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HB 4683

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



ENROLLED

House Bill No. 4683

(By Delegates Amores, Staton, Beane, Palumbo,
Trump, Schadler and Walters)



Passed March 9, 2006

In Effect Ninety Days from Passage

FILED

2006 APR -3 P 4: 14

OFFICE WEST VIRGINIA
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E N R O L L E D

H. B. 4683

(BY DELEGATES AMORES, STATON, BEANE, PALUMBO,
TRUMP, SCHADLER AND WALTERS)

[Passed March 9, 2006; in effect ninety days from passage.]

AN ACT to amend and reenact §49-5-6 of the Code of West Virginia, 1931, as amended, relating to jury trials in juvenile proceedings; establishing the right to trial by a twelve person jury when a juvenile is accused of acts of juvenile delinquency which constitute a crime if committed by an adult which would subject an adult to incarceration; and eliminating the right to demand trial by jury for status offenses allegedly committed by a juvenile or where the court has ruled pre-trial that incarceration is not a possibility.

Be it enacted by the Legislature of West Virginia:

That §49-5-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. JUVENILE PROCEEDINGS.

§49-5-6. Jury trial under article.

- 1 (a) In a proceeding under this article, the juvenile, the
- 2 juvenile's counsel or the juvenile's parent or guardian may
- 3 demand, or the judge on his or her own motion may order a jury
- 4 trial on any question of fact, in which the juvenile is accused of
- 5 any act or acts of delinquency which, if committed by an adult
- 6 would expose the adult to incarceration.

7 (b) A juvenile who is charged with a status offense or other
8 offense where incarceration is not a possibility due either to the
9 statutory penalty or where the court rules pre-trial that a
10 sentence of incarceration will not be imposed upon adjudication
11 is not entitled to a trial by jury.

12 (c) The provisions of this section are inapplicable to
13 proceedings held pursuant to the provisions of section thirteen-d
14 of this article.

15 (d) Juries shall consist of twelve members.

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

Randy White

Chairman Senate Committee

R. Beery
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Darrell E. Helms

Clerk of the Senate

Suzanne M. Sear
Clerk of the House of Delegates

Carl Ray Tomblin
President of the Senate

Robert S. Taylor
Speaker of the House of Delegates

The within *is approved* this the *3rd*
day of *April* 2006.

[Signature]
Governor

PRESENTED TO THE
GOVERNOR

MAR 23 2006

Time 3:25 