ENGROSSED

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 114**

(By Senators Kessler, Hunter and Foster)

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[Originating in the Committee on the Judiciary;

reported February 1, 2006.]

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A BILL to amend and reenact §49-5-13d of the Code of West Virginia, 1931, as amended, relating to teen court programs; and allowing county commissions and city councils to assess fees of up to five dollars on persons convicted of felonies, misdemeanors or municipal ordinances to fund teen courts.

*Be it enacted by the Legislature of West Virginia:*
That §49-5-13d of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:
**ARTICLE 5. JUVENILE PROCEEDINGS.
§49-5-13d. Teen court program.**
(a) Notwithstanding any provision of this article to the contrary, in any county that chooses to institute a teen court program in accordance with the provisions of this section, any juvenile who is alleged to have committed a status offense or an act of delinquency which would be a misdemeanor if committed by an adult and who is otherwise subject to the provisions of this article may be given the option of proceeding in the teen court program as an alternative to the filing of a formal petition under section seven of this article or proceeding to a disposition as provided by section eleven-a or thirteen of this article, as the case may be. The decision to extend the option to enter the teen court program as an alternative procedure shall be made by the circuit court if the court finds that the offender is a suitable candidate for the program. No juvenile may enter the teen court program unless he or she and his or her parent or guardian consent. Any juvenile who does not successfully cooperate in and complete the teen court program and any disposition imposed therein shall be returned to the circuit court for further disposition as provided by section eleven-a or thirteen of this article, as the case may be.
(b) The following provisions apply to all teen court programs:
(1) The judge for each teen court proceeding shall be an acting or retired circuit court judge or an active member of the West Virginia State Bar, who serves on a voluntary basis.
(2) Any juvenile who selects the teen court program as an alternative disposition shall agree to serve thereafter on at least two occasions as a teen court juror.
(3) Volunteer students from grades seven through twelve of the schools within the county shall be selected to serve as defense attorney, prosecuting attorney, court clerk, bailiff and jurors for each proceeding.
(4) Disposition in a teen court proceeding shall consist of requiring the juvenile to perform sixteen to forty hours of community service, the duration and type of which shall be determined by the teen court jury from a standard list of available community service programs provided by the county juvenile probation system and a standard list of alternative consequences that are consistent with the purposes of this article. The performance of the juvenile shall be monitored by the county juvenile probation system. The juvenile shall also perform at least two sessions of teen court jury service and, if considered appropriate by the circuit court judge, participate in an education program. Nothing in this section may be construed so as to deny availability of the services provided under section eleven-a of this article to juveniles who are otherwise eligible therefor.
(c) The rules for administration, procedure and admission of evidence shall be determined by the chief circuit judge, but in no case may the court require a juvenile to admit the allegation against him or her as a prerequisite to participation in the teen court program. A copy of these rules shall be provided to every teen court participant.
(d) Each county that operates, or wishes to operate, a teen court program as provided in this section is hereby authorized to adopt a mandatory fee of up to five dollars to be assessed as provided in this subsection. Municipal courts may assess a fee pursuant to the provisions of this section upon authorization by the city council of said municipality. Assessments collected by the clerk of the court pursuant to this subsection shall be deposited into an account specifically for the operation and administration of a teen court program. The clerk of the court of conviction shall collect the fees established in this subsection and shall remit the fees to the teen court program.
Any mandatory fee established by ~~the~~ a county commission or city council in accordance with the provisions of this subsection shall be paid by the defendant on a judgment of guilty or a plea of nolo contendere for each violation committed in the county or municipality of any ~~traffic regulation or law of the road established under the provisions of chapter seventeen-c of this code or~~ felony, misdemeanor or any local ordinance.