

**Senate Bill No. 93**

(By Senators Laird, Barnes, Green, Yost, Foster and Plymale)

[Introduced January 14, 2011; referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.]

**Interim  
Bill**

A BILL to amend and reenact §61-5-12b of the Code of West Virginia, 1931, as amended, relating to escape from custody of the Director of Juvenile Services; and penalties.

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

That §61-5-12b of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.**

**§61-5-12b. Escape from custody of the Director of Juvenile Services.**

~~(a) Any person who escapes from the custody of the director of Division of Juvenile Services, regardless of where he or she is confined or detained, shall be guilty of a misdemeanor and, upon conviction, shall be confined in jail, or in the case of a person under the age of eighteen, in a juvenile facility, for not more than one year.~~

1       ~~(b) Venue for the prosecution of a violation of this section~~  
2 ~~shall be in the county in which the escape occurs: *Provided, That*~~  
3 ~~if the person is under the age of eighteen, upon agreement of all~~  
4 ~~parties, the prosecution of the escape may be transferred to the~~  
5 ~~circuit court from which the juvenile was originally committed.~~

6       (a) Any person, under the age of eighteen years of age, who  
7 escapes or attempts to escape from the custody of the Director of  
8 Juvenile Services, regardless of where such person is confined or  
9 where such escape occurs, is guilty of a delinquent act and subject  
10 to the jurisdiction of the circuit court of the county in which the  
11 escape occurred, pursuant to section two, article five, chapter  
12 forty-nine of this code: *Provided, That* upon agreement of all  
13 parties, the prosecution of the escape may be transferred to the  
14 circuit court from which the juvenile was originally committed.

15       (b) Any person, over the age of eighteen years of age or any  
16 juvenile who has been transferred to the adult jurisdiction of the  
17 committing court, who escapes or attempts to escape from the  
18 custody of the Director of Juvenile Services, regardless of where  
19 such person is confined or where such escape or attempted escape  
20 occurs, is guilty of escape and, if the person is detained or  
21 confined for an offense which is a felony or would have been a  
22 felony if committed by an adult is guilty of a felony and, upon  
23 conviction thereof, shall be imprisoned in a state correctional  
24 facility not more than five years. Any person who is detained for

1 an offense which is a misdemeanor or would have been a misdemeanor  
2 if committed by an adult is guilty of a misdemeanor, and upon  
3 conviction thereof, shall be confined in a regional jail for not  
4 more than one year.

NOTE: The purpose of this bill is to provide that any person, under the age of eighteen, who attempts to escape from the custody of the Division of Juvenile Services, is guilty of a delinquent act and subject to the jurisdiction of the circuit court of the county in which the escape occurred. The bill further provides that any person over eighteen or any juvenile who has been transferred to the adult jurisdiction of the committing court, who escapes or attempts to escape from the custody of the Division of Juvenile Services, shall be guilty of escape, and if the person was detained for a felony offense, shall be guilty of a felony and, confined in jail for not more than five years. The bill further provides that any person over eighteen or any juvenile who has been transferred to the adult jurisdiction of the committing court, who escapes or attempts to escape from the custody of the Division of Juvenile Services, shall be guilty of escape, and if the person was detained for a misdemeanor offense, shall be guilty of a misdemeanor, and confined in a regional jail for not more than one year.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

This bill was recommended for introduction and passage during the 2011 Regular Session of the Legislature by the Legislative Oversight Committee on Regional Jail and Correctional Facility Authority.