WEST VIRGINIA CODE CHAPTER 25 ARTICLE 4

WV Legislature

§25-4-1. Purpose of article.

The purpose of this article is to provide appropriate facilities for the housing of young adult offenders convicted of or pleading guilty to violation of law before courts with original jurisdiction, who are amenable to discipline other than in close confinement, and to give better opportunity to young adult offenders for reformation and encouragement of self-discipline.

WV Legislature

§25-4-2. Establishment of centers.

The West Virginia commissioner of corrections is authorized to establish, operate and maintain centers to be operated in connection with the state correctional system as provided in this article.

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§25-4-3. Authority of commissioner of corrections.

The West Virginia commissioner of corrections has the authority to acquire land and other property by purchase, grant, gift or otherwise in connection with the establishment of centers and to construct buildings, fences and other facilities, and to acquire personal property necessary for the maintenance and operation of the centers; to direct all needed improvements and repairs necessary for the proper upkeep of the centers, and to provide for the necessary food, medical treatment and safekeeping of persons confined in the centers; and to employ personnel to operate the centers and to provide the necessary work and other programs for the offenders assigned to the centers.

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§25-4-4. Warden.

Each center shall be under the direction of a warden who shall have the minimum qualification of a college degree with a major in criminal justice or a related field and the powers and duties as described in sections eleven and eleven-a, article one of this chapter. The warden shall be paid an annual salary to be fixed by the Commissioner of Corrections. The warden, subject to the authority of the commissioner, has the responsibility for the overall operation of the center.

At each center the warden shall administer programming which shall include the following components:

(1) A work program;

(2) An educational program in accordance with section thirteen-f, article two, chapter eighteen of this code;

(3) A recreational program; and

(4) A counseling program with an emphasis on substance abuse and life skills.

WV Legislature

§25-4-5.

Repealed.

Acts, 1999 Reg. Sess., Ch. 64.

WV Legislature

§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 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,

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give the offender credit on his or her sentence for the time spent in the center.

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§25-4-7. Physical, educational and psychological examinations; transfer and placement.

Every young adult offender committed under this article shall be given complete physical, educational and psychological examinations in the same manner and under the same protections and requirements of subsections (b) and (c), section two, article one, chapter twenty-eight of this code. In addition to those requirements, all admission, transfer and placement requirements and authority provided to the commissioner in subsections (d) and (e), section two, article one, chapter twenty-eight of this code are applicable.

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§25-4-8. Labor, study or activities may be required.

Offenders assigned to centers may be required to labor on the buildings and grounds of the center, in the making of forest roads, for fire prevention and fire fighting, on forestation and reforestation of public lands, on the making of fire trails and firebreaks, on fire suppression, on building or improving public parks or lands, or engage in any studies or activities prescribed or permitted by the warden, subject to the approval of the commissioner of corrections.

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§25-4-9. Wages of offenders.

The West Virginia commissioner of corrections may provide for the payment of wages to the offenders assigned to centers for the work they perform.

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§25-4-10. Authority to arrest inmates.

All officers and employees of a center have the power of peace officers so far as necessary to take into custody center inmates.

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§25-4-11. Escape; aiding escape.

(a) Any inmate of a center who shall escape from said center or the custody of an officer or employee of such center shall be guilty of a felony and, upon conviction thereof, be committed to the custody of the commissioner of corrections for not more than five years. A term of incarceration imposed pursuant to the provisions of this section shall be imposed as a consecutive sentence and not served concurrently with any sentence or period of confinement previously imposed.

(b) Any person who willfully permits or aids any inmate of such center to escape therefrom or conceals him with the intent of enabling him to elude pursuit is guilty of a felony and, upon conviction thereof, shall be committed to the custody of the commissioner of corrections for not more than five years.

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§25-4-12. Independent or cooperative establishment of centers.

The West Virginia commissioner of public institutions may establish centers independently or in cooperation with the natural resources commission of West Virginia on such terms as may be agreed upon by the commissioner of public institutions and the director of the department of natural resources.

WV Legislature