

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
4

As Engrossed: S3/27/01

A Bill

SENATE BILL 788

5 By: Senator Everett
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND VARIOUS SECTIONS OF THE JUVENILE
10 CODE TO ASSIST IN THE IMPLEMENTATION OF AMENDMENT
11 80; AND FOR OTHER PURPOSES.
12

Subtitle

13 AN ACT TO AMEND VARIOUS SECTIONS OF THE
14 JUVENILE CODE TO ASSIST IN THE
15 IMPLEMENTATION OF AMENDMENT 80.
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18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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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 judge of the division of circuit court out of which the warrant*
26 *was issued. The ~~court~~ judge shall decide whether jurisdiction is in the*
27 *juvenile ~~court~~ division or criminal division of circuit court pursuant to §*
28 *9-27-318.*
29

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

31 *9-27-318. Waiver and transfer to the criminal division of circuit*
32 *court.*

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

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

1 section; or

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

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

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

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

11 (B) Battery in the second degree in violation of § 5-13-
12 202(a)(2), (3), or (4);

13 (C) Possession of a handgun on school property, § 5-73-
14 119(a)(2)(A);

15 (D) Aggravated assault, § 5-13-204;

16 (E) Unlawful discharge of a firearm from a vehicle, § 5-
17 74-107;

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

19 (G) Soliciting a minor to join a criminal street gang, §
20 5-74-203;

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

22 (I) First degree escape, § 5-54-110;

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

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

26 (i) Capital murder, § 5-10-101;

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

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

29 (iv) Kidnapping, § 5-11-102;

30 (v) Aggravated robbery, § 5-12-103;

31 (vi) Rape, § 5-14-103;

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

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

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

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

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

6 (c) A The criminal division of circuit court and ~~a~~ the juvenile
7 division of circuit court have concurrent jurisdiction and a prosecuting
8 attorney may charge a juvenile in either ~~court~~ division when a case involves
9 a juvenile:

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

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

14 (A) Capital murder, § 5-10-101;

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

16 (C) Kidnapping, § 5-11-102;

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

18 (E) Rape, § 5-14-103;

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

20 (G) Terroristic act § 5-13-310.

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

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

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

36 (g) In making the decision to retain jurisdiction or to transfer the

1 case, the ~~court~~ juvenile division judge shall make written findings and consider all
2 of the following factors:

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

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

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

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

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

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

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

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

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

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

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

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

36 (j) If a juvenile age fourteen (14) or fifteen (15) is found guilty in

1 the criminal division of circuit court for an offense other than an offense
 2 listed in subsection (b) or subdivision (c)(2) of this section, the ~~circuit~~
 3 ~~court judge~~ shall transfer the case to the juvenile division of circuit court
 4 for the ~~court~~ juvenile division judge to enter a juvenile disposition.

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

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

11 (m) A The juvenile division of circuit court may conduct a transfer
 12 hearing and an extended juvenile jurisdiction hearing at the same time.

13
 14 SECTION 3. Arkansas Code 9-27-352(a), concerning confidentiality of
 15 records, is amended to read as follows:

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

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

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

25
 26 SECTION 4. Arkansas Code 9-27-507(b), concerning an extended juvenile
 27 jurisdiction review hearing, is amended to read as follows:

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

32 (1) Amend or add any juvenile disposition authorized by § 9-27-
 33 330; or

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

1 (ii) However, a sentence of imprisonment shall not
2 exceed forty (40) years, except for juveniles adjudicated for capital murder,
3 § 5-10-101, and murder in the first degree, § 5-10-102, who may be sentenced
4 for any term up to and including life.

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

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

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

15 (ii) If release is ordered, the ~~court~~ division judge
16 shall impose a period of probation for not less than three (3) years.
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18 SECTION 5. Arkansas Code 9-27-508(b)(2)(B), concerning extended
19 juvenile jurisdiction records, is amended to read as follows:

20 (B) The clerk shall assign a criminal division of circuit
21 court docket number and shall maintain the file as if the case had originated
22 in the criminal division of circuit court.
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24 SECTION 6. Arkansas Code 9-27-510(b), concerning placement of
25 juveniles, is amended to read as follows:

26 (b) A juvenile sentenced in the criminal division of circuit court who
27 is less than sixteen (16) years of age when sentenced shall be committed to
28 the custody of the Division of Youth Services until his sixteenth birthday,
29 at which time he shall be transferred to the Department of Correction.
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31 /s/ Everett
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