

E N G R O S S E D

COMMITTEE SUBSTITUTE

FOR

H. B. 4459

**(BY DELEGATES REYNOLDS, FRAZIER, MARCUM, HALL, HUNT,
MANCHIN, PINO, FERRO AND SOBONYA)**

**(Originating in the Committee on Finance)
[February 24, 2012]**

A BILL to amend and reenact §15-12-2, §15-12-5 and §15-12-8 of the Code of West Virginia, 1931, as amended; and to amend and reenact §49-5-13b of said code, all relating to authorizing a court to require a convicted juvenile sex offender whose underlying offense constitutes a first or second degree sexual assault and who is sixteen years of age or older to register as a sex offender; and maintaining confidentiality of juvenile sex offender registration information except for disclosure to law

enforcement, school administration and counsel until the juvenile attains the age of eighteen years.

Be it enacted by the Legislature of West Virginia:

That §15-12-2, §15-12-5 and §15-12-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §49-5-13b of said code be amended and reenacted, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 12. SEX OFFENDER REGISTRATION ACT.

§15-12-2. Registration.

1 (a) The provisions of this article apply both retroactively
2 and prospectively.

3 (b) Any person who has been convicted of an offense or
4 an attempted offense or has been found not guilty by reason
5 of mental illness, mental retardation or addiction of an
6 offense under any of the following provisions of chapter
7 sixty-one of this code or under a statutory provision of
8 another state, the United States Code or the Uniform Code of
9 Military Justice which requires proof of the same essential

10 elements shall register as set forth in subsection (d) of this
11 section and according to the internal management rules
12 promulgated by the superintendent under authority of section
13 twenty-five, article two of this chapter:

14 (1) Article eight-b, including the provisions of former
15 section six of said article, relating to the offense of sexual
16 assault of a spouse, which was repealed by an Act of the
17 Legislature during the year two thousand legislative session;

18 (2) Article eight-c;

19 (3) Sections five and six, article eight-d;

20 (4) Section fourteen, article two;

21 (5) Sections six, seven, twelve and thirteen, article eight;

22 or

23 (6) Section fourteen-b, article three-c, as it relates to
24 violations of those provisions of chapter sixty-one listed in
25 this subsection.

26 (c) Any person who;

27 (1) Has been convicted of a criminal offense and the
28 sentencing judge made a written finding that the offense was
29 sexually motivated; or

30 (2) Is required to register by a court order issued pursuant
31 to subdivision (5), subsection (a), section thirteen-b, article
32 five, chapter forty-nine of this code, shall also register as set
33 forth in this article.

34 (d) Persons required to register under the provisions of
35 this article shall register in person at the West Virginia State
36 Police detachment in the county of his or her residence, the
37 county in which he or she owns or leases habitable real
38 property that he or she visits regularly, the county of his or
39 her place of employment or occupation and the county in
40 which he or she attends school or a training facility, and in
41 doing so, provide or cooperate in providing, at a minimum,
42 the following when registering:

43 (1) The full name of the registrant, including any aliases,
44 nicknames or other names used by the registrant;

45 (2) The address where the registrant intends to reside or
46 resides at the time of registration, the address of any
47 habitable real property owned or leased by the registrant that
48 he or she regularly visits: *Provided*, That a post office box

49 may not be provided in lieu of a physical residential address,
50 the name and address of the registrant's employer or place of
51 occupation at the time of registration, the names and
52 addresses of any anticipated future employers or places of
53 occupation, the name and address of any school or training
54 facility the registrant is attending at the time of registration
55 and the names and addresses of any schools or training
56 facilities the registrant expects to attend;

57 (3) The registrant's social security number;

58 (4) A full-face photograph of the registrant at the time of
59 registration;

60 (5) A brief description of the crime or crimes for which
61 the registrant was convicted;

62 (6) Fingerprints;

63 (7) Information related to any motor vehicle, trailer or
64 motor home owned or regularly operated by a registrant,
65 including vehicle make, model, color and license plate
66 number: *Provided*, That for the purposes of this article, the
67 term "trailer" shall mean travel trailer, fold-down camping

68 trailer and house trailer as those terms are defined in section
69 one, article one, chapter seventeen-a of this code;

70 (8) Information relating to any Internet accounts the
71 registrant has and the screen names, user names or aliases the
72 registrant uses on the Internet; ~~and~~

73 (9) Information related to any telephone or electronic
74 paging device numbers that the registrant has or uses,
75 including, but not limited to, residential, work and mobile
76 telephone numbers; and

77 (10) If the registrant is a juvenile, the physical address
78 and telephone of the registrant's parent(s) or legal
79 guardian(s) and any other relative or person with whom the
80 registrant regularly engages in overnight visits.

