

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Representative Thomas

A Bill

HOUSE BILL 1207

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 9-27-318 TO TO
PRESCRIBE THE CONDITIONS UNDER WHICH JUVENILES MAY QUALIFY
AS HABITUAL JUVENILE OFFENDERS AND MAY BE CHARGED OR WILL
BE CHARGED AS ADULTS IN CIRCUIT COURT; AND FOR OTHER
PURPOSES."

Subtitle

"TO PRESCRIBE THE CONDITIONS UNDER WHICH
A JUVENILE MAY QUALIFY AS HABITUAL
JUVENILE OFFENDER AND CAN BE CHARGED AS
AN ADULT IN CIRCUIT COURT"

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

SECTION 1. 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 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 would not qualify as a 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.

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

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

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

- 8 (A) Capital murder, § 5-10-101;
- 9 (B) Murder in the first degree, § 5-10-102;
- 10 (C) Murder in the second degree, § 5-10-103;
- 11 (D) Kidnapping, § 5-11-102;
- 12 (E) Aggravated robbery, § 5-12-103;
- 13 (F) Rape, § 5-14-103;
- 14 (G) Battery in the first degree, § 5-13-201;
- 15 (H) Battery in the second degree in violation of
16 § 5-13-202(a)(2), (3), or (4);
- 17 (I) Possession of a handgun on school property,
18 § 5-73-119(a)(2)(A);
- 19 (J) Aggravated assault, § 5-13-204;
- 20 (K) Terroristic act, § 5-13-310;
- 21 (L) Unlawful discharge of a firearm from a vehicle,
22 § 5-74-107;
- 23 (M) Any felony committed while armed with a firearm;
- 24 (N) Soliciting a minor to join a criminal street gang,
25 § 5-74-203;
- 26 (O) Criminal use of prohibited weapons, § 5-73-104; or
- 27 (P) A felony attempt, solicitation, or conspiracy to
28 commit any of the following offenses:
 - 29 (i) Capital murder, § 5-10-101;
 - 30 (ii) Murder in the first degree, § 5-10-102;
 - 31 (iii) Murder in the second degree, § 5-10-103;
 - 32 (iv) Kidnapping, § 5-11-102;
 - 33 (v) Aggravated robbery, § 5-12-103;
 - 34 (vi) Rape, § 5-14-103; and
 - 35 (vii) Battery in the first degree, § 5-13-201;

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

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

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

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

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

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

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

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

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

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

34 (h) Any party may appeal from an order granting or denying the transfer
35 of a case from one court to another court having jurisdiction over the

1 matter."

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3 SECTION 2. All provisions of this act of a general and permanent
4 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
5 Code Revision Commission shall incorporate the same in the Code.

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7 SECTION 3. If any provision of this act or the application thereof to
8 any person or circumstance is held invalid, such invalidity shall not affect
9 other provisions or applications of the act which can be given effect without
10 the invalid provision or application, and to this end the provisions of this
11 act are declared to be severable.

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13 SECTION 4. All laws and parts of laws in conflict with this act are
14 hereby repealed.

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/s/Thomas

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As Engrossed: 1/19/95 2/6/95 3/1/95 4/7/95

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