

**ARKANSAS SENATE**  
83rd General Assembly - Regular Session, 2001  
**Amendment Form**

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**Subtitle of Senate Bill No. 788**

"AN ACT TO AMEND VARIOUS SECTIONS OF THE JUVENILE CODE TO ASSIST IN  
THE IMPLEMENTATION OF AMENDMENT 80."

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**Amendment No. 1 to Senate Bill No. 788.**

Amend Senate Bill No. 788 as originally introduced:

Delete everything after the Enacting Clause and substitute

"SECTION 1. Arkansas Code 9-27-313(b), concerning taking a juvenile into custody, is amended to read as follows:

(b) When any juvenile is taken into custody pursuant to a warrant, the officer taking the juvenile into custody shall immediately take the juvenile before the judge of the division of circuit court out of which the warrant was issued. The ~~court~~ judge shall decide whether jurisdiction is in the juvenile court division or criminal division of circuit court pursuant to § 9-27-318.

SECTION 2. Arkansas Code 9-27-318 is amended to read as follows:  
9-27-318. Waiver and transfer to the criminal division of circuit court.

(a) A The juvenile division of circuit court has exclusive jurisdiction when a delinquency case involves a juvenile:

(1) Fifteen (15) years of age or younger when the alleged delinquent act occurred, except as provided by subdivision (c)(2) of this section; or

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

(b) The state may file a motion in the juvenile division of circuit court to transfer a case to the criminal division of circuit court or designate a case as an extended juvenile jurisdiction offender case when a case involves a juvenile:

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

- (A) Murder in the second degree, § 5-10-103;
- (B) Battery in the second degree in violation of § 5-13-202(a)(2), (3), or (4);
- (C) Possession of a handgun on school property, § 5-73-119(a)(2)(A);
- (D) Aggravated assault, § 5-13-204;

74-107;

(E) Unlawful discharge of a firearm from a vehicle, § 5-

(F) Any felony committed while armed with a firearm;

(G) Soliciting a minor to join a criminal street gang, §

5-74-203;

(H) Criminal use of prohibited weapons, § 5-73-104;

(I) First degree escape, § 5-54-110;

(J) Second degree escape, § 5-54-111; or

(K) A felony attempt, solicitation, or conspiracy to  
commit any of the following offenses:

(i) Capital murder, § 5-10-101;

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

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

(iv) Kidnapping, § 5-11-102;

(v) Aggravated robbery, § 5-12-103;

(vi) Rape, § 5-14-103;

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

(viii) First degree escape, § 5-54-110; and

(ix) Second degree escape, § 5-54-111;

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

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

(c) A The criminal division of circuit court and a the juvenile division of circuit court have concurrent jurisdiction and a prosecuting attorney may charge a juvenile in either ~~court~~ division 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; or

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

(A) Capital murder, § 5-10-101;

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

(C) Kidnapping, § 5-11-102;

(D) Aggravated robbery, § 5-12-103;

(E) Rape, § 5-14-103;

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

(G) Terroristic act § 5-13-310.

(d) If a prosecuting attorney can file charges in the criminal division of circuit court for an act allegedly committed by a juvenile, the state may file any other criminal charges that arise out of the same act or course of conduct in the same ~~circuit court~~ division case if, after a hearing before the juvenile division of ~~chancery circuit~~ circuit court, a transfer is so ordered.

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

(f) The juvenile ~~court~~ division or the criminal division of circuit

court shall conduct a transfer hearing within thirty (30) days, if the juvenile is detained, and no longer than ninety (90) days from the date of the motion to transfer jurisdiction to the juvenile division or the criminal division of circuit or juvenile court.

