

WEST VIRGINIA CODE: §49-4-702A

§49-4-702a. Noncustodial counseling or community services provided to a juvenile; prepetition counsel and advice.

(a) The court at any time, or the department or other official upon a request from a parent, guardian or custodian, may, before a petition is filed under this article, refer a juvenile alleged to be a delinquent or a status offender to a counselor at the department or a community mental health center, other professional counselor in the community or to a truancy diversion specialist. In the event the juvenile refuses to respond to this referral, the department may serve a notice by first class mail or personal service of process upon the juvenile, setting forth the facts and stating that a noncustodial order will be sought from the court directing the juvenile to submit to counseling or community services. The notice shall set forth the time and place for the hearing on the matter. The court or referee after a hearing may direct the juvenile to participate in a noncustodial period of counseling or community services that may not exceed six months. Upon recommendation of the department or request by the juvenile's parent, custodian or guardian, the court or referee may allow or require the parent, custodian or guardian to participate in this noncustodial counseling or community services. No information obtained as the result of counseling or community services is admissible in a subsequent proceeding under this article.

(b) Before a petition is formally filed with the court, the probation officer or other officer of the court designated by it, subject to its direction, may give counsel and advice to the parties with a view to an informal adjustment period if it appears:

- (1) The admitted facts bring the case within the jurisdiction of the court;
- (2) Counsel and advice without an adjudication would be in the best interest of the public and the juvenile; and
- (3) The juvenile and his or her parents, guardian or other custodian consent thereto with knowledge that consent is not obligatory.

(c) The giving of counsel and advice pursuant to this section may not continue longer than six months from the day it is commenced unless extended by the court for an additional period not to exceed six months.