WEST VIRGINIA CODE: §49-4-718

§49-4-718. Modification of dispositional orders; motions; hearings.

(a) A dispositional order of the court may be modified:

(1) Upon the motion of the probation officer, a department official, the director of the Division of Juvenile Services or prosecuting attorney; or

(2) Upon the request of the juvenile or a juvenile's parent, guardian or custodian who alleges a change of circumstances relating to disposition of the juvenile.

(b) Upon such a motion or request, the court shall conduct a review hearing, except that if the last dispositional order was within the previous six months, the court may deny a request for review. Notice in writing of a review hearing shall be given to the juvenile, the juvenile's parent, guardian or custodian and all counsel not less than seventy-two hours prior to the proceeding. The court shall review the performance of the juvenile, the juvenile's parent or custodian, the juvenile's case worker and other persons providing assistance to the juvenile or juvenile's family. If the motion or request for review of disposition is based upon an alleged violation of a court order, the court may modify the disposition order and impose a more restrictive alternative if it finds clear and convincing proof of substantial violation. In the absence of such evidence, the court may decline to modify the dispositional order or may modify the order and impose one of the less restrictive alternatives set forth in section seven hundred twelve of this article. A juvenile may not be required to seek a modification order as provided in this section in order to exercise his or her right to seek relief by habeas corpus.

(c) In a hearing for modification of a dispositional order, or in any other dispositional hearing, the court shall consider the best interests of the child and the welfare of the public.

(d)(1) For dispositional orders that include probation, the juvenile's probation officer shall submit an overview to the court of the juvenile's compliance with the conditions of probation and goals of his or her case plan every ninety days.

(2) If the juvenile is compliant and no longer in need of probation supervision, the probation officer shall submit a recommendation for discharge from probation supervision. If the court determines that early termination of the probation term is warranted, it may issue an order discharging the juvenile from probation without conducting a review hearing.

(3) If the juvenile is not compliant with the conditions or has not met his or her goals, the probation officer shall include an accompanying recommendation to the court with additional or changed conditions or goals necessary to achieve compliance. If the court determines that changes to the conditions of probation are warranted, the court shall conduct a review hearing in accordance with subsection (b) of this section.

WV Legislature