

# WEST VIRGINIA LEGISLATURE

## 2021 REGULAR SESSION

Introduced

### House Bill 2553

FISCAL  
NOTE

BY DELEGATE PUSHKIN

[Introduced February 16, 2021; Referred to the  
Committee on the Judiciary then Finance]

1 A BILL to amend and reenact §49-2-913 of the Code of West Virginia, 1931, as amended; to  
 2 amend said code by adding thereto a new section, designated §49-2-914; and to amend  
 3 and reenact §49-5-106 of said code, all relating to the juvenile justice reform oversight  
 4 committee and averted costs reinvestment; creating a juvenile justice account and  
 5 providing its purpose, funding and disbursements; requiring new data to be collected and  
 6 compiled to allow calculation of juvenile recidivism and the outcome of programs and  
 7 making this information available to the public.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.**

**§49-2-913. Juvenile Justice Reform Oversight Committee.**

1 (a) The Juvenile Justice Reform Oversight Committee is hereby created to oversee the  
 2 implementation of reform measures intended to improve the state's juvenile justice system.

3 (b) The committee shall be comprised of 17 members, including the following individuals:

4 (1) The Governor, or his or her designee, who shall preside as chair of the committee;

5 (2) Two members from the House of Delegates, appointed by the Speaker of the House  
 6 of Delegates, who shall serve as nonvoting, ex-officio members;

7 (3) Two members from the Senate, appointed by the President of the Senate, who shall  
 8 serve as nonvoting, ex-officio members;

9 (4) The Secretary of the Department of Health and Human Resources, or his or her  
 10 designee;

11 (5) The Director of the Division of Juvenile Services, or his or her designee;

12 (6) The Superintendent of the State Board of Education, or his or her designee;

13 (7) The Administrative Director of the Supreme Court of Appeals, or his or her designee,  
 14 who shall serve as nonvoting, ex-officio member;

15 (8) The Director of the Division of Probation Services, or his or her designee;

16 (9) Two circuit court judges, appointed by the Chief Justice of the Supreme Court of

- 17 Appeals, who shall serve as nonvoting, ex-officio members;
- 18 (10) One community member juvenile justice stakeholder, appointed by the Governor;
- 19 (11) One juvenile crime victim advocate, appointed by the Governor;
- 20 (12) One member from the law-enforcement agency, appointed by the Governor;
- 21 (13) One member from a county prosecuting attorney's office, appointed by the Governor;
- 22 and
- 23 (14) The Director of the Juvenile Justice Commission.
- 24 (c) The committee shall perform the following duties:
- 25 (1) Guide and evaluate the implementation of the provisions adopted in the year 2015
- 26 relating to juvenile justice reform;
- 27 (2) Obtain and review the juvenile recidivism and program outcome data collected
- 28 pursuant to §49-5-106 of this code;
- 29 (3) Calculate any state expenditures that have been avoided by reductions in the number
- 30 of youth placed in out-of-home placements by the Division of Juvenile Services or the Department
- 31 of Health and Human Resources as reported under §49-5-106 of this code; and
- 32 (4) Institute a uniform process for developing and reviewing performance measurement
- 33 and outcome measures through data analysis. The uniform process shall include:
- 34 (A) The performance and outcome measures for the court, the Department of Health and
- 35 Human Resources and the Division of Juvenile Services; and
- 36 (B) The deadlines and format for the submission of the performance and outcome
- 37 measures; and
- 38 (5) Ensure system accountability and monitor the fidelity of implementation efforts or
- 39 programs;
- 40 (6) Study any additional topics relating to the continued improvement of the juvenile justice
- 41 system; and
- 42 (7) Issue an annual report to the Governor, the President of the Senate, the Speaker of

43 the House of Delegates, and the Chief Justice of the Supreme Court of Appeals of West Virginia  
44 on or before November 30 of each year, starting in 2016, which shall include:

45 (A) An assessment of the progress made in implementation of juvenile justice reform  
46 efforts;

47 (B) A summary of the committee's efforts in fulfilling its duties as set forth in this section;  
48 and

