdiction of the court which adjudged the juvenile a status offender continues until either the juvenile becomes 21 years of age, completes high school, completes a high school equivalent or other education plan approved by the court, or the court otherwise voluntarily relinquishes jurisdiction, whichever occurs first. If the jurisdiction of the court is extended pursuant to this subdivision, the court has the same power over that person that it had before he or she became an adult. No person so adjudicated who has attained the age of 19 may be ordered to attend school in a regular, nonalternative setting.

(g) A juvenile ~~is entitled to~~ may be admitted to bail or recognizance in the same manner as an adult and be afforded the protection guaranteed by Article III of the West Virginia Constitution.

(h) A juvenile ~~has the right to~~ may be effectively represented by counsel at all stages of proceedings under this article, including participation in multidisciplinary team meetings, until the child is no longer under the jurisdiction of the court. If the juvenile or the juvenile's parent or custodian executes an affidavit showing that the juvenile cannot afford an attorney, the court shall

54 appoint an attorney, who shall be paid in accordance with §29-21-1 *et seq.* of this code.

55 (i)(1) In all proceedings under this article, the juvenile ~~will~~ shall be afforded a meaningful
56 opportunity to be heard. This includes the opportunity to testify and to present and cross-examine
57 witnesses. The general public shall be excluded from all proceedings under this article except that
58 persons whose presence is requested by the parties and other persons whom the circuit court
59 determines have a legitimate interest in the proceedings may attend.

60 (2) In cases in which a juvenile is accused of committing what would be a felony if the
61 juvenile were an adult, an alleged victim or his or her representative may attend any related
62 juvenile proceedings, at the discretion of the presiding judicial officer.

63 (3) In any case in which the alleged victim is a juvenile, he or she may be accompanied by
64 his or her parents or representative, at the discretion of the presiding judicial officer.

65 (j) At all adjudicatory hearings held under this article, all procedural rights afforded to adults
66 in criminal proceedings shall be afforded the juvenile unless specifically provided otherwise in this
67 chapter.

68 (k) At all adjudicatory hearings held under this article, the rules of evidence applicable in
69 criminal cases apply, including the rule against written reports based upon hearsay.

70 (l) Except for *res gestae*, extrajudicial statements made by a juvenile who has not attained
71 14 years of age to law-enforcement officials or while in custody are not admissible unless those
72 statements were made in the presence of the juvenile's counsel. Except for *res gestae*,
73 extrajudicial statements made by a juvenile who has not attained 16 years of age but who is at
74 least 14 years of age to law-enforcement officers or while in custody, are not admissible unless
75 made in the presence of the juvenile's counsel or made in the presence of, and with the consent of,
76 the juvenile's parent or custodian, and the parent or custodian has been fully informed regarding
77 the juvenile's right to a prompt detention hearing, the juvenile's right to counsel, including
78 appointed counsel if the juvenile cannot afford counsel, and the juvenile's privilege against self-
79 incrimination.

80 (m) A transcript or recording shall be made of all transfer, adjudicatory and dispositional
81 hearings held in circuit court. At the conclusion of each of these hearings, the circuit court shall
82 make findings of fact and conclusions of law, both of which shall appear on the record. The court
83 reporter shall furnish a transcript of the proceedings at no charge to any indigent juvenile who
84 seeks review of any proceeding under this article if an affidavit is filed stating that neither the
85 juvenile nor the juvenile's parents or custodian have the ability to pay for the transcript.

86 (n) The jurisdiction of the court is concurrent with that of a federal court sitting in the state
87 over proceedings involving a violation of federal law committed by a child on a military installation
88 of the U.S. department of defense if: (1) the federal court waives exclusive jurisdiction; and (2) the
89 violation of federal law is also a crime under state law.

NOTE: The purpose of this bill is to address concurrent juvenile jurisdiction and to allow the transfer of exclusive federal legislative jurisdiction back to the state with respect to juveniles.

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