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2011 APR -5 PM 5:03

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2011



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

**House Bill No. 2520**

(By Delegates Perry, Boggs and Ellem)



Passed March 12, 2011

In Effect From Passage

HB 2520

FILED

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OFFICE OF THE CLERK  
SECRETARY OF STATE

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COMMITTEE SUBSTITUTE

FOR

## H. B. 2520

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(BY DELEGATES PERRY, BOGGS AND ELLEM)

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[Passed March 12, 2011; in effect from passage.]

AN ACT to amend and reenact §25-4-6 of the Code of West Virginia, 1931, as amended, relating to assignment of youthful offenders to correctional facilities; specifying circuit court jurisdiction; modifying age criteria for eligibility for commitment to youthful offender center; and providing maximum age for center commitment.

*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 circuit court may suspend the imposition of sentence  
2 of any young adult, as defined in this section, convicted of or  
3 pleading guilty to a felony offense, other than an offense  
4 punishable by life imprisonment, including, but not limited  
5 to, felony violations of the provisions of chapter seventeen-c  
6 of this code, who had attained his or her eighteenth birthday  
7 but had not reached his or her twenty-fourth birthday at the  
8 time the offense was committed for which the offender is  
9 being sentenced and commit the young adult to the custody  
10 of the West Virginia Commissioner of Corrections to be  
11 assigned to a center: *Provided*, That no person over the age  
12 of twenty-five may be committed pursuant to this section.  
13 Young adult offenders who have previously been committed  
14 to a young adult offender center are not eligible for  
15 commitment to this program. The period of confinement in  
16 the center shall be for a period of not less than six months but  
17 not more than two years to successfully complete the  
18 program requirements set by the warden. The court shall  
19 order a presentence investigation to be conducted and provide  
20 the 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 is an unfit person to remain in the center, the offender shall  
24 be returned to the committing court to be dealt with further  
25 according to law. The offender is entitled to a hearing before  
26 the committing court to review the warden's determination.  
27 The standard for review is whether the warden, considering  
28 the offender's overall record at the center and the offender's  
29 compliance with the center's rules, policies, procedures,  
30 programs and services, abused his or her discretion in  
31 determining that the offender is an unfit person to remain in

32 the center. At the hearing before the committing court, the  
33 state need not offer independent proof of the offender's  
34 disciplinary infractions contained in the record of the center  
35 when opportunity for an administrative hearing on those  
36 infractions was previously made available at the institution.  
37 If the court upholds the warden's determination, the court  
38 may sentence the offender for the crime for which the  
39 offender was convicted. In his or her discretion, the judge  
40 may allow the defendant credit on the sentence for time the  
41 offender spent in the center.

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

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

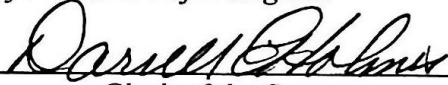
  
Chairman, House Committee

  
Chairman, Senate Committee

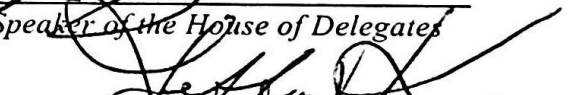
Originating in the House.

To take effect from passage.

  
Clerk of the House of Delegates

  
Clerk of the Senate

  
Speaker of the House of Delegates

  
Acting President of the Senate

The within is approved this the 5th  
day of April, 2011.

  
Governor

PRESENTED TO THE GOVERNOR

MAR 21 2011

Time 11:05 am