81 (e) (1) On the date that any person convicted or found not
82 guilty by reason of mental illness, mental retardation or
83 addiction of any of the crimes listed in subsection (b) of this
84 section, hereinafter referred to as a "qualifying offense",
85 including those persons who are continuing under some post-
86 conviction supervisory status, are released, granted probation

87 or a suspended sentence, released on parole, probation, home
88 detention, work release, conditional release, inpatient
89 treatment facility or juvenile detention facility or any other
90 release from confinement, the Commissioner of Corrections,
91 regional jail administrator, city official or sheriff operating a
92 jail, administrator of the treatment or juvenile detention
93 facility or Secretary of the Department of Health and Human
94 Resources who releases the person and any parole or
95 probation officer who releases the person or supervises the
96 person following the release, shall obtain all information
97 required by subsection (d) of this section prior to the release
98 of the person, inform the person of his or her duty to register
99 and send written notice of the release of the person to the
100 State Police within three business days of receiving the
101 information. The notice must include the information
102 required by said subsection. Any person having a duty to
103 register for a qualifying offense shall register upon
104 conviction, unless that person is confined or incarcerated, in
105 which case he or she shall register within three business days
106 of release, transfer or other change in disposition status.

107 (2) Notwithstanding any provision of this article to the
108 contrary, a court of this state shall, upon presiding over a
109 criminal matter resulting in conviction, a disposition under
110 subdivision (5), subsection (a), section thirteen-b, article five,
111 chapter forty-nine of this code or a finding of not guilty by
112 reason of mental illness, mental retardation or addiction of a
113 qualifying offense, cause, within seventy-two hours of entry
114 of the commitment or sentencing order, the transmittal to the
115 sex offender registry for inclusion in the registry all
116 information required for registration by a registrant as well as
117 the following non-identifying information regarding the
118 victim or victims:

119 (A) His or her sex;

120 (B) His or her age at the time of the offense; and

121 (C) The relationship between the victim and the
122 perpetrator.

123 The provisions of this paragraph do not relieve a person
124 required to register pursuant to this section from complying
125 with any provision of this article.

126 (f) For any person determined to be a sexually violent
127 predator, the notice required by subsection (d) of this section
128 must also include:

129 (1) Identifying factors, including physical characteristics;

130 (2) History of the offense; and

131 (3) Documentation of any treatment received for the
132 mental abnormality or personality disorder.

133 (g) At the time the person is convicted, required to
134 register pursuant to an order entered under subdivision (5),
135 subsection (a), section thirteen-b, article five, chapter forty-
136 nine of this code, or found not guilty by reason of mental
137 illness, mental retardation or addiction in a court of this state
138 of the crimes set forth in subsection (b) of this section, the
139 person shall sign in open court a statement acknowledging
140 that he or she understands the requirements imposed by this
141 article. The court shall inform the person so convicted of the
142 requirements to register imposed by this article and shall
143 further satisfy itself by interrogation of the defendant or his
144 or her counsel that the defendant has received notice of the

145 provisions of this article and that the defendant understands
146 the provisions. The statement, when signed and witnessed,
147 constitutes prima facie evidence that the person had
148 knowledge of the requirements of this article. Upon
149 completion of the statement, the court shall provide a copy to
150 the registry. Persons who have not signed a statement under
151 the provisions of this subsection and who are subject to the
152 registration requirements of this article must be informed of
153 the requirement by the State Police whenever the State Police
154 obtain information that the person is subject to registration
155 requirements.

156 (h) (1) The State Police shall maintain a central registry
157 of all persons who register under this article and shall release
158 information only as provided in this article.

159 (2) Information maintained on juveniles required to
160 register by a court order issued under subdivision (5),
161 subsection (a), section thirteen-b, article five, chapter forty-
162 nine of this code, shall be confidential and may be disclosed
163 only as authorized under section five of this article.

