

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2037**

BY DELEGATE SHOTT, HANSHAW, FLEISCHAUER,

CANESTRARO AND FRICH

[Introduced February 8, 2017;

Referred to Committee on the Judiciary then

Finance.]



1 A BILL to amend and reenact §49-4-711 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 §49-4-711 of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted to read as follows:

**ARTICLE 4. JUVENILE PROCEEDINGS.**

**§49-4-711. 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 silent, in which event the court shall enter a general denial of all allegations in the petition.

4 (1) 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: (1) The respondent fully understands  
 6 all of his or her rights under this article; (2) the respondent voluntarily, intelligently and knowingly  
 7 admits all facts requisite for an adjudication; and (3) the respondent in his or her admission has  
 8 not set forth facts which constitute a defense to the allegations.

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

11 (3) If the allegations in a petition alleging that the juvenile is delinquent are admitted or are  
 12 sustained by proof beyond a reasonable doubt, the court shall schedule the matter for disposition  
 13 pursuant to section seven hundred four of this article. The court shall receive and consider the  
 14 results of the risk and needs assessment prior to or at the disposition pursuant to section seven  
 15 hundred twenty-four, article four of this chapter.

16 (4) If the allegations in a petition alleging that the juvenile is a status offender are admitted

17 or sustained by clear and convincing evidence, the court shall consider the results of the risk and  
18 needs assessment prior to or at the disposition pursuant to section seven hundred twenty-four,  
19 article four of this chapter and refer the juvenile to the Department of Health and Human  
20 Resources for services, pursuant to section seven hundred twelve of this article, and order the  
21 department to report back to the court with regard to the juvenile's progress at least every ninety  
22 days or until the court, upon motion or sua sponte, orders further disposition under section seven  
23 hundred twelve of this article or dismisses the case from its docket: *Provided*, That in a judicial  
24 circuit operating a truancy program, a circuit judge may, in lieu of referring truant juveniles to the  
25 department, order that the juveniles be supervised by his or her probation office: *Provided*,  
26 *however*, That a circuit judge may also refer a truant juvenile to a truancy diversion specialist:  
27 *Provided further*, That in a county that has established a truancy program within a judicial circuit  
28 in which the county board of education provides grant funds to the Supreme Court of Appeals to  
29 hire a school-based juvenile probation officer to handle truancy matters, then the Supreme Court  
30 of Appeals and the county board of education shall each pay one half of the costs of the salary  
31 and benefits for that position.

32 (5) If the allegations in a petition are not sustained by evidence as provided in subsections  
33 (c) and (d) of this section, the petition shall be dismissed and the juvenile shall be discharged if  
34 he or she is in custody.

35 (6) Findings of fact and conclusions of law addressed to all allegations in the petition shall  
36 be stated on the record or reduced to writing and filed with the record or incorporated into the  
37 order of the court. The record shall include the treatment and rehabilitation plan the court has  
38 adopted after recommendation by the multidisciplinary team as provided ~~for~~ in section four  
39 hundred six, article four of this chapter.

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 a heading or the present law and underscoring indicates new language that would be added.