

# **WEST VIRGINIA LEGISLATURE**

**2024 REGULAR SESSION**

**ENGROSSED**

**Committee Substitute**

**for**

**House Bill 4683**

By Delegate McGeehan

[Originating in the Committee on the Judiciary;

Reported on January 18, 2024]





14 (1) For a valid court order, as defined in §49-1-207 of this code, to enforce compliance with  
15 a service plan or to restrain actions that interfere with or defeat a service plan; including a  
16 mandate that a parent, guardian, or custodian participate in programs for juveniles in an out-of-  
17 home placement; or

18 (2) For a valid court order to place a juvenile out of home in a nonsecure or staff-secure  
19 setting, and/or to place a juvenile in custody of the department: *Provided*, That a juvenile  
20 adjudicated as a status offender may not be placed in an out-of-home placement, excluding  
21 placements made for abuse and neglect, if that juvenile has had no prior adjudications for a status  
22 or delinquency offense, or no prior disposition to a pre-adjudicatory improvement period or  
23 probation for the current matter: *Provided, however*, That if the court finds by clear and convincing  
24 evidence the existence of a significant and likely risk of harm to the juvenile, a family member or  
25 the public and continued placement in the home is contrary to the best interests of the juvenile, the  
26 juvenile may be ordered to an out-of-home placement: *Provided further*, That the court finds the  
27 department has made all reasonable efforts to prevent removal of the juvenile from his or her  
28 home, or that such reasonable efforts are not required due to an emergent situation.

29 (c) In ordering any further disposition under this section, the court, is not limited to, the  
30 relief sought in the department's petition and shall make reasonable efforts to prevent removal of  
31 the juvenile from his or her home or, as an alternative, to place the juvenile in a community-based  
32 facility which is the least restrictive alternative appropriate to the needs of the juvenile and the  
33 community. The disposition may include reasonable and relevant orders to the parents, guardians,  
34 or custodians of the juvenile ~~that are~~ as is necessary and proper to effectuate the disposition.

35 (d) (1) If the court finds that placement in a residential facility is necessary to provide the  
36 services under subsection (a) of this section, except as prohibited by subdivision (2), subsection  
37 (b) of this section, the court shall make findings of fact as to the necessity of this placement, stated  
38 on the record or reduced to writing and filed with the record or incorporated into the order of the  
39 court.

40 (2) The findings of fact shall include the factors that indicate:

41 (A) The likely effectiveness of placement in a residential facility for the juvenile; and

42 (B) The community services which were previously attempted.

43 (e) The disposition of the juvenile may not be affected by the fact that the juvenile  
44 demanded a trial by jury or made a plea of not guilty. Any order providing disposition other than  
45 mandatory referral to the department for services is subject to appeal to the Supreme Court of  
46 Appeals.

47 (f) Following any further disposition by the court, the court shall inquire of the juvenile  
48 whether or not appeal is desired and the response shall be transcribed; a negative response may  
49 not be construed as a waiver. The evidence shall be transcribed as soon as practicable and made  
50 available to the juvenile or his or her counsel, if it is requested for purposes of further proceedings.  
51 A judge may grant a stay of execution pending further proceedings.

52 (g) A juvenile adjudicated solely as a status offender or a juvenile found to be incompetent  
53 to proceed may not be placed in a Bureau Division of Juvenile Services facility.

**§49-4-712a. Parents mandated to participate in outside-the-home treatment programs.**

1 A parent, guardian, or custodian shall be required to participate in programs designed for  
2 out-of-home placement including family therapy sessions offered by the treatment provider unless  
3 there is a finding by the court that participation by any parent, guardian, or custodian is not in the  
4 best interest of the juvenile or that participation would place an undue hardship upon any parent,  
5 guardian, or custodian."