164 (3) Notwithstanding any other provision of this code to
 165 the contrary, the provisions of this article with respect to
 166 special reporting requirements, confidentiality and disclosure
 167 are not applicable on or after the juvenile attains the age of
 168 eighteen years. Upon the date the juvenile attains the age of
 169 eighteen years, he or she shall thereafter be subject to each
 170 provision of this article as if he or she had been an adult
 171 when the crime was committed and therefor convicted of a
 172 violation of section three or four, article eight-b, chapter
 173 sixty-one of this code. Notwithstanding any provision of
 174 article five, chapter forty-nine of this code to the contrary, on
 175 and after the date the juvenile attains the age of eighteen
 176 years, upon request of the West Virginia State Police, the
 177 circuit clerk of the court in which the order was issued under
 178 subdivision (5), subsection (a), section thirteen-b, article five,
 179 chapter forty-nine of this code shall deliver to the West
 180 Virginia State Police a copy of the records of the juvenile
 181 proceeding in which the order was issued without cost and
 182 without order of the court. Those records may be used for all

183 purposes under the provisions of this article to the extent that
184 the same would otherwise be used if they were a court's
185 record of the proceedings under which he or she had been an
186 adult when the crime was committed and therefor convicted
187 of a violation of section three or four, article eight-b, chapter
188 sixty-one of this code.

189 (4) The information required to be made public by the
190 State Police by subdivision (2), subsection (b), section five of
191 this article is to be accessible through the Internet.

192 (5) No information relating to telephone or electronic
193 paging device numbers a registrant has or uses may be
194 released through the Internet.

195 (i) For the purpose of this article, "sexually violent
196 offense" means:

197 (1) Sexual assault in the first degree as set forth in section
198 three, article eight-b, chapter sixty-one of this code or of a similar
199 provision in another state, federal or military jurisdiction;

200 (2) Sexual assault in the second degree as set forth in
201 section four, article eight-b, chapter sixty-one of this code or

202 of a similar provision in another state, federal or military
203 jurisdiction;

204 (3) Sexual assault of a spouse as set forth in the former
205 provisions of section six, article eight-b, chapter sixty-one of
206 this code, which was repealed by an Act of the Legislature
207 during the two thousand legislative session, or of a similar
208 provision in another state, federal or military jurisdiction;

209 (4) Sexual abuse in the first degree as set forth in section
210 seven, article eight-b, chapter sixty-one of this code or of a
211 similar provision in another state, federal or military
212 jurisdiction.

213 (j) For purposes of this article, the term “sexually
214 motivated” means that one of the purposes for which a person
215 committed the crime was for any person’s sexual gratification.

216 (k) For purposes of this article, the term “sexually violent
217 predator” means a person who has been convicted or found not
218 guilty by reason of mental illness, mental retardation or
219 addiction of a sexually violent offense and who suffers from a
220 mental abnormality or personality disorder that makes the
221 person likely to engage in predatory sexually violent offenses.

222 (l) For purposes of this article, the term “mental
223 abnormality” means a congenital or acquired condition of a
224 person, that affects the emotional or volitional capacity of the
225 person in a manner that predisposes that person to the
226 commission of criminal sexual acts to a degree that makes the
227 person a menace to the health and safety of other persons.

228 (m) For purposes of this article, the term “predatory act”
229 means an act directed at a stranger or at a person with whom
230 a relationship has been established or promoted for the
231 primary purpose of victimization.

232 (n) For the purposes of this article, the term “business
233 days”, means days exclusive of Saturdays, Sundays and legal
234 holidays as defined in section one, article two, chapter two of
235 this code.

**§15-12-5. Distribution and disclosure of information;
community information programs by prosecuting
attorney and State Police; petition to circuit
court.**

- 1 (a) In the case of all persons required to register pursuant
2 to section two of this article, except juveniles required to

3 register by a court order issued under subdivision (5),
4 subsection (a), section thirteen-b, article five, chapter forty-
5 nine of this code, within five business days after receiving
6 any notification as described in this article, the State Police
7 shall distribute a copy of the notification statement to:

8 (1) The supervisor of each county and municipal
9 law-enforcement office and any campus police department in
10 the city and county where the registrant resides, owns or
11 leases habitable real property that he or she regularly visits,
12 is employed or attends school or a training facility;

13 (2) The county superintendent of schools in each county
14 where the registrant resides, owns or leases habitable real
15 property that he or she regularly visits, is employed or attends
16 school or a training facility;

