

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

As Engrossed: H2/12/97 H2/18/97

A Bill

HOUSE BILL 1556

5 *By: Representatives Jeffress, Rodgers, Wood, Teague, French, Angel, and Fuqua*
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For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE 9-27-303 TO REDEFINE THE
10 TERM DELINQUENT JUVENILE ; TO AMEND THE ARKANSAS JUVENILE
11 CODE TO REDEFINE THE TERM DELINQUENT JUVENILE AND TO
12 DECREASE THE AGE AT WHICH JUVENILES MAY BE TRIED AS
13 ADULTS; AND FOR OTHER PURPOSES."

Subtitle

15 "TO REDEFINE THE TERM DELINQUENT
16 JUVENILE ; TO AMEND THE ARKANSAS JUVENILE
17 CODE TO REDEFINE THE TERM DELINQUENT
18 JUVENILE AND TO DECREASE THE AGE AT
19 WHICH JUVENILES MAY BE TRIED AS ADULTS."
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code 9-27-303(11) is amended to read as
25 follows:

26 "(11) Delinquent juvenile means any juvenile ~~ten (10)~~ eight (8)
27 years or older who has committed an act other than a traffic offense or
28 game and fish violation which, if such act had been committed by an
29 adult, would subject such adult to prosecution for a felony,
30 misdemeanor, or violation under the applicable criminal laws of this
31 state, or who has violated § 5-73-119."
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33 SECTION 2. Arkansas Code 9-27-318 is amended to read as follows:

34 "9-27-318. Waiver and transfer to circuit court.

35 (a) A juvenile court has exclusive jurisdiction when a
36 delinquency case involves a juvenile:

1 (1) Less than ~~fourteen (14)~~ twelve (12) years old when the
2 alleged delinquent act occurred;

3 (2) Less than ~~sixteen (16)~~ fourteen (14) years old:

4 (A) When he engages in conduct that, if committed by an
5 adult, would be any felony not listed in subdivision (b)(2) of this
6 section or the offense in subdivision (b)(3) of this section; or

7 (B) Who would not qualify as an habitual juvenile offender
8 under the conditions prescribed by subdivision (b)(4) of this section;

9 (3) Less than ~~eighteen (18)~~ sixteen (16) years old when he
10 engages in conduct that, if committed by an adult, would be any
11 misdemeanor.

12 (b) A circuit court and a juvenile court have concurrent
13 jurisdiction and a prosecuting attorney may charge a juvenile in either
14 court when a case involves a juvenile:

15 (1) At least ~~sixteen (16)~~ fourteen (14) years old when he engages
16 in conduct that, if committed by an adult, would be any felony;

17 (2) ~~Fourteen (14)~~ Twelve (12) or ~~fifteen (15)~~ thirteen (13) years
18 old when he engages in conduct that, if committed by an adult, would be:

19 (A) Capital murder, § 5-10-101;

20 (B) Murder in the first degree, § 5-10-102;

21 (C) Murder in the second degree, § 5-10-103;

22 (D) Kidnapping, § 5-11-102;

23 (E) Aggravated robbery, § 5-12-103;

24 (F) Rape, § 5-14-103;

25 (G) Battery in the first degree, § 5-13-201;

26 (H) Battery in the second degree in violation of § 5-13-
27 202(a)(2), (3), or (4);

28 (I) Possession of a handgun on school property, § 5-73-
29 119(a)(2)(A);

30 (J) Aggravated assault, § 5-13-204;

31 (K) Terroristic act, § 5-13-310;

32 (L) Unlawful discharge of a firearm from a vehicle, § 5-74-
33 107;

34 (M) Any felony committed while armed with a firearm;

35 (N) Soliciting a minor to join a criminal street gang, § 5-
36 74-203;

1 (O) Criminal use of prohibited weapons, § 5-73-104; or
2 (P) A felony attempt, solicitation, or conspiracy to commit
3 any of the following offenses:

- 4 (i) Capital murder, § 5-10-101;
- 5 (ii) Murder in the first degree, § 5-10-102;
- 6 (iii) Murder in the second degree, § 5-10-103;
- 7 (iv) Kidnapping, § 5-11-102;
- 8 (v) Aggravated robbery, § 5-12-103;
- 9 (vi) Rape, § 5-14-103; and
- 10 (vii) Battery in the first degree, § 5-13-201;

11 (3) At least ~~fourteen (14)~~ twelve (12) years old when he engages
12 in conduct that constitutes a felony under § 5-73-119(a)(1)(A);

13 (4) At least ~~fourteen (14)~~ twelve (12) years old when he engages
14 in conduct that, if committed by an adult, constitutes a felony and who
15 has, within the preceding two (2) years, three (3) times been
16 adjudicated as a delinquent juvenile for acts that would have
17 constituted a felony if they had been committed by an adult.

18 (c) If a prosecuting attorney can file charges in circuit court
19 for an act allegedly committed by a juvenile, the prosecutor may file
20 any other criminal charges that arise out of the same act or course of
21 conduct in the same circuit court case if, after a hearing before the
22 juvenile division of chancery court, a motion to transfer is so ordered.

23 (d) A circuit court, a municipal court, and a juvenile court have
24 concurrent jurisdiction and a prosecuting attorney may charge a juvenile
25 in either court when a case involves a juvenile at least sixteen (16)
26 years of age but less than eighteen (18) years of age when he engages in
27 conduct that, if committed by an adult, would be a Class A misdemeanor.

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

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

- 35 (1) The seriousness of the offense, and whether violence was
- 36 employed by the juvenile in the commission of the offense;

1 (2) Whether the offense is part of a repetitive pattern of
2 adjudicated offenses which would lead to the determination that the
3 juvenile is beyond rehabilitation under existing rehabilitation
4 programs, as evidenced by past efforts to treat and rehabilitate the
5 juvenile and the response to such efforts; and

6 (3) The prior history, character traits, mental maturity, and any
7 other factor which reflects upon the juvenile's prospects for
8 rehabilitation.

9 ~~(f)~~ (g) Upon a finding by clear and convincing evidence that a
10 juvenile should be tried as an adult, the court shall enter an order to
11 that effect.

12 ~~(g)~~ (h) If the case is transferred to another court, any bail or
13 appearance bond given for the appearance of the juvenile shall continue
14 in effect in the court to which the case is transferred.

15 ~~(h)~~ (i) Any party may appeal from an order granting or denying
16 the transfer of a case from one court to another court having
17 jurisdiction over the matter. "
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19 SECTION 3. All provisions of this act of a general and permanent
20 nature are amendatory to the Arkansas Code of 1987 Annotated and the
21 Arkansas Code Revision Commission shall incorporate the same in the
22 Code.
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24 SECTION 4. If any provision of this act or the application
25 thereof to any person or circumstance is held invalid, such invalidity
26 shall not affect other provisions or applications of the act which can
27 be given effect without the invalid provision or application, and to
28 this end the provisions of this act are declared to be severable.
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30 SECTION 5. All laws and parts of laws in conflict with this act
31 are hereby repealed.

32 /s/Rep. Jeffress et al
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