WEST VIRGINIA CODE: §49-4-726

§49-4-726. Study of juvenile competency issues; requiring and requesting report and proposed legislation; submission to Legislature.

(a) The Secretary of the Department of Human Services and the Secretary of the Department of Military Affairs and Public Safety are directed, and the Juvenile Justice Commission of the Supreme Court of Appeals is requested to undertake a collaborative investigation and evaluation of issues regarding juvenile competency. They shall:

(1) Develop appropriate procedures for determining what actions should be taken when a juvenile is determined to lack substantial capacity to understand the proceedings against him or her brought under §49-4-704 of this code;

(2) Recommend appropriate processes for juveniles to receive restorative services when found to be incompetent; and

(3) Recommend appropriate disposition alternatives for juveniles found to be incompetent and not restorable, including a recommendation as to the location and operation of an appropriate facility to house juveniles determined to be incompetent, nonrestorable, and in need of out-of-home placement.

(b) The secretaries shall issue a joint report of their findings and recommendations, together with draft legislation necessary to effectuate the recommendations, on or before July 31, 2020, to the President of the Senate and the Speaker of the House of Delegates.

(c) The report shall:

(1) Include models from other states considered to be best practices;

(2) Include an estimate of the number of juveniles that may be affected by this procedure and data of trends by other states;

(3) Include an estimate of the cost of providing restorative services and a recommendation of which agency should pay for the services; and

(4) Ensure that any recommended legislation provides that all services be provided in the least restrictive placement for the juvenile and recommend a facility for the housing and treatment of juveniles determined to be incompetent, nonrestorable, and in need of out-of-home placement which can appropriately provide the juvenile with necessary services.

(d) It is the intent of the Legislature in enacting this section to acknowledge the importance of ensuring the constitutionality of juvenile proceedings under §49-4-704 of this code.

WV Legislature