

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

As Engrossed: H2/24/97

A Bill

ACT 1229 OF 1997
HOUSE BILL 1343

4
5 By: Representatives Flanagin and Beatty

For An Act To Be Entitled

"THE JUVENILE ESCAPE ACT"

Subtitle

"THE JUVENILE ESCAPE ACT"

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

SECTION 1. Arkansas Code Annotated § 5-54-101(7), which defines the term "juvenile detention facility" for use in the chapter of the criminal code pertaining to obstructing governmental operations, is amended to read as follows:

"(7) ~~Juvenile training school means any facility established and maintained by the State of Arkansas or any political subdivision thereof for the custody, care, education, and rehabilitation of delinquent, dependent, or neglected juveniles~~ Juvenile detention facility means any facility for the temporary care of juveniles alleged to be delinquent, or adjudicated delinquent and awaiting disposition, who require secure custody in a physically restricting facility designed and operated with all entrances and exits under the exclusive control of the facility's staff, so that a juvenile may not leave the facility unsupervised or without permission;"

SECTION 2. Arkansas Code Annotated 5-54-101, which defines terms for use in the chapter of the criminal code pertaining to obstructing governmental operations, is amended by adding the following new subsection:

"(13) Youth services facility means a facility, operated by the state or its designee, for the care of juveniles who have been adjudicated delinquent or convicted of a crime and who require secure custody in either a physically restrictive facility or a staff-secured facility, operated so that

1 a juvenile may not leave the facility unsupervised or without supervision."

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3 SECTION 3. Arkansas Code Annotated § 5-54-110 is amended to read as
4 follows:

5 "5-54-110. First degree escape.

6 (a) A person commits the offense of first degree escape if:

7 (1) Aided by another person actually present, he uses or
8 threatens to use physical force in escaping from custody, ~~or~~ a correctional
9 facility, a juvenile detention facility, or a youth services facility; or

10 (2) He uses or threatens to use a deadly weapon in escaping from
11 custody, ~~or~~ from a correctional facility, from a juvenile detention facility,
12 or from a youth services facility.

13 (b) First degree escape is a Class C felony."
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15 SECTION 4. Arkansas Code Annotated § 5-54-111 is amended to read as
16 follows:

17 "5-54-111. Second degree escape.

18 (a) A person commits the offense of second degree escape if:

19 (1) He uses or threatens to use physical force in escaping from
20 custody; or

21 (2) Having been found guilty of a felony, he escapes from
22 custody; or

23 (3) He escapes from a correctional facility;

24 (4) He escapes from a juvenile detention facility; or

25 (5) He escapes from a youth services facility.

26 (b) Second degree escape is a Class D felony."
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28 SECTION 5. Arkansas Code Annotated § 5-54-115 is amended to read as
29 follows:

30 "5-54-115. Permitting unauthorized departure.

31 (a) A public servant responsible for supervision of persons detained in
32 the Arkansas State Hospital, ~~or~~ in a juvenile ~~training school~~ detention
33 facility, or in a youth services facility commits the offense of permitting
34 unauthorized departure if he recklessly permits a person so detained to make
35 an unauthorized departure.

36 (b) Permitting unauthorized departure is a Class C misdemeanor."

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SECTION 6. Arkansas Code Annotated § 5-54-116 is amended to read as follows:

"5-54-116. Aiding an unauthorized departure.

(a) A person commits the offense of aiding an unauthorized departure if, not being an inmate in a juvenile ~~training school~~ detention facility, a youth services facility, or the Arkansas State Hospital, he knowingly aids another person in making or attempting to make an unauthorized departure from a juvenile ~~training school~~ detention facility, a youth services facility, or the Arkansas State Hospital.

(b) Aiding an unauthorized departure is a Class C felony if the person aiding an unauthorized departure uses physical force or uses or threatens to use a deadly weapon. Otherwise, it is a Class A misdemeanor."

