

**WEST VIRGINIA LEGISLATURE**  
**2019 FIRST EXTRAORDINARY SESSION**

**ENROLLED**

**House Bill 116**

BY DELEGATES HANSHAW (MR. SPEAKER) AND MILEY

BY REQUEST OF THE EXECUTIVE

[Passed May 20, 2019; in effect from passage.]



1 AN ACT to amend and reenact §49-4-722 of the Code of West Virginia, 1931, as amended,  
2 relating generally to persons eighteen years of age and older in the custody of the Bureau  
3 of Juvenile Services; directing notice between courts in criminal actions involving adults  
4 under the juvenile jurisdiction of the circuit court when such adults are charged or  
5 convicted of crimes while in custody of the Bureau of Juvenile Services; requiring notice  
6 of pending disposition to the circuit court with juvenile jurisdiction; prohibiting release of  
7 persons until after the court with juvenile jurisdiction holds a hearing as to future treatment  
8 of the person; and authorizing the Commissioner of the Division of Corrections and  
9 Rehabilitation to designate one or more units under his or her management to ensure that  
10 persons eighteen years of age or older under the juvenile jurisdiction of the circuit court  
11 are housed out of sight and sound of detained juveniles and incarcerated adult offenders.

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

**ARTICLE 4. COURT ACTIONS.**

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

1 (a) Notwithstanding any other provision of law to the contrary, any person who is 18 years  
2 of age or older who is convicted as an adult of an offense that he or she committed while in the  
3 custody of the Bureau of Juvenile Services and who is sentenced for the conviction to a regional  
4 jail or state correctional facility for the offense may not be returned to the custody of the bureau  
5 upon the completion of his or her adult sentence.

6 (b) Whenever a person of 18 years of age or older is charged with an offense while in the  
7 custody of the Bureau of Juvenile Services, the Bureau shall provide notice of the person's  
8 custodial status to the court in which the charge is pending and provide notice of the pending  
9 charge to the circuit court having juvenile jurisdiction over the person.

10 (c) At least 10 days prior to the sentencing on a criminal charge referred to in subsection  
11 (b) of this section, the sentencing court shall provide written notice of the sentencing hearing to  
12 the Commissioner of the Division of Corrections and Rehabilitation and to the circuit court having

13 juvenile jurisdiction over the person. The person may not be released from custody until the  
14 sentencing court has received notice from the circuit court having juvenile jurisdiction over the  
15 person that it has held the hearing required by subsection (d) of this section.

16 (d) Prior to completion of the adult sentence referenced in subsection (c) of this section,  
17 the circuit court having jurisdiction over the underlying juvenile matter shall conduct a hearing to  
18 determine whether the person who has turned 18 years of age shall remain in the regional jail  
19 during pendency of the underlying juvenile matter or if another disposition or pretrial placement is  
20 appropriate and available: *Provided*, That the court may not remand a child who reached the age  
21 of 18 years to a juvenile facility or placement during the pendency of the underlying juvenile  
22 matter.

23 (e) Notwithstanding the provisions of §15A-3-12(i) of this code, the Commissioner of the  
24 Division of Corrections and Rehabilitation is authorized to designate a unit in one or more  
25 institutions, either juvenile facilities, jails, or prisons, under his or her management to house adults  
26 remaining under the juvenile jurisdiction of the circuit court to ensure that such persons are not  
27 within sight or sound of juvenile detainees or adult inmates.

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 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 ....., 2019.

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*Governor*