

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 2483**

BY DELEGATES ELDRIDGE, BUTLER, ROHRBACH, R. MILLER,

SOBONYA AND IAQUINTA

[Passed March 5, 2018; in effect ninety days from passage.]



1 AN ACT to amend and reenact §49-4-720 and §49-4-722 of the Code of West Virginia, 1931, as  
2 amended, all relating to requiring the Division of Juvenile Services to transfer to a  
3 correctional facility or regional jail any person in its custody that has been transferred to  
4 adult jurisdiction of the circuit court and who turns 18 years of age; requiring transfer of  
5 juvenile under adult jurisdiction from a juvenile facility upon reaching 18 years of age if he  
6 or she has either been convicted or is in a pretrial status; directing the Division of Juvenile  
7 Services to notify the circuit court 180 days or as soon as practicable prior to a juvenile  
8 reaching 18 years of age; requiring the circuit court to set and conduct a hearing prior to  
9 the transfer to an adult correctional facility; making provisions of law related to victims  
10 applicable to proceedings held pursuant to the section; prohibiting persons 18 or older that  
11 commit an adult offense while under the custody of the Division of Juvenile Services from  
12 being returned to the placement in a juvenile facility; requiring the court to conduct a  
13 hearing prior to the completion of the adult sentence; and prohibiting a court from  
14 remanding a person who has reached 18 years of age and completed serving an adult  
15 sentence to a juvenile facility.

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

**ARTICLE 4. COURT ACTIONS.**

**§49-4-720. Prohibition on committing juveniles to adult facilities.**

1 (a) A juvenile, including one who has been transferred to criminal jurisdiction of the court,  
2 may not be detained or confined in any institution in which he or she has contact with or comes  
3 within sight or sound of any adult persons incarcerated because he or she has have been  
4 convicted of a crime or are awaiting trial on criminal charges or with the security staff (including  
5 management) or direct-care staff of a jail or locked facility for adults.

6 (b) A child who has been convicted or is awaiting trial of an offense under the adult  
7 jurisdiction of the circuit court may not be held in custody in an adult correctional facility of this  
8 state while under the age of 18 years. The Division of Juvenile Services shall notify the sentencing

9 court and copy the county prosecuting attorney of the sentencing court within 180 days, or as  
10 soon as practicable, that the child will be turning 18 years of age. The court shall, upon receipt of  
11 the notice, set the matter for a hearing. Before the child reaches 18 years of age, the court shall  
12 hold a hearing and enter an order transferring the offender to an adult correctional facility, a facility  
13 for youthful offenders, if applicable: or any other disposition the court considers appropriate, which  
14 does not violate the provisions of subsection (a) of this section: *Provided, however,* That the court  
15 may not remand a person who reached the age of 18 years to a juvenile facility or place the  
16 person with other juveniles.

17 (c) The provisions of §61-11A-1 *et seq.* of this code, are applicable to proceedings under  
18 this section.

19 **§49-4-722. Conviction for offense while in custody.**

20 (a) Notwithstanding any other provision of law to the contrary, any person who is 18 years  
21 of age or older who is convicted as an adult of an offense that he or she committed while in the  
22 custody of the Division of Juvenile Services and who is therefor sentenced to a regional jail or  
23 state correctional facility for the offense may not be returned to the custody of the division upon  
24 the completion of his or her adult sentence.

25 (b) Prior to completion of the adult sentence specified in §49-4-722(a) of this code, the  
26 circuit court having jurisdiction over the underlying juvenile matter shall conduct a hearing to  
27 determine whether the person who has turned 18 years of age shall remain in the regional jail  
28 during pendency of the underlying juvenile matter or if another disposition or pretrial placement is  
29 appropriate and available: *Provided,* That the court may not remand a child who reached the age  
30 of 18 years to a juvenile facility or placement during the pendency of the underlying juvenile  
31 matter.

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

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2018.

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*Governor*