WEST VIRGINIA CODE: §28-1-2

§28-1-2. Commitment; age limits; physical, educational and psychological examinations; admission; transfer and placement.

(a) Any male youth between the ages of 10 and 18 years may be committed to the custody of the Commissioner of Corrections by a circuit court of this state in the manner prescribed in §49-4-701 through §49-4-725 of this code; and further, any male youth who has been adjudged delinquent pursuant to §49-1-202 of this code, who, as a result thereof, was placed on probation and has been found, in a proceeding pursuant to the procedural requirements of §49-4-701 through §49-4-725 of this code, to have violated a term of probation, prior to the attainment of his or her 20th birthday, which constitutes a criminal offense, may be committed to the custody of the Commissioner of Corrections as a youthful offender.

(b) Every youth committed under this article shall, following the dispositional proceeding, be transferred to the place or places designated by the Commissioner of Corrections for complete physical, educational, and psychological examinations, including all appropriate tests, to be completed as soon as possible, the completion of the physical examinations to be within 20 days. The youth shall be housed in a manner so as to prevent the spread of infectious disease. Following disposition and prior to transfer to the custody of the Commissioner of Corrections, each youth shall be allowed to visit with his or her relatives, without being committed to jail for a period of not less than one hour. The cost of the examinations in this subsection shall be borne by the committing county. The youth shall be provided all treatment and rehabilitation indicated by the examinations.

In lieu of the physical examinations and tests provided for in this subsection, the court may, in the absence of objection, have the county health officer or other local health care facility perform physical and mental examinations and tests, so long as the examinations and tests are performed prior to the dispositional proceeding. Except as otherwise provided by law, a child shall not be committed to a jail following a dispositional proceeding solely to await a physical, educational, or mental examination or the results of the exam.

(c) All examinations shall be private. A youth who is mentally ill or significantly intellectually disabled shall not be committed to, or retained by, the Commissioner of Corrections, but shall be returned to the committing court for further disposition. A youth who has a serious infectious disease shall not be retained in the custody of the Commissioner of Corrections, but shall be transferred to an appropriate treatment facility. Detailed medical records shall be kept of every youth.

(d) The results of any physical, educational, and psychological examinations, together with a copy of the petition, the adjudicatory order, and the dispositional order shall accompany every youth committed to the Commissioner of Corrections, without which the youth shall not be accepted. The commissioner, or his or her designated representative, shall review the

WV Legislature

records of each youth committed to assure that a youth is not illegally detained in an inappropriate facility or custodial situation.

(e) The Commissioner of Corrections may transfer and place such youth in any of the established centers or homes or halfway programs and in less restrictive settings, whether under his or her jurisdiction or private nonprofit residential facilities, as he or she may determine appropriate to promote the rehabilitation of the youth. To the extent possible, a youth under the age of 15 shall not be in regular contact with youths between the ages of 16 and 18.

WV Legislature