

H. B. 4385

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(By Delegates Eldridge, Barrett, Barker,
L. Phillips, Morgan, Stephens, Hunt, Marcum,
D. Poling, Ellem and Boggs)

[Introduced January 31, 2014; referred to the
Committee on the Judiciary.]

**FISCAL
NOTE**

A BILL to amend and reenact §49-5-16 of the Code of West Virginia,
1931, as amended, relating to requiring the Division of
Juvenile Services to transfer to a correctional facility any
juvenile in its custody whose sentence runs beyond his or her
eighteenth birthday.

Be it enacted by the Legislature of West Virginia:

That §49-5-16 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 5. JUVENILE PROCEEDINGS.

§49-5-16. Prohibition on committing juveniles to adult facilities.

(a) No juvenile, including one who has been transferred to
criminal jurisdiction of the court, shall be detained or confined
in any institution in which he or she has contact with or comes
within sight or sound of any adult persons incarcerated because
they have been convicted of a crime or are awaiting trial on
criminal charges or with the security staff, including management,
or direct-care staff of a jail or locked facility for adults.

1 (b) No child who has been convicted of an offense under the
2 adult jurisdiction of the circuit court shall be held in custody in
3 a penitentiary correctional facility of this state: *Provided*, That
4 notwithstanding any provision of this code to the contrary, such
5 child may a child who has been convicted of an offense under the
6 adult jurisdiction of the circuit court shall be transferred from
7 a secure juvenile facility to a penitentiary correctional facility
8 after he or she shall attain attains the age of eighteen years. ~~if,~~
9 ~~in the judgment of the court which committed such child, such~~
10 ~~transfer is appropriate: *Provided*, however, That any other~~
11 ~~provision of this code to the contrary notwithstanding, prior to~~
12 ~~such transfer the child shall be returned to the sentencing court~~
13 ~~for the purpose of reconsideration and modification of the imposed~~
14 ~~sentence, which shall be based upon a review of all records and~~
15 ~~relevant information relating to the child's rehabilitation since~~
16 ~~his conviction under the adult jurisdiction of the court.~~

NOTE: The purpose of this bill is to require the transfer to the correctional facility of any juvenile in the custody of the Division of Juvenile Services whose sentence runs beyond his or her eighteenth birthday.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.