

Senate Bill No. 638

(By Senator Snyder)

[Introduced February 17, 2012; referred to the Committee on the
Judiciary.]

A BILL to amend and reenact §51-2A-9 of the Code of West Virginia,
1931, as amended, relating to providing additional contempt
powers for family court judges.

Be it enacted by the Legislature of West Virginia:

That §51-2A-9 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 2A. FAMILY COURTS.

§51-2A-9. Contempt powers of family court judge.

(a) In addition to the powers of contempt established in
chapter forty-eight of this code, a family court judge may:

(1) Sanction persons through civil contempt proceedings when
necessary to preserve and enforce the rights of private parties or
to administer remedies granted by the court;

(2) Regulate all proceedings in a hearing before the family

1 court judge; and

2 (3) Punish direct contempts that are committed in the presence
3 of the court or that obstruct, disrupt or corrupt the proceedings
4 of the court.

5 (b) A family court judge may enforce compliance with his or
6 her lawful orders with remedial or coercive sanctions designed to
7 compensate a complainant for losses sustained and to coerce
8 obedience for the benefit of the complainant. Sanctions must give
9 the contemnor an opportunity to purge himself or herself. In
10 selecting sanctions, the court must use the least possible power
11 adequate to the end proposed. A person who lacks the present
12 ability to comply with the order of the court may not be confined
13 for a civil contempt. Sanctions may include, but are not limited
14 to, seizure or impoundment of property to secure compliance with a
15 prior order. Ancillary relief may provide for an award of
16 attorney's fees.

17 (c) Upon a finding that a person is in civil contempt, the
18 court, when otherwise appropriate and in its discretion, and as an
19 alternative to incarceration, may place the person on work release,
20 in a weekend jail program, in an existing community service
21 program, in an existing day-reporting center program, in any other
22 existing community corrections program or on home confinement until
23 the person has purged himself or herself of the contempt.

NOTE: The purpose of this bill is to expand the authority of a family court judge in civil contempt cases.

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