17 (3) The child protective services office charged with
18 investigating allegations of child abuse or neglect in the
19 county where the registrant resides, owns or leases habitable
20 real property that he or she regularly visits, is employed or
21 attends school or a training facility;

22 (4) All community organizations or religious
23 organizations which regularly provide services to youths in
24 the county where the registrant resides, owns or leases
25 habitable real property that he or she regularly visits, is
26 employed or attends school or a training facility;

27 (5) Individuals and organizations which provide day care
28 services for youths or day care, residential or respite care, or
29 other supportive services for mentally or physically
30 incapacitated or infirm persons in the county where the
31 registrant resides, owns or leases habitable real property that
32 he or she regularly visits, is employed or attends school or a
33 training facility; and

34 (6) The Federal Bureau of Investigation (FBI).

35 (b)(1) In the case of juveniles required to register by a
36 court order issued under subdivision (5), subsection (a),
37 section thirteen-b, article five, chapter forty-nine of this code,
38 within five business days after receiving any notification as
39 described in this article, the State Police shall distribute a
40 copy of the notification statement only to:

41 (A) The superintendent of the county school system
42 where the juvenile attends school or intends to attend school;

43 (B) The administrator of a training facility where the
44 juvenile is enrolled or intends to enroll; and

45 (C) Counsel for the juvenile, upon request.

46 (2) Notification pursuant to this subsection shall inform
47 the recipient that the information contained in the notification
48 may be disclosed to the school or training facility, upon
49 request, and is strictly confidential.

50 (c) Information concerning persons whose names are
51 contained in the sex offender registry is not subject to the
52 requirements of the West Virginia Freedom of Information
53 Act, as set forth in chapter twenty-nine-b of this code, and
54 may be disclosed and disseminated only as otherwise
55 provided in this article and as follows:

56 (1) When a person has been determined to be a sexually
57 violent predator under the terms of section two-a of this
58 article, the State Police shall notify the prosecuting attorney
59 of the county in which the person resides, owns or leases

60 habitable real property that he or she regularly visits, is
61 employed or attends a school or training facility. The
62 prosecuting attorney shall cooperate with the State Police in
63 conducting a community notification program which is to
64 include publication of the offender's name, photograph, place
65 of residence, location of regularly visited habitable real
66 property owned or leased by the offender, county of
67 employment and place at which the offender attends school
68 or a training facility, as well as information concerning the
69 legal rights and obligations of both the offender and the
70 community. Information relating to the victim of an offense
71 requiring registration may not be released to the public
72 except to the extent the prosecuting attorney and the State
73 Police consider it necessary to best educate the public as to
74 the nature of sexual offenses: Provided, That no victim's
75 name may be released in any public notification pursuant to
76 this subsection. No information relating to telephone or
77 electronic paging device numbers a registrant has or uses
78 may be released to the public with this notification program.

79 The prosecuting attorney and State Police may conduct a
 80 community notification program in the county where a
 81 person who is required to register for life under the terms of
 82 subdivision (2), subsection (a), section four of this article
 83 resides, owns or leases habitable real property that he or she
 84 regularly visits, is employed or attends a school or training
 85 facility. Community notification may be repeated when
 86 determined to be appropriate by the prosecuting attorney;

87 (2) The State Police shall maintain and make available to
 88 the public at least quarterly the list of all persons who are
 89 required to register for life according to the terms of
 90 subdivision (2), subsection (a), section four of this article.

91 No information concerning the identity of a victim of an
 92 offense requiring registration or telephone or electronic
 93 paging device numbers a registrant has or uses may be
 94 released with this list. The method of publication and access
 95 to this list are to be determined by the superintendent; and

96 (3) A resident of a county may petition the circuit court
 97 for an order requiring the State Police to release information

98 about persons that reside or own or lease habitable real
99 property that the persons regularly visit in that county and
100 who are required to register under section two of this article.

101 The court shall determine whether information contained on
102 the list is relevant to public safety and whether its relevance
103 outweighs the importance of confidentiality. If the court
104 orders information to be released, it may further order
105 limitations upon secondary dissemination by the resident
106 seeking the information. In no event may information
107 concerning the identity of a victim of an offense requiring
108 registration or information relating to telephone or electronic
109 paging device numbers a registrant has or uses be released.