49 (C) An analysis of the recidivism data obtained by the committee under this section;

50 (D) ~~A summary of~~ The averted costs to the state and federal government calculated by  
51 the committee under this section and summary of the methodology used by the committee; ~~and~~  
52 ~~a recommendation for any reinvestment of the averted costs to fund services or programs to~~  
53 ~~expand West Virginia's continuum of alternatives for youth who would otherwise be placed in out-~~  
54 ~~of-home placement~~

55 (E) A recommendation for any reinvestment of the averted costs to fund services or  
56 programs to expand the state's continuum of alternatives for youth who would otherwise be placed  
57 in out-of-home placement;

58 (E) (E) Recommendations for continued improvements to the juvenile justice system.

59 (d) The Division of Justice and Community Services shall provide staff support for the  
60 committee. The committee ~~may~~ has subpoena power to request and receive copies of all data,  
61 reports, performance measures and other evaluative material regarding juvenile justice submitted  
62 from any agency, branch of government or political subdivision to carry out its duties.

63 (e) The committee shall meet within 90 days after appointment and shall thereafter meet  
64 at least quarterly, upon notice by the chair. Eight members shall be considered a quorum.

65 (f) After initial appointment, members appointed to the committee by the Governor, the  
66 President of the Senate, the Speaker of the House of Delegates or the Chief Justice of the  
67 Supreme Court of Appeals, pursuant to subsection (b) of this section, shall serve for a term of two  
68 years from his or her appointment and shall be eligible for reappointment to that position. All

69 members appointed to the committee shall serve until his or her successor has been duly  
70 appointed.

71 (g) The committee shall sunset on December 31, 2020, unless reauthorized by the  
72 Legislature.

**§49-2-914. Creation of juvenile justice account; purpose; funding; disbursements.**

1 (a) There is hereby created in the State Treasury a separate special revenue account,  
2 which shall be an interest bearing account, to be known as the “Juvenile Justice Account.” The  
3 special revenue account shall consist of appropriations made by the Legislature, income from the  
4 investment of moneys held in the special revenue account and all other sums available for deposit  
5 to the special revenue account from any source, public or private. No expenses incurred under  
6 this section may be a charge against the general funds of the state.

7 (b) The Governor shall submit the amount of the state savings described in §49-2-  
8 913(c)(7)(D) of this code to be deposited into the Juvenile Justice Account described in this  
9 section as part of the annual budget submission or in an executive message to the Legislature.

10 (c) Moneys in the special revenue account shall be appropriated to the Juvenile Justice  
11 Reform Oversight Committee and used exclusively, in accordance with appropriations by the  
12 Legislature, to pay costs, fees, and expenses incurred, or to be incurred for the following  
13 purposes:

14 (1) A per diem to members of the committee not to exceed the per diem rate paid to  
15 members of the West Virginia Legislature pursuant to §4-2A-7 of this code;

16 (2) Grants or funds to establish, staff, or otherwise fund new services or programs  
17 recommended in §49-2-913(c)(7)(E) of this code that are evidence based;

18 (3) Grants or funds to establish, staff, or otherwise fund pilot programs or experimental  
19 community-based services recommended in §49-2-913(c)(7)(E) of this code for which there is not  
20 substantial evidence regarding efficacy or outcomes;

21 (4) Grants or funds to improve, expand, support, or expand access to juvenile justice

22 programs pursuant to §49-2-913(c)(7)(F) of this code: *Provided*, That expanding access means  
23 providing for juveniles, parents, and guardians to receive services without a court referral; and

24 (5) All costs incurred in the administration of the special revenue account.

25 (d) Any balance remaining in the special revenue account at the end of any state fiscal  
26 year shall not revert to the General Revenue Fund but shall remain in the special revenue account  
27 and shall be used solely in a manner consistent with this section: *Provided*, That at the sunset of  
28 the Juvenile Justice Committee pursuant to §49-2-913(g) of this code, any moneys remaining in  
29 the special revenue account shall revert to the General Revenue Fund.

