WEST VIRGINIA CODE: §25-4-6

§25-4-6. Assignment of offenders to center; period of center confinement; return to court; sentence or probation; revocation of probation.

The circuit court may suspend the imposition of sentence of any young adult, as defined in this section, convicted of or pleading guilty to a felony offense, other than an offense punishable by life imprisonment, including, but not limited to, felony violations of the provisions of chapter seventeen-c of this code, who had attained his or her eighteenth birthday but had not reached his or her twenty-fourth birthday at the time the offense was committed for which the offender is being sentenced and commit the young adult to the custody of the West Virginia Commissioner of Corrections to be assigned to a center: Provided, That no person over the age of twenty-five may be committed pursuant to this section. Young adult offenders who have previously been committed to a young adult offender center are not eligible for commitment to this program. The period of confinement in the center shall be for a period of not less than six months but not more than two years to successfully complete the program requirements set by the warden. The court shall order a presentence investigation to be conducted and provide the warden with a copy of the presentence investigation report, along with the commitment order.

If, in the opinion of the warden, the young adult offender is an unfit person to remain in the center, the offender shall be returned to the committing court to be dealt with further according to law. The offender is entitled to a hearing before the committing court to review the warden's determination. The standard for review is whether the warden, considering the offender's overall record at the center and the offender's compliance with the center's rules, policies, procedures, programs and services, abused his or her discretion in determining that the offender is an unfit person to remain in the center. At the hearing before the committing court, the state need not offer independent proof of the offender's disciplinary infractions contained in the record of the center when opportunity for an administrative hearing on those infractions was previously made available at the institution. If the court upholds the warden's determination, the court may sentence the offender for the crime for which the offender was convicted. In his or her discretion, the judge may allow the defendant credit on the sentence for time the offender spent in the center.

A young adult offender shall be returned to the jurisdiction of the court which originally committed the offender when, in the opinion of the warden, the young adult offender has satisfactorily completed the center training program. The offender is then eligible for probation for the offense the offender was convicted of or plead guilty to and the judge of the court shall immediately place the offender on probation. If the court finds there is reasonable cause to believe that the offender has engaged in new criminal conduct between his or her release from the center and the sentencing hearing for the crime for which the offender was ordered to the center, the judge may sentence the offender for the crime for which the offender was first convicted, with credit for the time spent at the center. In the

WVLegislature

event the offender's probation is subsequently revoked, the judge shall impose the sentence the young adult offender would have originally received had the offender not been committed to the center and subsequently placed on probation. The court shall, however, give the offender credit on his or her sentence for the time spent in the center.

WV Legislature