



## Supreme Court of Appeals State of West Virginia

# News

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### **Judicial truancy programs one highlight of Spring Circuit Judges' Education Conference**

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CHARLESTON, W.Va. – The spring Circuit Judges' Education Conference this week in Charleston focused in large part on ways the judiciary can help children in West Virginia. Many sessions during the four-day conference at the Embassy Suites Hotel were devoted to children's issues, the highlight of which was a discussion on truancy.

The seventy circuit judges in West Virginia, five Supreme Court Justices, and senior status judges who want to remain eligible to be assigned to cases must attend education conferences twice a year to earn continuing legal education credits. The conferences are sponsored by the Supreme Court and West Virginia Judicial Association.

Judges learned about the latest legislation, court technology, "Ten Things Judges Should Know about Childhood Trauma," and other topics. They got updates on the West Virginia child protection system, child abuse and neglect co-petitioning, and sentencing practices that reduce recidivism. Senate President Earl Ray Tomblin, acting as governor, spoke to the judges on Thursday, June 16.

The Thursday discussion on truancy was led by Judge Alan Moats of the Nineteenth Judicial Circuit (Barbour and Taylor Counties). Judge Moats appeared before the West Virginia Board of Education on June 8 and will appear at an August 1 Department of Education summit on truancy.

Judge Moats initiated an anti-truancy and dropout program in his counties when he realized many of the same people who appeared before him in criminal cases had appeared before him in truancy cases. The majority of inmates in West Virginia prisons are high school dropouts, Judge Moats said. More than fifty percent of Barbour and Taylor County students miss more than ten days of school each year.

"When students are not in school, they are giving up their constitutional right to a free education," Judge Moats said. "We have a culture of absenteeism and dropping out in this state."

And it's a national problem. The United States' graduation rate is nineteenth among developed countries. "It affects every aspect of life, including national security," Judge Moats said.

Supreme Court Justice Robin Jean Davis is leading the Supreme Court's effort to support the judiciary's truancy programs and also spoke to the judges.

“The Court is completely committed to seeing this program through. As Judge Moats said, this is war, and we must win this war.

“This issue affects every aspect of life in our state. It results in lower standards of living, increased illegal drug use, higher crime rates, overcrowding in jails and prisons, and an ever-more powerful continuing trend of absenteeism and dropouts – a trend that must be stopped. The three branches of government have united in this fight. Our state judiciary will be a leader in that fight,” Justice Davis said.

Many circuit judges also operate juvenile drug courts. Justice Brent Benjamin spoke to the judges about the value of both programs.

“The truancy programs of the court, like our juvenile drug court system in West Virginia, serve to protect our children and treat those in need. Ultimately, our goal is to save those at risk and change lives for the better,” Justice Benjamin said.

State Schools Superintendent Jorea Marple; Board of Education President Priscilla Haden; Senate Education Chairman Robert Plymale, D-Wayne; and House Education Chairwoman, Mary Poling, D-Barbour, also spoke to the judges in support of cross-branch anti-truancy programs.

Mrs. Haden noted the West Virginia Constitution requires the Board to provide a thorough and efficient education to all students, but it cannot do that if they are not in school. Educators need help from the community, including the judiciary and doctors who write too many non-legitimate excuses, to keep children where they need to be during school hours. She commended judges who work with schools, prosecutors, and Department of Health and Human Resources officials.

Ms. Marple said many issues schools must deal with are not created by schools, like obesity, truancy, and poverty. Those problems cannot be solved by schools alone. The problems are exacerbated by chronic stress that many children suffer as a result of living in poverty, as the majority of West Virginia children do. Studies show that stress can be alleviated by more arts, more access to technology, more physical activity, and more personal relationships, and schools strive to do that, Ms. Marple said.

“But we don’t have a chance to make school more engaging for children if they aren’t there,” Ms. Marple said. “We can’t afford any more to not be a team. It is time for this team to act now, not tomorrow.”

Several other West Virginia judges also operate anti-truancy programs. Each judge’s program is a different and is designed to meet that circuit’s needs.

Judge Gary L. Johnson of the Twenty-Eighth Judicial Circuit (Nicholas County) modeled the program he has operated for two years on Judge Moats’ program. Judge Johnson will speak at a conference of state schools superintendents on June 30 in Wheeling.

The Nicholas County program takes the truancy process out of magistrate court. Truant students in elementary school are handled through the DHHR educational neglect system. Ultimately, students can be taken out of their homes if they do not attend school.

Middle school and high school students are handled through the juvenile justice status offender system. Juvenile delinquency petitions are filed and students are placed on probation until they turn eighteen or until they graduate from high school.

“It’s more of a student problem than a parent problem when they get to middle school,” Judge Johnson said.

Judge Johnson has four requirements for truants on probation: students must attend school regularly without any unexcused absences; if they have any disciplinary write-ups those are considered probation violations; students must work, they cannot just lay their heads on their desks; and medical excuses must be verified by a probation officer.

While on probation, the DHHR can help students who have other problems.

“I had a girl on probation tell me ‘I didn’t know anybody cared if I went to school or not,’” Judge Johnson said.

Judge James H. Young, Jr., of the Twenty-Fourth Judicial Circuit (Wayne County), has been working with a special truancy probation officer funded by the Wayne County Board of Education since January 2009. Students who have missed more than five days of school get a letter from the school board’s compliance officer. If they do not respond or do not account for the missed days, the probation officer files a juvenile petition.

Judge Young also puts truant students on probation with certain stipulations, but only for a year, or until they graduate, whichever comes first. If they do not comply with probation, he can remove them from their homes, which he has done four times.

“Education is the basis of everything,” Judge Young said. “If we don’t have an educated electorate, government doesn’t function, democracy suffers.”

In the Twenty-Ninth Judicial Circuit (Putnam County), Judge Phillip M. Stowers set up a truancy program two years ago that begins in magistrate court.

“I call it truancy triage,” he said.

Students get letters telling them to come to court within two weeks of missing too much school. Representatives of DHHR, the prosecutor, and the school system are in Magistrate Linda Hunt’s courtroom when each student arrives with a parent. If the family promises to do better, and then does, no juvenile delinquency petition is filed. If they don’t, the case moves to circuit court. Judge Stowers doesn’t have to waste time with an improvement period, because that already has occurred. The process is faster and students miss less school, he said.

Judge John W. Hatcher, Jr., in the Twelfth Judicial Circuit (Fayette County) has been working with Judy Lively at the Fayette County Board of Education for about eight years on truancy cases. During the last school year, he visited five of the county’s high schools to talk to students who were at risk of dropping out of school.

He talked to them about the value of a high school education and how important education is to getting a job.

Unfortunately, many of the students’ parents themselves do not have high school diplomas, he said. Some of the students have to stay home to care for younger siblings. Sometimes the parents are out all night and can’t get up in the morning to get the students to school.

“A number of people in the system don’t care if they are in school or not because they are a problem when they are there. I told them somebody cares, and they should, too,” Judge Hatcher said.

Judges who have truancy programs will make presentations at the fall judicial conference so all the judges can learn from each other.