(g) In making the decision to retain jurisdiction or to transfer the case, the ~~court~~ juvenile division judge shall make written findings and consider all of the following factors:

(1) The seriousness of the alleged offense and whether the protection of society requires prosecution as an extended juvenile jurisdiction offender or in the criminal division of circuit court;

(2) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(3) Whether the offense was against a person or property, with greater weight being given to offenses against persons, especially if personal injury resulted;

(4) The culpability of the juvenile, including the level of planning and participation in the alleged offense;

(5) The previous history of the juvenile, including whether the juvenile had been adjudicated a juvenile offender and, if so, whether the offenses were against persons or property, and any other previous history of antisocial behavior or patterns of physical violence;

(6) The sophistication or maturity of the juvenile as determined by consideration of the juvenile's home, environment, emotional attitude, pattern of living, or desire to be treated as an adult;

(7) Whether there are facilities or programs available to the ~~court~~ juvenile division judge which are likely to rehabilitate the juvenile prior to the expiration of the ~~court's~~ juvenile division's jurisdiction;

(8) Whether the juvenile acted alone or was part of a group in the commission of the alleged offense;

(9) Written reports and other materials relating to the juvenile's mental, physical, educational, and social history; and

(10) Any other factors deemed relevant by the ~~court~~ judge.

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

(i) Upon a finding by the criminal division of circuit court that a juvenile age fourteen (14) or fifteen (15) and charged with the crimes in subdivision (c)(2) of this section should be transferred to the juvenile division of circuit court, the ~~circuit court~~ judge shall enter an order to transfer as an extended juvenile jurisdiction case.

(j) If a juvenile age fourteen (14) or fifteen (15) is found guilty in the criminal division of circuit court for an offense other than an offense listed in subsection (b) or subdivision (c)(2) of this section, the ~~circuit court~~ judge shall transfer the case to the juvenile division of circuit court for the ~~court~~ juvenile division judge to enter a juvenile disposition.

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

(l) Any party may appeal from an order granting or denying the transfer of a case from one ~~court~~ division to another ~~court~~ division having jurisdiction over the matter.

(m) A The juvenile division of circuit court may conduct a transfer

hearing and an extended juvenile jurisdiction hearing at the same time.

SECTION 3. Arkansas Code 9-27-352(a), concerning confidentiality of records, is amended to read as follows:

(a) Records of the arrest of a juvenile, the detention of a juvenile, and the proceedings under this subchapter shall be confidential and shall not be subject to disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq., unless:

(1) Authorized by a written order of the juvenile division of circuit court; or

(2) The arrest or the proceedings under this subchapter result in the juvenile's being formally charged in the criminal division of circuit court for a felony.

SECTION 4. Arkansas Code 9-27-507(b), concerning an extended juvenile jurisdiction review hearing, is amended to read as follows:

(b) If the court finds by a preponderance of the evidence that the juvenile has violated a juvenile disposition order, has been found delinquent or guilty of committing a new offense, or is not amenable to rehabilitation in the juvenile system, the court may:

(1) Amend or add any juvenile disposition authorized by § 9-27-330; or

(2)(A)(i) Exercise its discretion to impose the full range of sentencing available in the criminal division of circuit court, including probation, suspended imposition of sentence, and imprisonment.

(ii) However, a sentence of imprisonment shall not exceed forty (40) years, except for juveniles adjudicated for capital murder, § 5-10-101, and murder in the first degree, § 5-10-102, who may be sentenced for any term up to and including life.

(B) Statutory provisions prohibiting or limiting probation or suspended imposition of sentence or parole for offenses when committed by an adult shall not apply to juveniles sentenced as extended juvenile jurisdiction offenders.

(C) A juvenile shall receive credit for time served in a juvenile detention or any juvenile facility.

(D)(i) A ~~court~~ criminal division judge may not order an absolute release of an extended juvenile jurisdiction offender who has been adjudicated delinquent for capital murder, § 5-10-101, or murder in the first degree, § 5-10-102.

(ii) If release is ordered, the ~~court~~ division judge shall impose a period of probation for not less than three (3) years.

SECTION 5. Arkansas Code 9-27-508(b)(2)(B), concerning extended juvenile jurisdiction records, is amended to read as follows:

(B) The clerk shall assign a criminal division of circuit court docket number and shall maintain the file as if the case had originated in the criminal division of circuit court.

SECTION 6. Arkansas Code 9-27-510(b), concerning placement of juveniles, is amended to read as follows:

(b) A juvenile sentenced in the criminal division of circuit court who is less than sixteen (16) years of age when sentenced shall be committed to

the custody of the Division of Youth Services until his sixteenth birthday, at which time he shall be transferred to the Department of Correction.

**The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_**

**By: Senator Beebe  
PBB/RTK - 032220011411  
RTK299**

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**Secretary**