

WEST VIRGINIA LEGISLATURE
2019 FIRST EXTRAORDINARY SESSION

Introduced

House Bill 116

BY DELEGATES HANSHAW (MR. SPEAKER) AND MILEY

BY REQUEST OF THE EXECUTIVE

[Introduced May 20, 2019]

1 A BILL to amend and reenact §49-4-722 of the Code of West Virginia, 1931, as amended, relating
 2 generally to persons eighteen years of age and older in the custody of the Bureau of
 3 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 ~~Division~~ Bureau of Juvenile Services and who is ~~therefor~~ sentenced for the
 4 conviction to a regional jail or state correctional facility for the offense may not be returned to the
 5 custody of the ~~division~~ bureau 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 Corrections and to the circuit court having juvenile jurisdiction over the

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

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

NOTE: The purpose of this bill is to require notices be given to relevant courts and judicial authorities when a person originally under the custody of the Bureau for Juvenile Services, but charged under the adult jurisdiction of the courts, attains the age of 18 and to provide for designated units to house such offenders out of sight and sound of juvenile detainees and adult inmates.

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