

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 29

BY SENATORS TRUMP, LINDSAY, SWOPE, AND WOODRUM

[Introduced February 10, 2021; referred
to the Committee on the Judiciary; and then to the
Committee on Finance]

1 A BILL to amend and reenact §29-21-2 of the Code of West Virginia, 1931, as amended, relating
 2 to authorizing the payment of fees and reimbursement of expenses of attorneys who
 3 participate on court teams or advisory bodies of specialty courts established by the
 4 Supreme Court of Appeals.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. PUBLIC DEFENDER SERVICES.

§29-21-2. Definitions.

1 As used in this article, the following words and phrases are hereby defined:

2 (1) "Eligible client": Any person who meets the requirements established by this article to
 3 receive publicly funded legal representation in an eligible proceeding as defined herein;

4 (2) "Eligible proceeding": Criminal charges which may result in incarceration; juvenile
 5 proceedings; proceedings to revoke parole or probation if the revocation may result in
 6 incarceration; contempt of court; child abuse and neglect proceedings which may result in a
 7 termination of parental rights; mental hygiene commitment proceedings; extradition proceedings;
 8 proceedings which are ancillary to an eligible proceeding, including, but not limited to,
 9 proceedings to enhance sentences brought pursuant to §61-11-18 and §61-11-19 of this code,
 10 forfeiture proceedings brought pursuant to §60A-7-1 *et seq.* of this code, and proceedings brought
 11 to obtain extraordinary remedies; ~~and~~ appeals from or post-conviction challenges to the final
 12 judgment in an eligible proceeding; and participation on court teams or advisory bodies of drug
 13 courts, family treatment courts, military service members courts, or other specialty courts
 14 established or sanctioned by the Supreme Court of Appeals. Legal representation provided
 15 pursuant to the provisions of this article is limited to the court system of the State of West Virginia,
 16 but does not include representation in municipal courts unless the accused is at risk of
 17 incarceration;

18 (3) "Legal representation": The provision of any legal services or legal assistance as
 19 counsel or guardian *ad litem* consistent with the purposes and provisions of this article;

20 (4) "Private practice of law": The provision of legal representation by a public defender or
21 assistant public defender to a client who is not entitled to receive legal representation under the
22 provisions of this article, but does not include, among other activities, teaching;

23 (5) "Public defender": The staff attorney employed on a full-time basis by a public defender
24 corporation who, in addition to providing direct representation to eligible clients, has administrative
25 responsibility for the operation of the public defender corporation. The public defender may be a
26 part-time employee if the board of directors of the public defender corporation finds efficient
27 operation of the corporation does not require a full-time attorney and the executive director
28 approves such part-time employment;

29 (6) "Assistant public defender": A staff attorney providing direct representation to eligible
30 clients whose salary and status as a full-time or part-time employee are fixed by the board of
31 directors of the public defender corporation;

32 (7) "Public defender corporation": A corporation created under §29-21-8 of this code for
33 the sole purpose of providing legal representation to eligible clients; and

34 (8) "Public defender office": An office operated by a public defender corporation to provide
35 legal representation under the provisions of this article.

NOTE: The purpose of this bill is to authorize the payment of fees and reimbursement of expenses of attorneys who participate on court teams or advisory bodies of specialty courts established by the Supreme Court of Appeals.

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