

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4528

By Delegates G. Howell, Sheedy, Bell, Jeffries, Street,
and Willis

Introduced January 19, 2026; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §49-4-705 of the Code of West Virginia, 1931, as amended, relating
2 to strengthening penalties of juveniles accused of assault on a law enforcement officer,
3 reserve deputy, court security officer, or first responder.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. COURT ACTIONS.

§49-4-705. Taking a juvenile into custody; requirements; existing conditions; detention

centers;

medical

aid.

1 (a) In proceedings formally instituted by the filing of a juvenile petition, the circuit court or a
2 magistrate may issue an order directing that a juvenile be taken into custody before adjudication
3 only upon a showing of probable cause to believe that one of the following conditions exists: (1)
4 The petition shows that grounds exist for the arrest of an adult in identical circumstances; (2) the
5 health, safety and welfare of the juvenile demand custody; (3) the juvenile is a fugitive from a
6 lawful custody or commitment order of a juvenile court; or (4) the juvenile is alleged to be a juvenile
7 delinquent with a record of willful failure to appear at juvenile proceedings and custody is
8 necessary to assure his or her presence before the court. A detention hearing pursuant to §49-4-
9 706 of this code shall be held by the judge or magistrate authorized to conduct the hearings
10 without unnecessary delay and in no event may any delay exceed the next day.

11 (b) Absent a court order, a juvenile may be taken into custody by a law-enforcement official
12 only if one of the following conditions exists:

13 (1) Grounds exist for the arrest of an adult in identical circumstances;

14 (2) Emergency conditions exist which, in the judgment of the officer, pose imminent danger
15 to the health, safety and welfare of the juvenile;

16 (3) The official has reasonable grounds to believe that the juvenile has left the care of his or
17 her parents, guardian or custodian without the consent of the person and the health, safety and
18 welfare of the juvenile is endangered;

19 (4) The juvenile is a fugitive from a lawful custody or commitment order of a juvenile court;

(5) The official has reasonable grounds to believe the juvenile to have been driving a motor vehicle with any amount of alcohol in his or her blood; or

(6) The juvenile is the named respondent in an emergency domestic violence protective order issued pursuant to §48-27-403 of this code and the individual filing the petition for the emergency protective order is the juvenile's parent, guardian or custodian or other person with whom the juvenile resides.

(c) Upon taking a juvenile into custody, with or without a court order, the official shall:

(1) Immediately notify the juvenile's parent, guardian, custodian or, if the parent, guardian or custodian cannot be located, a close relative;

(2) Release the juvenile into the custody of his or her parent, guardian or custodian unless:

(A) Circumstances present an immediate threat of serious bodily harm to the juvenile if released;

(B) No responsible adult can be found into whose custody the juvenile can be delivered. Each day the juvenile is detained, a written record must be made of all attempts to locate a responsible adult; or

(C) The juvenile has been taken into custody for an alleged act of delinquency for which secure detention is permissible; or

(D) The juvenile is accused of assault on a law enforcement officer, reserve deputy, court security officer, or first responder.

(3) If the juvenile is an alleged status offender or has been taken into custody pursuant to subdivision (6), subsection (b) of this section, immediately notify the Department of Human Services and, if the circumstances of either paragraph (A) or (B), subdivision (2) of this subsection exist and the requirements therein are met, the official may detain the juvenile, but only in a nonsecure or staff-secure facility;

(4) Take the juvenile without unnecessary delay before a judge of the circuit court for a detention hearing pursuant to §49-4-706 of this code. If a circuit court judge is not available in the

46 county, the official shall take the juvenile without unnecessary delay before any magistrate
47 available in the county for the sole purpose of conducting the detention hearing. In no event may
48 any delay in presenting the juvenile for a detention hearing exceed the next day after he or she is
49 taken into custody.

50 (d) In the event that a juvenile is delivered into the custody of a sheriff or director of a
51 detention facility, the sheriff or director shall immediately notify the sheriff or director shall
52 immediately provide to every juvenile who is delivered into his or her custody a written statement
53 explaining the juvenile's right to a prompt detention hearing, his or her right to counsel, including
54 appointed counsel if he or she cannot afford counsel, and his or her privilege against self-
55 incrimination. In all cases when a juvenile is delivered into a sheriff's or detention center director's
56 custody, that official shall release the juvenile to his or her parent, guardian or custodian by the end
57 of the next day unless the juvenile has been placed in detention after a hearing conducted
58 pursuant to §49-4-706 of this code.

59 (e) The law-enforcement agency that takes a juvenile into custody or places a juvenile
60 under arrest is responsible for the juvenile's initial transportation to a juvenile detention center or
61 other Division of Juvenile Services' residential facility.

62 (f) Notwithstanding any other provision of this code, a juvenile detention center, or other
63 Division of Juvenile Services' residential facility, is not required to accept a juvenile if the juvenile
64 appears to be in need of medical attention of a degree necessitating treatment by a physician. If a
65 juvenile is refused pursuant to this subsection, the juvenile detention center, or other Division of
66 Juvenile Services' residential facility, may not subsequently accept the juvenile for detention until
67 the arresting or transporting officer provides the juvenile detention center, or other Division of
68 Juvenile Services' residential facility, with a written clearance from a licensed physician reflecting
69 that the juvenile has been examined and, if necessary, treated and which states that in the
70 physician's medical opinion the juvenile can be safely confined in the juvenile detention center or
71 other Division of Juvenile Services' residential facility.

NOTE: The purpose of this bill is to strengthen penalties of juveniles accused of assault on a law enforcement officer, reserve deputy, court security officer, or first responder.

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