

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

House Bill 4470

BY DELEGATES D. KELLY, SHOTT, CRISS, GRAVES,
STEELE, HOWELL, MILLER, N. BROWN, MAYNARD, J.

KELLY AND MANDT

(BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY)

[Originating in the Committee on the Judiciary.]

1 A BILL to amend and reenact §49-4-722 of the Code of West Virginia, 1931, as amended, relating
2 to persons 18 years of age or older in the custody of the Bureau of Juvenile Services; and
3 authorizing the Commissioner of the Division of Corrections and Rehabilitation to
4 designate a unit in one or more institutions to house adults remaining under the juvenile
5 jurisdiction of the circuit court to ensure that such persons are not within sight or sound of
6 adult inmates.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. COURT ACTIONS.

§49-4-722. Conviction for offense while in custody.

1 (a) Notwithstanding any other provision of law to the contrary, any person who is 18 years
2 of age or older who is convicted as an adult of an offense that he or she committed while in the
3 custody of the Bureau of Juvenile Services and who is sentenced for the conviction to a regional
4 jail or state correctional facility for the offense may not be returned to the custody of the Bureau
5 upon the completion of his or her adult sentence.

6 (b) Whenever a person of 18 years of age or older is charged with an offense while in the
7 custody of the Bureau of Juvenile Services, the Bureau shall provide notice of the person's
8 custodial status to the court in which the charge is pending and provide notice of the pending
9 charge to the circuit court having juvenile jurisdiction over the person.

10 (c) At least 10 days prior to the sentencing on a criminal charge referred to in subsection
11 (b) of this section, the sentencing court shall provide written notice of the sentencing hearing to
12 the Commissioner of the Division of Corrections and Rehabilitation and to the circuit court having
13 juvenile jurisdiction over the person. The person may not be released from custody until the
14 sentencing court has received notice from the circuit court having juvenile jurisdiction over the
15 person that it has held the hearing required by subsection (d) of this section.

16 (d) Prior to completion of the adult sentence referenced in subsection (c) of this section,
17 the circuit court having jurisdiction over the underlying juvenile matter shall conduct a hearing to

18 determine whether the person who has turned 18 years of age shall remain in the regional jail
19 during pendency of the underlying juvenile matter or if another disposition or pretrial placement is
20 appropriate and available: *Provided*, That the court may not remand a child who reached the age
21 of 18 years to a juvenile facility or placement during the pendency of the underlying juvenile
22 matter.

23 (e) Notwithstanding the provisions of §15A-3-12(i) of this code, the Commissioner of the
24 Division of Corrections and Rehabilitation is authorized to designate a unit in one or more
25 institutions, either juvenile facilities, jails, or prisons, under his or her management to house adults
26 remaining under the juvenile jurisdiction of the circuit court to ensure that such persons are not
27 within sight or sound of ~~juvenile detainees or~~ adult inmates.

NOTE: The purpose of this bill is to clarify that adults who commit a criminal offense while still in juvenile custody may not be held within the sight or sound of adult inmates.

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