

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001

# A Bill

HOUSE BILL 2213

4  
5 By: Representatives Carson, Ledbetter, Childers, Hathorn, C. Taylor

## For An Act To Be Entitled

9 AN ACT TO AMEND VARIOUS SECTIONS OF THE JUVENILE CODE  
10 TO ASSIST IN THE IMPLEMENTATION OF AMENDMENT 80; AND  
11 FOR OTHER PURPOSES.

## Subtitle

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

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

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

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

29 SECTION 2. Arkansas Code 9-27-318 is amended to read as follows:

30 9-27-318. Waiver and transfer to ~~circuit~~ adult court.

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

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

36 (2) Less than eighteen (18) years old when he engages in conduct

1 that, if committed by an adult, would be any misdemeanor.

2 (b) The state may file a motion in juvenile court to transfer a case  
3 to ~~either~~ adult court or designate a case as an extended juvenile  
4 jurisdiction offender case when a case involves a juvenile:

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

- 7 (A) Murder in the second degree, § 5-10-103;
- 8 (B) Battery in the second degree in violation of § 5-13-  
9 202(a)(2), (3), or (4);
- 10 (C) Possession of a handgun on school property, § 5-73-  
11 119(a)(2)(A);
- 12 (D) Aggravated assault, § 5-13-204;
- 13 (E) Unlawful discharge of a firearm from a vehicle, § 5-  
14 74-107;
- 15 (F) Any felony committed while armed with a firearm;
- 16 (G) Soliciting a minor to join a criminal street gang, §  
17 5-74-203;
- 18 (H) Criminal use of prohibited weapons, § 5-73-104;
- 19 (I) First degree escape, § 5-54-110;
- 20 (J) Second degree escape, § 5-54-111; or
- 21 (K) A felony attempt, solicitation, or conspiracy to

22 commit any of the following offenses:

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

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

34 (3) At least fourteen (14) years old when he engages in conduct  
35 that, if committed by an adult, constitutes a felony and who has, within the  
36 preceding two (2) years, three (3) times been adjudicated as a delinquent

1 juvenile for acts that would have constituted felonies if they had been  
2 committed by an adult.

3 (c) ~~A circuit~~ An adult court and a juvenile court have concurrent  
4 jurisdiction and a prosecuting attorney may charge a juvenile in either court  
5 when a case involves a juvenile:

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

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

10 (A) Capital murder, § 5-10-101;

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

12 (C) Kidnapping, § 5-11-102;

13 (D) Aggravated robbery, § 5-12-103;

14 (E) Rape, § 5-14-103;

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

16 (G) Terroristic act § 5-13-310.

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

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

26 (f) The juvenile court or the ~~circuit~~ adult court shall conduct a  
27 transfer hearing within thirty (30) days, if the juvenile is detained, and no  
28 longer than ninety (90) days from the date of the motion to transfer  
29 jurisdiction to ~~circuit~~ adult or juvenile court.

30 (g) In making the decision to retain jurisdiction or to transfer the  
31 case, the court shall make written findings and consider all of the following  
32 factors:

33 (1) The seriousness of the alleged offense and whether the  
34 protection of society requires prosecution as an extended juvenile  
35 jurisdiction offender or in ~~circuit~~ adult court;

36 (2) Whether the alleged offense was committed in an aggressive,

1 violent, premeditated, or willful manner;

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (m) A juvenile court may conduct a transfer hearing and an extended  
5 juvenile jurisdiction hearing at the same time.

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

9 (a) Records of the arrest of a juvenile, the detention of a juvenile,  
10 and the proceedings under this subchapter shall be confidential and shall not  
11 be subject to disclosure under the Freedom of Information Act of 1967, § 25-  
12 19-101 et seq., unless:

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

14 (2) The arrest or the proceedings under this subchapter result  
15 in the juvenile's being formally charged in ~~circuit~~ adult court for a felony.

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

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

23 (1) Amend or add any juvenile disposition authorized by § 9-27-  
24 330; or

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

28 (ii) However, a sentence of imprisonment shall not  
29 exceed forty (40) years, except for juveniles adjudicated for capital murder,  
30 § 5-10-101, and murder in the first degree, § 5-10-102, who may be sentenced  
31 for any term up to and including life.

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

36 (C) A juvenile shall receive credit for time served in a

1 juvenile detention or any juvenile facility.

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

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

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

10 (B) The clerk shall assign a ~~circu~~criminal docket  
11 number and shall maintain the file as if the case had originated in ~~circu~~  
12 adult court.

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

16 (b) A juvenile sentenced in ~~circu~~adult court who is less than  
17 sixteen (16) years of age when sentenced shall be committed to the custody of  
18 the Division of Youth Services until his sixteenth birthday, at which time he  
19 shall be transferred to the Department of Correction.

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