C	١	ł	1	n
)	ŝ	1	1	ine.

2104 APR -5 P 3:39

SECTETA

REST VIRGINIA

WEST VIRGINIA LEGISLATURE

Regular Session, 2004

ENROLLED

SENATE BILL NO. <u>3/9</u>

319

SB

(By Senator <u>Love, et al</u>)

PASSED - March 3 2004

In Effect <u>90 days</u> From Passage

FILED

2004 APR - 5 P 3:41

GEFICE VEST VIRGINIA SECRETARY OF STATE

ENROLLED Senate Bill No. 319

(BY SENATORS LOVE, HUNTER, WHITE, MCKENZIE AND ROWE)

[Passed March 13, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §25-4-6 of the code of West Virginia, 1931, as amended, relating to young adult offenders found unfit to remain at a center for young adult offenders; specifying entitlement to a hearing before the committing court; providing standard of review; and allowing reliance on record established at the center under specified circumstances.

Be it enacted by the Legislature of West Virginia:

That §25-4-6 of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. CENTERS FOR HOUSING YOUNG ADULT OFFENDERS.

- §25-4-6. Assignment of offenders to center; period of center confinement; return to court; sentence or probation; revocation of probation.
 - 1 The judge of any court with original criminal jurisdic-
 - 2 tion may suspend the imposition of sentence of any young

adult, as defined in this section, convicted of or pleading 3 guilty to a felony offense, other than an offense punishable 4 by life imprisonment, including, but not limited to, felony 5 6 violations of the provisions of chapter seventeen-c of this code, who has attained his or her eighteenth birthday but 7 has not reached his or her twenty-third birthday at the 8 9 time of the sentencing by the court and commit the young adult to the custody of the West Virginia commissioner of 10 11 corrections to be assigned to a center. Young adult offenders who have previously been committed to a young 12 13 adult offender center are not eligible for commitment to 14 this program. The period of confinement in the center 15 shall be for a period of not less than six months or longer to successfully complete the program requirements set by 16 17 the warden, but in any event the period of confinement 18 may not exceed two years. The court shall order a 19 presentence investigation to be conducted and provide the 20 warden with a copy of the presentence investigation 21 report, along with the commitment order.

22 If, in the opinion of the warden, the young adult offender 23 proves to be an unfit person to remain in the center, the 24 offender shall be returned to the committing court to be dealt with further according to law. The offender is 25 entitled to a hearing before the committing court to review 26 the warden's determination. The standard for review is 27 28 whether the warden, considering the offender's overall record at the center and the offender's compliance with 29 30 the center's rules, regulations, programs and services, 31 abused his or her discretion in determining that the 32 offender is an unfit person to remain in the center. At the 33 hearing before the committing court, the state need not offer independent proof of the offender's disciplinary 34 35 infractions contained in the record of the center, when 36 opportunity for an administrative hearing on those infractions was previously made available at the institu-37 tion. In the event that the court upholds the warden's 38 39 determination, the court may sentence the offender for the crime for which the offender was convicted. In his or her 40

2

41 discretion, the judge may allow the defendant credit on the42 sentence for time the offender spent in the center.

43 A young adult offender shall be returned to the jurisdic-44 tion of the court which originally committed the offender when, in the opinion of the warden, the young adult 45 46 offender has satisfactorily completed the center training 47 program. The offender is then eligible for probation for the offense with which the offender is charged and the 48 49 judge of the court shall immediately place the offender on 50 probation. In the event the offender's probation is subse-51 quently revoked, the judge shall impose the sentence the 52 young adult offender would have originally received had 53 the offender not been committed to the center and subsequently placed on probation. The court shall, however, 54 55 give the offender credit on his or her sentence for the time spent in the center. 56

3

Enr. S. B. No. 319]

4

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

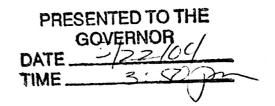
Bryz Z. B. Clerk of the House of Delegates

nh President of the Senate

Speaker House of Delegates

10UP C The within. N. this the. 👡, 2004. Day of Governor

@ GCIU 326-C



ъ. •

.

.

•