

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

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

11 (c) Notwithstanding any other provision of this article,
12 magistrate courts have concurrent juvenile jurisdiction with the
13 circuit court for a violation of a traffic law of West Virginia,
14 for a violation of section nine, article six, chapter sixty,
15 section three or section four, article nine-a, chapter sixteen, or
16 section nineteen, article sixteen, chapter eleven of this code, or
17 for any violation of chapter twenty of this code. Juveniles are
18 liable for punishment for violations of these laws in the same
19 manner as adults except that magistrate courts have no jurisdiction
20 to impose a sentence of incarceration for the violation of these
21 laws.

22 (d) Notwithstanding any other provision of this article,
23 municipal courts have concurrent juvenile jurisdiction with the

1 circuit court for a violation of any municipal ordinance regulating
2 traffic, for any municipal curfew ordinance which is enforceable or
3 for any municipal ordinance regulating or prohibiting public
4 intoxication, drinking or possessing alcoholic liquor or
5 nonintoxicating beer in public places, any other act prohibited by
6 section nine, article six, chapter sixty or section nineteen,
7 article sixteen, chapter eleven of this code or underage possession
8 or use of tobacco or tobacco products, as provided in article
9 nine-a, chapter sixteen of this code. Municipal courts may impose
10 the same punishment for these violations as a circuit court
11 exercising its juvenile jurisdiction could properly impose, except
12 that municipal courts have no jurisdiction to impose a sentence of
13 incarceration for the violation of these laws.

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

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

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

22 (f) (1) If a juvenile commits an act which would be a crime if
23 committed by an adult, and the juvenile is adjudicated delinquent

1 for that act, the jurisdiction of the court which adjudged the
2 juvenile delinquent continues until the juvenile becomes twenty-one
3 years of age. The court has the same power over that person that
4 it had before he or she became an adult, and has the further power
5 to sentence that person to a term of incarceration: *Provided*, That
6 ~~any such~~ the term of incarceration may not exceed six months. This
7 authority does not preclude the court from exercising criminal
8 jurisdiction over that person if he or she violates the law after
9 becoming an adult or if the proceedings have been transferred to
10 the court's criminal jurisdiction pursuant to section ten of this
11 article.

12 (2) If a juvenile is adjudicated as a status offender because
13 he or she is habitually absent from school without good cause, the
14 jurisdiction of the court which adjudged the juvenile a status
15 offender continues until either the juvenile becomes twenty-one
16 years of age, completes high school, completes a high school
17 equivalent or other education plan approved by the court, or the
18 court otherwise voluntarily relinquishes jurisdiction, whichever
19 occurs first. If the jurisdiction of the court is extended
20 pursuant to this subdivision, the court has the same power over
21 that person that it had before he or she became an adult: *Provided*,
22 That no person so adjudicated who has attained the age of nineteen
23 may be ordered to attend school in a regular, nonaltemative

1 setting.

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

6 (h) A juvenile has the right to be effectively represented by
7 counsel at all stages of proceedings under the provisions of this
8 article. If the juvenile or the juvenile's parent or custodian
9 executes an affidavit showing that the juvenile cannot afford an
10 attorney, the court shall appoint an attorney, who shall be paid in
11 accordance with article twenty-one, chapter twenty-nine of this
12 code. Effective, July 1, 2014, any attorney appointed who
13 represents juveniles shall complete eight hours of continuing
14 education every reporting period, or every two years, in topics
15 specifically related to juvenile proceedings: Provided, That where
16 an attorney who has completed this training is not available for
17 appointment, the court shall appoint a competent attorney with
18 demonstrated knowledge of juvenile law. Any attorney appointed
19 pursuant to this section shall perform all duties required as an
20 attorney licensed to practice in West Virginia.

21 (i) In all proceedings under this article, the juvenile shall
22 be afforded a meaningful opportunity to be heard. This includes
23 the opportunity to testify and to present and cross-examine

1 witnesses. The general public shall be excluded from all
2 proceedings under this article except that persons whose presence
3 is requested by the parties and other persons whom the circuit
4 court determines have a legitimate interest in the proceedings may
5 attend: *Provided*, That in cases in which a juvenile is accused of
6 committing what would be a felony if the juvenile were an adult, an
7 alleged victim or his or her representative may attend any related
8 juvenile proceedings, at the discretion of the presiding judicial
9 officer: *Provided, however*, That in any case in which the alleged
10 victim is a juvenile, he or she may be accompanied by his or her
11 parents or representative, at the discretion of the presiding
12 judicial officer.

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

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

20 (l) Except for *res gestae*, extrajudicial statements made by a
21 juvenile who has not attained fourteen years of age to
22 law-enforcement officials or while in custody are not admissible
23 unless those statements were made in the presence of the juvenile's

1 counsel. Except for res gestae, extrajudicial statements made by
2 a juvenile who has not attained sixteen years of age but who is at
3 least fourteen years of age to law-enforcement officers or while in
4 custody, are not admissible unless made in the presence of the
5 juvenile's counsel or made in the presence of, and with the consent
6 of, the juvenile's parent or custodian, and the parent or custodian
7 has been fully informed regarding the juvenile's right to a prompt
8 detention hearing, the juvenile's right to counsel, including
9 appointed counsel if the juvenile cannot afford counsel, and the
10 juvenile's privilege against self-incrimination.

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

NOTE: The purpose of this bill is to increase the number of certified legal education credits required to serve as a court appointed attorney in juvenile cases.

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