110 ~~(c)~~ (d) The State Police may furnish information and
111 documentation required in connection with the registration to
112 authorized law-enforcement, campus police and
113 governmental agencies of the United States and its territories,
114 of foreign countries duly authorized to receive the same, of
115 other states within the United States and of the State of West
116 Virginia upon proper request stating that the records will be

117 used solely for law-enforcement-related purposes. The State
 118 Police may disclose information collected under this article
 119 to federal, state and local governmental agencies responsible
 120 for conducting preemployment checks. The State Police also
 121 may disclose information collected under this article to the
 122 Division of Motor Vehicles pursuant to the provisions of
 123 section three, article two, chapter seventeen-b of this code.

124 ~~(d)~~ (e) An elected public official, public employee or
 125 public agency is immune from civil liability for damages
 126 arising out of any action relating to the provisions of this
 127 section except when the official, employee or agency acted
 128 with gross negligence or in bad faith.

**§15-12-8. Failure to register or provide notice of registration
 changes; penalty; penalty for aiding and abetting.**

1 (a) Each time a person has a change in any of the
 2 registration information as required by this article and
 3 knowingly fails to register the change or changes, each
 4 failure to register each separate item of information changed
 5 shall constitute a separate offense under this section.

6 (b) Except as provided in this section, any person
7 required to register for ten years pursuant to subdivision (1),
8 subsection (a), section four of this article who knowingly
9 provides materially false information or who refuses to
10 provide accurate information when so required by the terms
11 of this article, or who knowingly fails to register or
12 knowingly fails to provide a change in any required
13 information as required by this article, is guilty of a
14 misdemeanor and, upon conviction thereof, shall be fined not
15 less than two hundred fifty dollars nor more than ten
16 thousand dollars or confined in jail not more than one year,
17 or both. Any person convicted of a second offense under this
18 subsection is guilty of a felony and, upon conviction thereof,
19 shall be imprisoned in a state correctional facility for not less
20 than one year nor more than five years. Any person
21 convicted of a third or subsequent offense under this
22 subsection is guilty of a felony and, upon conviction thereof,
23 shall be imprisoned in a state correctional facility for not less
24 than five nor more than twenty-five years.

25 (c) Any person required to register for life pursuant to
26 this article who knowingly provides materially false
27 information or who refuses to provide accurate information
28 when so required by the terms of this article, or who
29 knowingly fails to register or knowingly fails to provide a
30 change in any required information as required by this article,
31 is guilty of a felony and, upon conviction thereof, shall be
32 imprisoned in a state correctional facility for not less than
33 one year nor more than five years. Any person convicted of
34 a second or subsequent offense under this subsection is guilty
35 of a felony and, upon conviction thereof, shall be imprisoned
36 in a state correctional facility for not less than ten nor more
37 than twenty-five years.

38 (d) In addition to any other penalty specified for failure
39 to register under this article, any person under the supervision
40 of a probation officer, parole officer or any other sanction
41 short of confinement in jail or prison who knowingly refuses
42 to register or who knowingly fails to provide a change in
43 information as required by this article shall be subject to
44 immediate revocation of probation or parole and returned to

45 confinement for the remainder of any suspended or unserved
46 portion of his or her original sentence.

47 (e) Notwithstanding the provisions of subsection (c) of
48 this section, any person required to register as a sexually
49 violent predator pursuant to this article who knowingly
50 provides materially false information or who refuses to
51 provide accurate information when so required by terms of
52 this article or who knowingly fails to register or knowingly
53 fails to provide a change in any required information as
54 required by this article is guilty of a felony and, upon
55 conviction thereof, shall, for a first offense, be confined in a
56 state correctional facility not less than two nor more than ten
57 years and for a second or subsequent offense, is guilty of a
58 felony and shall be confined in a state correctional facility
59 not less than fifteen nor more than thirty-five years.

