

WEST VIRGINIA CODE: §49-4-727

§49-4-727. Juvenile competency proceedings.

(a) Subject to the provisions of subsection (c) of this section, a juvenile's attorney, the prosecuting attorney, or the court may raise the issue of his or her competency to participate in the proceeding any time during proceedings under this article. Once competency is raised, all proceedings unrelated to competency shall be stayed until the issue of competency is resolved. A juvenile presumed incompetent under subsection (c) of this section shall not be adjudicated unless the presumption of incompetency has been rebutted as provided in subsections (b) and (c) of this section.

(b) In any delinquency proceeding pursuant to this article, a juvenile 14 years or older is presumed to be competent. A juvenile has the burden of proof to rebut this presumption by showing incompetency by a preponderance of the evidence.

(c) In any delinquency proceeding pursuant to this article, if the juvenile is under 14 years of age, there exists a rebuttable presumption that he or she is incompetent to proceed beyond the stage of the proceeding resolving the issue of competency, unless judicially determined to be competent pursuant to the procedures set forth in §49-4-728 through §49-4-734 of this code. The state has the burden of proof to rebut this presumption by showing competency by a preponderance of the evidence.

(d) Regardless of the age of the juvenile, the court may dismiss the petition without ordering a competency evaluation or competency hearing if the prosecuting attorney, the juvenile's attorney, and the guardian ad litem, if previously appointed, agree that there is compelling evidence that the juvenile is not competent to participate in the proceedings: *Provided*, That a court may not order services authorized by §49-4-733 of this code without a competency evaluation.

(e) If and when the issue of a juvenile's competency is raised under subsection (a) of this section or, a rebuttable presumption of incompetency exists under subsection (c) of this section, the court shall appoint a guardian ad litem for the juvenile. The Supreme Court of Appeals is requested to establish a training program for persons acting as guardians ad litem in juvenile competency matters.