

Senate Bill No. 387

(By Senators Cookman, Unger, Plymale and Palumbo)

[Introduced February 27, 2013;
referred to the Committee on the Judiciary.]

A BILL to amend and reenact §51-2A-7 of the Code of West Virginia, 1931, as amended, relating generally to the powers of family court judges; and granting family court judges the authority to compel and supervise the production of criminal background investigations when appropriate.

Be it enacted by the Legislature of West Virginia:

That §51-2A-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2A. FAMILY COURTS.

§51-2A-7. Powers; administrative and judicial functions of family court judge.

1 (a) The family court judge will exercise any power or
2 authority provided for in this article, in chapter forty-eight of
3 this code or as otherwise provided by general law.

4 Additionally, the family court judge has the authority to:

5 (1) Manage the business before them;

6 (2) Summon witnesses and compel their attendance in
7 court;

8 (3) Exercise reasonable control over discovery;

9 (4) Compel and supervise the production of evidence,
10 including criminal background investigations when
11 appropriate;

12 (5) Discipline attorneys;

13 (6) Prevent abuse of process; and

14 (7) Correct errors in a record.

15 (b) The family court judge has responsibility for the
16 supervision and administration of the family court. A family
17 court judge may promulgate local administrative rules
18 governing the conduct and administration of the family court.

19 In family court circuits with more than one family court

20 judge, all family court judges must agree to the rules. If all
21 of the family court judges in a family court circuit cannot
22 agree, the chief judge of each circuit court in the counties in
23 which the family court circuit is located shall promulgate the
24 local administrative rules. If the chief judges of the circuit
25 courts cannot agree, the Supreme Court of Appeals may
26 promulgate the local administrative rules. Local
27 administrative rules are subordinate and subject to the rules
28 of the Supreme Court of Appeals or the orders of the chief
29 justice. Rules promulgated by the family or circuit court are
30 made by order entered upon the order book of the circuit
31 court and are effective when filed with the Clerk of the
32 Supreme Court of Appeals.

33 (c) Prior to the 2003 regular session of the Legislature
34 and annually thereafter, the Supreme Court of Appeals shall
35 report to the Legislature on the caseload in each family court
36 circuit and shall recommend changes to the management of
37 the family court as the Supreme Court of Appeals deems
38 warranted or necessary to improve the family court.

39 (d) The Supreme Court of Appeals shall promulgate a
40 procedural rule to establish time-keeping requirements for
41 family court judges, family case coordinators and secretary-
42 clerks of family court judges so as to assure the maximum
43 funding of incentive payments, grants and other funding
44 sources available to the state for the processing of cases filed
45 for the location of absent parents, the establishment of
46 paternity and the establishment, modification and
47 enforcement of child support orders.

(NOTE: The purpose of this bill is to grant family court judges the authority to compel and supervise the production of criminal background investigations when appropriate.

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