

---

# **WEST VIRGINIA CODE CHAPTER 28**

## **ARTICLE 1**

WV Legislature

**§28-1-1. Care of youthful male offenders.**

The State Commissioner of Corrections shall be charged with the care, training and reformation of male youths of the state committed to his custody. Education of the male youths is subject to the provisions of section thirteen-f, article two, chapter eighteen of this code. All state facilities and institutions for such purpose shall be managed and controlled as prescribed in article one, chapter twenty-five of this code.

WV Legislature

**§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 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

**§28-1-3.**

Repealed.

Acts, 1980 Reg. Sess., Ch. 30.

WV Legislature

**§28-1-4. Conveyance of boys; expenses.**

As soon as practicable after a youth, on any account, is committed to the custody of the state commissioner of public institutions, the papers in the case shall be mailed to the superintendent of the receiving youth facility, and such youth shall remain in the custody of the court pronouncing such commitment until he be delivered to an officer of the receiving youth facility, who shall be sent without delay and duly authorized by the superintendent to conduct such youth by the most direct and convenient route to said facility; but no youth committed to any facility shall be lodged in any jail or lockup, if he be under the age of sixteen years. The superintendent of a facility shall, insofar as is consistent with the safe conveyance of youths to the facility, cause as many youths as may be committed from the same or several counties to be conducted to the facility at the same time. The expense incurred in conducting a youth to a youth facility, including transportation and other necessary traveling expenses of the youth and of his conductor, shall be paid by the county court out of the treasury of the county from which the youth was committed to the facility, and a written statement of such necessary expenditures, fully itemized and sworn to by the officer making such expenditures, and attested by the superintendent of the facility, when presented to any county court, shall be a bill against such court, to be paid to the receiving facility and credited to that fund of the facility from which the original expenditure was made; but when two or more youths shall be so conducted from more than one county, the necessary expenditure on the personal account of the conductor shall be apportioned among the counties concerned in due proportion to the mileage traveled by the youths from their respective counties.

**§28-1-5. Rules and regulations.**

The State Commissioner of Corrections shall have authority to make such rules and regulations for the management and government of the facilities for youthful offenders under his control, and the instruction, discipline, training, employment and disposition of the boys and their transportation to and from the various facilities, subject to section thirteen-f, article two, chapter eighteen of this code, as the commissioner may deem proper.

WV Legislature

**§28-1-6. Discharge or parole; arrest and return of paroled boys.**

The state commissioner of public institutions shall have authority, under such rules and regulations as the commissioner may prescribe, to grant, on the recommendation of the superintendent, a discharge or parole to any inmate of any of the various facilities; but while such inmate is on parole, and until he is discharged according to law, he shall remain in the legal custody of the commissioner of public institutions and subject at any time to be returned to physical custody, if in the judgment of the commissioner the interests of such paroled inmate will best be served thereby. The written order of said commissioner, countersigned by the superintendent, shall be sufficient warrant for any officer or person named therein to arrest and return to the facility the youth so paroled; and it shall be the duty of any such officer or person to arrest and return such youth to the facility. All actual expenses incurred in returning such youth to the facility shall be paid out of the funds appropriated for the maintenance of the facility.

**§28-1-7. Transfer of boys to and from penitentiary.**

In any case where a youth is committed to any youth facility for an offense punishable by confinement in the penitentiary, and it is found by the state commissioner of public institutions that the youth facility is unable to benefit such youth, and that his presence is a detriment or menace to other youths in the institution, or to the general good of the facility, he may be returned to the court by which he was committed to the facility, and such court shall thereupon pass such sentence upon him as to confinement in the penitentiary as may be proper in the premises, or as it might have passed had it not committed him as a youthful offender. The Governor shall have power, when, in the judgment of the warden of the penitentiary and of the superintendent of the facility, it is advisable, to remit the penalty of any offender under the age of eighteen years confined in the penitentiary to a commitment to a youth facility.

**§28-1-8. Offenses relating to youth facilities; penalties; escape; arrest and return.**

If any person shall entice or attempt to entice away from any youth facility any youth legally committed to the same, or shall aid or abet any youth to escape therefrom, or shall harbor, conceal or aid or abet in harboring or concealing, any youth who shall have escaped therefrom, or shall, without the permission of the superintendent, give or sell, or aid or abet any other person to give or sell, to any youth in the youth facility, whether on the premises of such institution or otherwise, any money, firearms, intoxicating drinks, tobacco, cigarettes, or other articles whatsoever, or shall in any way cause or influence, or attempt to cause or influence or aid or abet therein, any youth in the youth facility to violate any rule of the institution or to rebel against the government of said facility in any particular, or shall receive by the hands of any such youth anything of value, whether belonging to the state or otherwise, such person shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten, nor more than \$100, or be confined not more than twelve months in the county jail, or, in the discretion of the court, both fined and imprisoned. The superintendent, or any of his assistants, or any one authorized in writing by him or any sheriff, constable, policeman or other peace officer, shall have power, and it is hereby made his duty, to arrest any youth, when in his power to do so, who shall have escaped from said facility, and return him thereto.

**§28-1-9.**

Repealed.

Acts, 1990 Reg. Sess., Ch. 56.

WV Legislature

**§28-1-10.**

Repealed.

Acts, 1990 Reg. Sess., Ch. 56.

WV Legislature

**§28-1-11.**

Repealed.

Acts, 1990 Reg. Sess., Ch. 56.

WV Legislature