

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SEVENTY-NINTH LEGISLATURE

REGULAR SESSION, 2009

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 99

(SENATOR WHITE, original sponsor)

[Passed April 11, 2009; in effect ninety days from passage.]

SB 99

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[Passed April 11, 2009; 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 providing a judge has the discretion to impose the original sentence on a youthful offender who has completed the treatment program at a juvenile center but commits another crime before returning to the court for the sentencing hearing; and providing for the offender to receive credit for time served.

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


21 If, in the opinion of the warden, the young adult
22 offender is an unfit person to remain in the center, the
23 offender shall be returned to the committing court to be
24 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 whether the warden, considering the offender's overall
28 record at the center and the offender's compliance with
29 the center's rules, policies, procedures, programs and
30 services, abused his or her discretion in determining that
31 the offender is an unfit person to remain in the center. At
32 the hearing before the committing court, the state need not
33 offer independent proof of the offender's disciplinary

34 infractions contained in the record of the center when
35 opportunity for an administrative hearing on those
36 infractions was previously made available at the institu-
37 tion. If the court upholds the warden's determination, the
38 court may sentence the offender for the crime for which
39 the offender was convicted. In his or her discretion, the
40 judge may allow the defendant credit on the sentence for
41 time the offender spent in the center.

42 A young adult offender shall be returned to the juris-
43 diction of the court which originally committed the
44 offender when, in the opinion of the warden, the young
45 adult offender has satisfactorily completed the center
46 training program. The offender is then eligible for proba-
47 tion for the offense the offender was convicted of or plead
48 guilty to and the judge of the court shall immediately
49 place the offender on probation. If the court finds there is
50 reasonable cause to believe that the offender has engaged
51 in new criminal conduct between his or her release from
52 the center and the sentencing hearing for the crime for
53 which the offender was ordered to the center, the judge
54 may sentence the offender for the crime for which the
55 offender was first convicted, with credit for the time spent
56 at the center. In the event the offender's probation is
57 subsequently revoked, the judge shall impose the sentence
58 the young adult offender would have originally received
59 had the offender not been committed to the center and
60 subsequently placed on probation. The court shall,
61 however, give the offender credit on his or her sentence for
62 the time spent in the center.

Enr. Com. Sub. for S. B. No. 99] 4

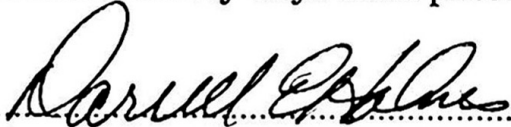
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee



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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


.....
Speaker House of Delegates

The within *is approved* this the *8th*
Day of *May*, 2009.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAY 6 2009

Time 11:05 am