

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2048

**FISCAL
NOTE**

2015 Carryover

(BY DELEGATE SHOTT)

[Introduced January 13, 2016; referred to the
Committee on the Judiciary then Finance.]

1 A BILL to amend and reenact §49-5-11 of the Code of West Virginia, 1931, as amended, relating
2 to juvenile proceedings; and requiring the Supreme Court of Appeals and the county board
3 of education to each pay one half of the costs for hiring a school-based juvenile probation
4 officer under specified circumstances.

Be it enacted by the Legislature of West Virginia:

1 That §49-5-11 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 5. JUVENILE PROCEEDINGS.

**§49-5-11. Adjudication for alleged status offenders and delinquents; mandatory initial
disposition of status offenders.**

1 At the outset of an adjudicatory hearing, the court shall inquire of the juvenile whether he
2 or she wishes to admit or deny the allegations in the petition. The juvenile may elect to stand
3 mute, in which event the court shall enter a general denial of all allegations in the petition.

4 (a) If the respondent juvenile admits the allegations of the petition, the court shall consider
5 the admission to be proof of the allegations if the court finds:

6 (1) The respondent fully understands all of his or her rights under this article;
7 (2) The respondent voluntarily, intelligently and knowingly admits all facts requisite for an
8 adjudication; and

9 (3) The respondent in his or her admission has not set forth facts which constitute a
10 defense to the allegations.

11 (b) If the respondent juvenile denies the allegations, the court shall dispose of all pretrial
12 motions and the court or jury shall proceed to hear evidence.

13 (c) If the allegations in a petition alleging that the juvenile is delinquent are admitted or are
14 sustained by proof beyond a reasonable doubt, the court shall schedule the matter for disposition

15 pursuant to section thirteen of this article.

16 (d) If the allegations in a petition alleging that the juvenile is a status offender are admitted
17 or sustained by clear and convincing proof, the court shall refer the juvenile to the Department of
18 Health and Human Resources for services, pursuant to section eleven-a of this article and order
19 the department to report back to the court with regard to the juvenile's progress at least every
20 ninety days or until the court, upon motion or sua sponte, orders further disposition under section
21 eleven-a of this article or dismisses the case from its docket: *Provided*, That in a judicial circuit
22 operating its own truancy program, a circuit judge may in lieu of referring truant juveniles to the
23 department, order that the juveniles be supervised by his or her probation office: *Provided,*
24 however, That in a county that has established a truancy program within a judicial circuit where a
25 grant is provided by the county board of education to the Supreme Court of Appeals to hire a
26 school-based juvenile probation officer to handle truancy matters, then the Supreme Court of
27 Appeals and the county board of education shall each pay one half of the costs of the salary and
28 benefits for hiring a school-based juvenile probation officer.

29 (e) If the allegations in a petition are not sustained by proof as provided in subsections (c)
30 and (d) of this section, the petition shall be dismissed and the juvenile shall be discharged if he
31 or she is in custody.

32 (f) Findings of fact and conclusions of law addressed to all allegations in the petition shall
33 be stated on the record or reduced to writing and filed with the record or incorporated into the
34 order of the court.

NOTE: The purpose of this bill is to specify the allocation of payment of salary and benefits for school-based juvenile probation officers in counties which have established a truancy program in a judicial circuit where a grant is provided by the county board of education to the Supreme Court of Appeals to hire a school-based juvenile probation officer to handle truancy matters.

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