

As Engrossed: 2/11/93

As Engrossed: 2/11/93

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Hopkins**

A Bill

SENATE BILL 79

For An Act To Be Entitled

8 "AN ACT TO ESTABLISH AS AN ADDITIONAL ENUMERATED OFFENSE
9 THE CRIME OF SELLING OR DELIVERING A CONTROLLED SUBSTANCE,
10 CLASSIFIED IN SCHEDULES I, II, OR III OF THE CONTROLLED
11 SUBSTANCES ACT, WHEN COMMITTED BY A JUVENILE FOURTEEN OR
12 FIFTEEN YEARS OF AGE; AND TO ESTABLISH AS AN ADDITIONAL
13 ENUMERATED OFFENSE, THE CRIME OF POSSESSION WITH THE
14 INTENT TO DELIVER A CONTROLLED SUBSTANCE CLASSIFIED IN
15 SCHEDULE I, II, OR III OF THE CONTROLLED SUBSTANCES ACT
16 WHEN SUCH CRIME IS COMMITTED BY A JUVENILE FOURTEEN OR
17 FIFTEEN YEARS OF AGE; AND FOR OTHER PURPOSES."

Subtitle

18
19
20 "TO ESTABLISH ADDITIONAL OFFENSE OF SELLING, DELIVERING,
21 OR POSSESSING CONTROLLED SUBSTANCES WHEN COMMITTED BY
22 PERSONS 14 OR 15 YEARS OF AGE."

23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25
26 SECTION 1. Ark. Code Ann. § 9-27-318 is amended to read as follows:

27 "9-27-318. Waiver and transfer to circuit court.

28 (a) Waiver of juvenile court jurisdiction and transfer to a circuit
29 court is not available when a case involves a juvenile:

30 (1) Less than age fourteen (14) years at the time the alleged
31 delinquent act occurred;

32 (2) Less than age eighteen (18) years at the time the alleged
33 delinquent act occurred and the alleged act would not constitute a felony if
34 committed by an adult; or

jmb069

1 (3) Age fourteen (14) years or age fifteen (15) years and the alleged
2 act, if committed by an adult, would constitute a misdemeanor or a felony,
3 other than those felonies specifically enumerated in subdivision (b)(1) of
4 this section.

5 (b)(1) When a case involves a juvenile age fourteen (14) years or
6 fifteen (15) years at the time the alleged delinquent act occurred, the
7 prosecuting attorney has the discretion to file charges in circuit court for
8 an alleged act which constitutes capital murder, murder in the first degree,
9 murder in the second degree, kidnapping in the first degree, aggravated
10 robbery, rape, battery in the first degree.

11 (2) The circuit court shall hold a hearing within ninety (90) days
12 of the filing of charges to determine whether to retain jurisdiction of the
13 juvenile in circuit court or to waive jurisdiction and transfer the case to
14 juvenile court.

15 (3)(A) *When a case involves a juvenile age fourteen (14) or fifteen*
16 *(15) years when an alleged delinquent act occurred, and the alleged act*
17 *constitutes sale or delivery of a controlled substance classified in Schedules*
18 *I, II, III, or possession with intent to deliver a controlled substance*
19 *classified in Schedules I, II, III, the prosecuting attorney may file a motion*
20 *to have the case transferred to circuit court.*

21 (B) *The juvenile court shall hold a hearing within ninety (90)*
22 *days of the filing of the motion to transfer to determine whether to retain*
23 *jurisdiction of the juvenile in juvenile court or to waive jurisdiction and*
24 *transfer the case to circuit court.*

25 (c) When a case involves a juvenile age sixteen (16) years or above at
26 the time the alleged delinquent act occurred and the alleged act would
27 constitute a felony if committed by an adult, the prosecuting attorney has the
28 discretion to file a petition in juvenile court alleging delinquency or to
29 file charges in circuit court and to prosecute as an adult.

30 (d) Upon the motion of the court or of any party, the judge of the
31 court in which a delinquency petition or criminal charges have been filed
32 shall conduct a hearing to determine whether to retain jurisdiction or to
33 transfer the case to another court having jurisdiction.

34 (e) In making the decision to retain jurisdiction or to transfer the
35 case, the court shall consider the following factors:

As Engrossed: 2/11/93

SB 79

1

2

jmb069