WEST VIRGINIA CODE: §49-4-728

§49-4-728. Definitions for juvenile competency proceedings.

As used in §49-4-727 through §49-4-734 of this code:

“Competent” and “competency” refer to whether or not a juvenile has sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding and has a rational as well as factual understanding of the proceedings against him or her. A juvenile is incompetent if, due to developmental disability, intellectual disability, or mental illness, the juvenile is presently incapable of understanding the nature and objective of proceedings against him or her or of assisting in his or her defense.

“Competency attainment services” means services provided to a juvenile to assist the juvenile in attaining competency.

“Department” means the Department of Health and Human Resources.

“Developmental disability” means a severe and chronic disability that is attributable to a mental or physical impairment, including, but not limited to, neurological conditions that lead to impairment of general intellectual functioning or adaptive behavior.

“Developmental immaturity” means a condition based on a juvenile’s chronological age and significant lack of developmental skills when the juvenile has no significant mental illness or intellectual disability.

“Intellectual disability” means a disability characterized by significant limitations both in intellectual functioning and in adaptive behavior as expressed in conceptual, social, and practical domains.

“Mental illness” means a manifestation in a person of significantly impaired capacity to maintain acceptable levels of functioning in the areas of intellect, emotion, and physical well-being.

“Proceeding” means any delinquency proceeding under this article.

“Qualified forensic evaluator” means a licensed psychologist or psychiatrist with the necessary education, training, and experience to perform juvenile competency evaluations, and who has been approved to render opinions for the court pursuant to the requirements of §49-4-729 of this code.

WV Legislature