60 (f) Any person who knows or who has reason to know
61 that a sex offender is not complying, or has not complied,
62 with the requirements of this section and who, with the intent
63 to assist the sex offender in eluding a law-enforcement
64 agency that is seeking to find the sex offender to question the

65 sex offender about, or to arrest the sex offender for, his or her
66 noncompliance with the requirements of this section:

67 (1) Withholds information from, the law-enforcement
68 agency about the sex offender's noncompliance with the
69 requirements of this section and, if known, the whereabouts
70 of the sex offender; or

71 (2) Harbors, or attempts to harbor, or assists another
72 person in harboring or attempting to harbor, the sex offender;
73 or

74 (3) Conceals or attempts to conceal, or assists another
75 person in concealing or attempting to conceal, the sex
76 offender; or

77 (4) Provides information to the law-enforcement agency
78 regarding the sex offender which the person knows to be
79 false information is guilty of a misdemeanor and, upon
80 conviction thereof, shall be fined not less than two hundred
81 fifty dollars nor more than ten thousand dollars or confined
82 in jail not more than one year, or both: *Provided*, That where
83 the person assists or seeks to assist a sex offender whose
84 violation of this section would constitute a felony, the person

85 shall be guilty of a felony and, upon conviction thereof, shall
86 be imprisoned in a state correctional facility for not less than
87 one year nor more than five years.

88 (g) The State Police shall notify the court of the failure of
89 any juvenile to register as required by an order issued under
90 subdivision (5), subsection (a), section thirteen-b, article five,
91 chapter forty-nine of this code, within five business days
92 following the last day upon which the juvenile had the duty
93 to register. In addition to notifying the court of the juvenile's
94 failure to register, the State Police shall send a copy of this
95 notice, by certified mail, to the juvenile, the juvenile's
96 parents and legal counsel.

CHAPTER 49. CHILD WELFARE.

ARTICLE 5. JUVENILE PROCEEDINGS.

§49-5-13b. Authority of the courts to order fines; revocation of vehicle privileges and restitution; and juvenile sex offender registration.

1 (a) In addition to the methods of disposition provided in
2 section thirteen of this article, the court may enter an order
3 imposing one or more of the following penalties, conditions
4 and limitations:

5 (1) Impose a fine not to exceed \$100 upon ~~such~~ the child;

6 (2) Require the child to make restitution or reparation to
7 the aggrieved party or parties for actual damages or loss
8 caused by the offense for which the child was found to be
9 delinquent, or if the child does not make full restitution,
10 require the custodial parent or parents, as defined in section
11 two, article seven-a, chapter fifty-five, of the child to make
12 partial or full restitution to the victim to the extent the child
13 fails to make full restitution;

14 (3) Require the child to participate in a public service
15 project under ~~such~~ conditions as the court prescribes,
16 including participation in the litter control program
17 established pursuant to the authority of section three, article
18 fifteen-a, chapter twenty-two of this code;

19 (4) When the child is fifteen years of age or younger and
20 has been adjudged delinquent, the court may order that the
21 child is not eligible to be issued a junior probationary
22 operator's license or when the child is between the ages of
23 sixteen and eighteen years and has been adjudged delinquent,

24 the court may order that the child is not eligible to operate a
25 motor vehicle in this state and any junior or probationary
26 operator's license shall be surrendered to the court. ~~Such~~
27 The child's driving privileges shall be suspended for a period
28 not to exceed two years and the clerk of the court shall notify
29 the Commissioner of the Division of Motor Vehicles of ~~such~~
30 the order;

31 (5) When the child is sixteen years of age or older and is
32 adjudicated delinquent for violation of section three or four,
33 article eight-b, chapter sixty-one of this code, the court may
34 enter an order requiring the child to register as a sex offender
35 pursuant to article twelve, chapter fifteen of this code. The
36 order shall be delivered to the West Virginia State Police and
37 shall be confidential and may be disclosed only as authorized
38 under section five, article twelve, chapter fifteen of this code.

39 ~~(b) Nothing herein stated shall~~ This section does not limit
40 the discretion of the court in disposing of a juvenile case
41 ~~Provided, except that the juvenile shall not be denied court~~
42 may not deny probation or any other disposition pursuant to

43 this article because the juvenile is financially unable to pay
 44 a fine or make restitution or reparation ~~Provided, however,~~
 45 and that all penalties, conditions and limitations imposed
 46 under this section shall be based upon a consideration by the
 47 court of the seriousness of the offense, the child's ability to
 48 pay and a program of rehabilitation consistent with the best
 49 interests of the child.

50 (c) Notwithstanding any other provisions of this code to
 51 the contrary, in the event a child charged with delinquency
 52 under this chapter is transferred to adult jurisdiction and there
 53 convicted, the court may nevertheless, in lieu of sentencing
 54 such person as an adult, make its disposition in accordance
 55 with this section.