

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2011



ENROLLED

**COMMITTEE SUBSTITUTE
FOR**

House Bill No. 2520

(By Delegates Perry, Boggs and Ellem)



Passed March 12, 2011

In Effect From Passage

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2520

(BY DELEGATES PERRY, BOGGS AND ELLEM)

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

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4. CENTERS FOR HOUSING YOUNG ADULT OFFENDERS.

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

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

24 If, in the opinion of the warden, the young adult offender
25 is an unfit person to remain in the center, the offender shall
26 be returned to the committing court to be dealt with further
27 according to law. The offender is entitled to a hearing before
28 the committing court to review the warden's determination.
29 The standard for review is whether the warden, considering
30 the offender's overall record at the center and the offender's
31 compliance with the center's rules, policies, procedures,

32 programs and services, abused his or her discretion in
33 determining that the offender is an unfit person to remain in
34 the center. At the hearing before the committing court, the
35 state need not offer independent proof of the offender's
36 disciplinary infractions contained in the record of the center
37 when opportunity for an administrative hearing on those
38 infractions was previously made available at the institution.
39 If the court upholds the warden's determination, the court
40 may sentence the offender for the crime for which the
41 offender was convicted. In his or her discretion, the judge
42 may allow the defendant credit on the sentence for time the
43 offender spent in the center.

44 A young adult offender shall be returned to the
45 jurisdiction of the court which originally committed the
46 offender when, in the opinion of the warden, the young adult
47 offender has satisfactorily completed the center training
48 program. The offender is then eligible for probation for the
49 offense the offender was convicted of or plead guilty to and
50 the judge of the court shall immediately place the offender on
51 probation. If the court finds there is reasonable cause to
52 believe that the offender has engaged in new criminal
53 conduct between his or her release from the center and the
54 sentencing hearing for the crime for which the offender was
55 ordered to the center, the judge may sentence the offender for
56 the crime for which the offender was first convicted, with
57 credit for the time spent at the center. In the event the
58 offender's probation is subsequently revoked, the judge shall
59 impose the sentence the young adult offender would have
60 originally received had the offender not been committed to
61 the center and subsequently placed on probation. The court
62 shall, however, give the offender credit on his or her sentence
63 for the time spent in the center.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2011.

Governor