30 (e) Disbursements from the special revenue account shall be authorized by a simple  
31 majority vote of present voting members of the Juvenile Justice Reform Oversight Committee:  
32 *Provided*, That a quorum of at least eight voting members are present.

## **ARTICLE 5. RECORD KEEPING AND DATABASE.**

### **§49-5-106. Data collection.**

1 (a) The Division of Juvenile Services, the department and the Supreme Court of Appeals  
2 shall establish procedures to jointly collect and compile data necessary to calculate juvenile  
3 recidivism and the outcome of programs.

4 (b) For each juvenile who enters into a diversion agreement, is placed on an improvement  
5 period, is placed on probation, or is placed in an out-of-home placement as defined by §49-1-206  
6 of this code, the data and procedures developed in subsection (a) shall include:

7 (1) New offense referrals to juvenile court or criminal court within three years of completion  
8 of the diversion agreement, release from court jurisdiction or release from agency custody;

9 (2) Adjudications for a delinquent or status offense by a juvenile or a conviction by a  
10 criminal court within three years of completion of the diversion agreement, release from court  
11 jurisdiction or release from agency custody;

12 (3) Commitments to the Division of Juvenile Services, the department, excluding out-of-  
13 home placements made for child welfare or abuse and neglect purposes, or incarceration with

14 the Division of Corrections within three years of completion of the diversion agreement, release  
15 from court jurisdiction or release from agency custody; and

16 (4) The number of out-of-home placements ordered where the judge found by clear and  
17 convincing evidence the existence of a significant and likely risk of harm to the juvenile, a family  
18 member, or the public.

19 (5) The average length of stay for out-of-home placements for any reason, broken down  
20 by the agency with jurisdiction.

21 (6) The average daily population in out-of-home facilities, broken down by type of facility  
22 and agency with jurisdiction.

23 (7) The costs of out-of-home placement are broken down by facility, placement level, and  
24 agency.

25 (c) For youth placed in programs operated or funded by the Division of Juvenile Services,  
26 the department or the Supreme Court of Appeals, including youth reporting centers, juvenile drug  
27 courts, restorative justice programs and teen courts, the division, department and Supreme Court  
28 shall develop procedures using, at a minimum, the measures in subsection (b) of this section to  
29 track and record outcomes of each program, and to demonstrate that the program reduces the  
30 likelihood of reoffending for the youth referred to the program.

31 (d) For youth referred to truancy diversion specialists or other truancy diversion programs  
32 operated or funded by the Supreme Court of Appeals, the Division of Juvenile Services, the  
33 Department of Health and Human Resources, the Department of Education or other political  
34 subdivisions, that branch of government or agency shall develop procedures to track and record  
35 outcomes of each program, and to evaluate the effectiveness in reducing unexcused absences  
36 for the youth referred to the program. At a minimum, this outcome data shall include:

37 (1) The number of youth successfully completing the truancy diversion program;

38 (2) The number of youth who are referred to the court system after failing to complete a  
39 truancy diversion program; and

40 (3) The number of youth who, after successfully completing a truancy diversion program,  
41 accumulate five or more unexcused absences in the current or subsequent school year.

42 (e) The Supreme Court of Appeals, the Division of Juvenile Services, the Department of  
43 Health and Human Resources and the department of education shall also establish procedures  
44 to jointly collect and compile data relating to disproportionate minority contact, which is defined  
45 as the proportion of minority youth who come into contact with the juvenile justice system in  
46 relation to the proportion of minority youth in the general population, and the compilation shall  
47 include data indicating the prevalence of such disproportionality in each county. Data shall  
48 include, at a minimum, the race and gender of youth arrested or referred to court, entered into a  
49 diversion program, adjudicated and disposed.

50 (f) The data collected under this section is public information and shall be made available  
51 for public review.

NOTE: The purpose of this bill is to require the Juvenile Justice Reform Oversight Committee to recommend averted costs reinvestment; create a juvenile justice account and provide its purpose, funding, and disbursements; require new data to be collected and compiled to allow calculation of juvenile recidivism and the outcome of programs and make this information available to the public.

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