SECTION 7. Arkansas Code Annotated § 9-27-318 is amended to read as follows:

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

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

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

(2) Less than sixteen (16) years old:

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

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

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

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

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

(2) Fourteen (14) or fifteen (15) years old when he engages in conduct that, if committed by an adult, would be:

- 1 (A) Capital murder, § 5-10-101;
- 2 (B) Murder in the first degree, § 5-10-102;
- 3 (C) Murder in the second degree, § 5-10-103;
- 4 (D) Kidnapping, § 5-11-102;
- 5 (E) Aggravated robbery, § 5-12-103;
- 6 (F) Rape, § 5-14-103;
- 7 (G) Battery in the first degree, § 5-13-201;
- 8 (H) Battery in the second degree in violation of
- 9 § 5-13-202(a)(2), (3), or (4);
- 10 (I) Possession of a handgun on school property,
- 11 § 5-73-119(a)(2)(A);
- 12 (J) Aggravated assault, § 5-13-204;
- 13 (K) Terroristic act, § 5-13-310;
- 14 (L) Unlawful discharge of a firearm from a vehicle,
- 15 § 5-74-107;
- 16 (M) Any felony committed while armed with a firearm;
- 17 (N) Soliciting a minor to join a criminal street gang,
- 18 § 5-74-203;
- 19 (O) Criminal use of prohibited weapons, § 5-73-104; ~~or~~
- 20 (P) First degree escape, § 5-54-110;
- 21 (Q) Second degree escape, § 5-54-111; or

22 ~~(P)(R)~~ A felony attempt, solicitation, or conspiracy to
 23 commit any of the following offenses:

- 24 (i) Capital murder, § 5-10-101;
- 25 (ii) Murder in the first degree, § 5-10-102;
- 26 (iii) Murder in the second degree, § 5-10-103;
- 27 (iv) Kidnapping, § 5-11-102;
- 28 (v) Aggravated robbery, § 5-12-103;
- 29 (vi) Rape, § 5-14-103; ~~and~~
- 30 (vii) Battery in the first degree, § 5-13-201;
- 31 (viii) First degree escape, § 5-54-110; and
- 32 (ix) Second degree escape, § 5-54-111;

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

35 (4) At least fourteen (14) years old when he engages in conduct
 36 that, if committed by an adult, constitutes a felony and who has, within the

1 preceding two (2) years, three (3) times been adjudicated as a delinquent
2 juvenile for acts that would have constituted a felony if they had been
3 committed by an adult.

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

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

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

15 (1) The seriousness of the offense, and whether violence was
16 employed by the juvenile in the commission of the offense;

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

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

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

26 (g) If the case is transferred to another court, any bail or appearance
27 bond given for the appearance of the juvenile shall continue in effect in the
28 court to which the case is transferred.

29 (h) Any party may appeal from an order granting or denying the transfer
30 of a case from one court to another court having jurisdiction over the
31 matter."

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33 SECTION 8. (a) If charged as an adult for first or second degree
34 escape, a juvenile shall be given a mandatory sentence of not less than nine
35 (9) months in an appropriate facility of the Department of Correction.

36 (b) If charged as a juvenile for first or second degree escape, a

1 juvenile shall be committed to the Division of Youth Services and placed in a
2 more restricted facility in order to complete the remaining term of his
3 commitment, provided that if the juvenile escaped from the most restricted
4 facility, the juvenile shall complete the remaining term of his commitment at
5 that or a similar facility.

6 (c) The juvenile may receive credit for time served.

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8 SECTION 9. All provisions of this act of a general and permanent nature
9 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
10 Revision Commission shall incorporate the same in the Code.

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12 SECTION 10. If any provision of this act or the application thereof to
13 any person or circumstance is held invalid, such invalidity shall not affect
14 other provisions or applications of the act which can be given effect without
15 the invalid provision or application, and to this end the provisions of this
16 act are declared to be severable.

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18 SECTION 11. All laws and parts of laws in conflict with this act are
19 hereby repealed.

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21 /s/Rep. Flanagan, et al

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23 APPROVED: 4-09-97

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