

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 216

Short Title: Juv./Adult Dist. Ct. Trial.

(Public)

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Sponsors: Representative Ives.

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Referred to: Judiciary III.

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February 14, 1994

A BILL TO BE ENTITLED

AN ACT TO TRY CERTAIN JUVENILES IN DISTRICT COURT AS IN THE CASE OF ADULTS, TO PROVIDE A PROBABLE CAUSE HEARING, AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-608 reads as rewritten:

"§ 7A-608. **Transfer of jurisdiction of juvenile to superior ~~court~~; trial as adult in district court.**

(a) The court after notice, hearing, and a finding of probable cause may transfer jurisdiction over a juvenile ~~14 years of age or older~~ to superior court if the juvenile was 14 years of age or older at the time ~~he~~ the juvenile allegedly committed an offense ~~which~~ that would be a felony if committed by an adult. If the alleged felony constitutes a Class A felony and the ~~judge-court~~ finds probable cause, the ~~judge-court~~ shall transfer the case to the superior court for trial as in the case of adults.

(b) The court after notice, hearing, and a finding of probable cause may try a juvenile in district court as in the case of an adult if the juvenile was 14 years of age or older at the time the juvenile allegedly committed an offense that would be a misdemeanor if committed by an adult and if the juvenile has previously been adjudicated delinquent for an offense that would be a felony if committed by an adult.

Sec. 2. G.S. 7A-609(a) reads as rewritten:

(a) The ~~judge-court~~ shall conduct a hearing to determine probable cause in all felony cases in which a juvenile was 14 years of age or older when the offense was allegedly committed ~~unless counsel~~ and in all misdemeanor cases in which a juvenile has previously been adjudicated delinquent for an offense that would be a felony if

1 committed by an adult and was 14 years of age or older when the offense was allegedly  
2 committed. Counsel for the juvenile ~~waives~~ may waive in writing ~~his~~ the right to the  
3 hearing and ~~stipulates~~ stipulate to a finding of probable cause. The ~~judge~~ court may  
4 exclude the public from the hearing unless the juvenile moves that the hearing be open,  
5 which motion shall be granted."

6 Sec. 3. G.S. 7A-610(a) reads as rewritten:

7 "(a) If probable cause is found, the prosecutor or the juvenile may move that the  
8 case be (i) either transferred to the superior court or (ii) retained in district court, for  
9 trial as in the case of adults. If the alleged felony does not constitute ~~a capital offense,~~ an  
10 offense that would be a Class A felony if committed by an adult, the judge ~~may proceed~~  
11 ~~to~~ shall determine whether the needs of the juvenile or the best interest of the State will  
12 be served by either (i) transfer of the case to superior court or (ii) retention in district  
13 court, for trial as in the case of adults. When the case is either (i) transferred to superior  
14 ~~court,~~ court or (ii) retained in district court, for trial as in the case of adults, ~~the~~ that  
15 ~~superior~~ superior court has jurisdiction over that felony, any offense based on the same act or  
16 transaction or on a series of acts or transactions connected together or constituting parts  
17 of a single scheme or plan of that felony, and any greater or lesser included offense of  
18 that felony."

19 Sec. 4. G.S. 7A-524 reads as rewritten:

20 "**§ 7A-524. Retention of jurisdiction.**

21 When the court obtains jurisdiction over a juvenile, jurisdiction shall continue until  
22 terminated by order of the court or until ~~he reaches his eighteenth birthday.~~ the juvenile's  
23 eighteenth birthday. Any juvenile who is under the jurisdiction of the court and  
24 commits a criminal offense after ~~his~~ the juvenile's sixteenth birthday is subject to  
25 prosecution as an adult. Any juvenile who is transferred to and sentenced by the  
26 superior court or retained in, tried, and sentenced by district court as in the case of  
27 adults, ~~for a felony offense~~ shall be prosecuted as an adult for all other crimes alleged to  
28 have been committed by ~~him~~ the juvenile while ~~he is~~ under the active supervision of ~~the~~  
29 that superior court. Nothing herein shall be construed to divest the court of jurisdiction in  
30 abuse, neglect, or dependency proceedings."

