

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 2520**

5 (By Delegates Perry, Boggs and Ellem)

6  
7 [Passed March 12, 2011; in effect from passage.]

8  
9 AN ACT to amend and reenact §25-4-6 of the Code of West Virginia,  
10 1931, as amended, relating to assignment of youthful  
11 offenders to correctional facilities; specifying circuit court  
12 jurisdiction; modifying age criteria for eligibility for  
13 commitment to youthful offender center; and providing maximum  
14 age for center commitment.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §25-4-6 of the Code of West Virginia, 1931, as amended,  
17 be amended and reenacted to read as follows:

18 **ARTICLE 4. CENTERS FOR HOUSING YOUNG ADULT OFFENDERS.**

19 **§25-4-6. Assignment of offenders to center; period of center**  
20 **confinement; return to court; sentence or probation;**  
21 **revocation of probation.**

22 The circuit court may suspend the imposition of sentence of  
23 any young adult, as defined in this section, convicted of or  
24 pleading guilty to a felony offense, other than an offense

1 punishable by life imprisonment, including, but not limited to,  
2 felony violations of the provisions of chapter seventeen-c of this  
3 code, who had attained his or her eighteenth birthday but had not  
4 reached his or her twenty-fourth birthday at the time the offense  
5 was committed for which the offender is being sentenced and commit  
6 the young adult to the custody of the West Virginia Commissioner of  
7 Corrections to be assigned to a center: *Provided*, That no person  
8 over the age of twenty-five may be committed pursuant to this  
9 section. Young adult offenders who have previously been committed  
10 to a young adult offender center are not eligible for commitment to  
11 this program. The period of confinement in the center shall be for  
12 a period of not less than six months but not more than two years to  
13 successfully complete the program requirements set by the warden.  
14 The court shall order a presentence investigation to be conducted  
15 and provide the warden with a copy of the presentence investigation  
16 report, along with the commitment order.

17 If, in the opinion of the warden, the young adult offender is  
18 an unfit person to remain in the center, the offender shall be  
19 returned to the committing court to be dealt with further according  
20 to law. The offender is entitled to a hearing before the  
21 committing court to review the warden's determination. The  
22 standard for review is whether the warden, considering the  
23 offender's overall record at the center and the offender's  
24 compliance with the center's rules, policies, procedures, programs

1 and services, abused his or her discretion in determining that the  
2 offender is an unfit person to remain in the center. At the  
3 hearing before the committing court, the state need not offer  
4 independent proof of the offender's disciplinary infractions  
5 contained in the record of the center when opportunity for an  
6 administrative hearing on those infractions was previously made  
7 available at the institution. If the court upholds the warden's  
8 determination, the court may sentence the offender for the crime  
9 for which the offender was convicted. In his or her discretion,  
10 the judge may allow the defendant credit on the sentence for time  
11 the offender spent in the center.

12 A young adult offender shall be returned to the jurisdiction  
13 of the court which originally committed the offender when, in the  
14 opinion of the warden, the young adult offender has satisfactorily  
15 completed the center training program. The offender is then  
16 eligible for probation for the offense the offender was convicted  
17 of or plead guilty to and the judge of the court shall immediately  
18 place the offender on probation. If the court finds there is  
19 reasonable cause to believe that the offender has engaged in new  
20 criminal conduct between his or her release from the center and the  
21 sentencing hearing for the crime for which the offender was ordered  
22 to the center, the judge may sentence the offender for the crime  
23 for which the offender was first convicted, with credit for the  
24 time spent at the center. In the event the offender's probation is

1 subsequently revoked, the judge shall impose the sentence the young  
2 adult offender would have originally received had the offender not  
3 been committed to the center and subsequently placed on probation.  
4 The court shall, however, give the offender credit on his or her  
5 sentence for the time spent in the center.