31 Sec. 5. G.S. 7A-675(e) reads as rewritten:

32 "(e) Law-enforcement records and files concerning a juvenile shall be kept  
33 separate from the records and files of adults except in proceedings when jurisdiction of  
34 a juvenile is either (i) transferred to superior court or (ii) retained in district court  
35 for trial as in the case of adults. Law-enforcement records and files concerning juveniles  
36 shall be open only to the inspection of the prosecutor, court counselors, the juvenile, ~~his~~  
37 the juvenile's parent, guardian, and custodian."

38 Sec. 6. G.S. 7A-596 reads as rewritten:

39 "**§ 7A-596. Authority to issue nontestimonial identification order where juvenile**  
40 **alleged to be delinquent.**

41 Nontestimonial identification procedures shall not be conducted on any juvenile  
42 without a court order issued pursuant to this Article unless the juvenile ~~has been~~  
43 transferred to is to be tried in district or superior court for trial as an adult in which case  
44 procedures applicable to adults as set out in Articles 14 and 23 of Chapter 15A shall

1 apply. A nontestimonial identification order authorized by this Article may be issued by  
2 any judge of the district court or of the superior court upon request of a prosecutor. As  
3 used in this Article, 'nontestimonial identification' means identification by fingerprints,  
4 palm prints, footprints, measurements, blood specimens, urine specimens, saliva  
5 samples, hair samples, or other reasonable physical examination, handwriting  
6 exemplars, voice samples, photographs, and lineups or similar identification procedures  
7 requiring the presence of a juvenile."

8 Sec. 7. G.S. 7A-601(4) reads as rewritten:

9 "(4) If the juvenile is ~~transferred to~~ tried in district or superior court, court as  
10 an adult, all records resulting from nontestimonial identification  
11 procedures shall be processed as in the case of an adult."

12 Sec. 8. G.S. 7A-608.1 reads as rewritten:

13 **"§ 7A-608.1. Fingerprinting juvenile transferred to superior court, court or tried**  
14 **as an adult in district court.**

15 When ~~jurisdiction over~~ a juvenile is transferred to the superior ~~court,~~ court or is tried  
16 in district court as an adult, the juvenile shall be fingerprinted and ~~his~~ the fingerprints  
17 shall be sent to the State Bureau of Investigation."

18 Sec. 9. G.S. 7A-611 reads as rewritten:

19 **"§ 7A-611. Right to pretrial release; detention.**

20 Once either (i) the order of transfer to superior court or (ii) the order to retain in  
21 district court, for trial as in the case of adults, has been entered, the juvenile has the right  
22 to pretrial release as provided in G.S. 15A-533 and 15A-534. The release order shall  
23 specify the person or persons to whom the juvenile may be released. Pending release  
24 under this Article, the judge shall order that the juvenile be detained in a local detention  
25 home as defined by G.S. 7A-517(15) or a regional detention home as defined by G.S.  
26 7A-517(26) while awaiting trial. The judge may order the juvenile to be held in a  
27 holdover facility as defined by G.S. 7A-517(16) at any time the presence of the juvenile  
28 is required in court for pretrial hearings or trial, if the judge finds that it would be  
29 inconvenient to return the juvenile to the local or regional detention home.

30 Should the juvenile be found guilty, or enter a plea of guilty or no contest to criminal  
31 offenses in district or superior court and the juvenile receives an active sentence, then  
32 immediate transfer to the Department of Correction shall be ordered. Until such time as  
33 the juvenile is transferred to the Department of Correction, the juvenile may be detained  
34 in a holdover facility as defined by G.S. 7A-517(16). The juvenile may not be detained  
35 in a local detention home as defined by G.S. 7A-517(15) or a regional detention home  
36 as defined by G.S. ~~517(26)~~ 7A-517(26) pending transfer to the Department of  
37 Correction. The juvenile may be kept by the Department of Correction as a safekeeper  
38 until the juvenile is placed in an appropriate correctional program."

39 Sec. 10. This act becomes effective July 1, 1994, and applies to offenses  
40 committed on or after that date.