

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 28\*  
Committee Substitute Favorable 2/18/94

Short Title: Try Certain Juveniles as Adults.

(Public)

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Sponsors:

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Referred to: Judiciary III.

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February 8, 1994

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR THE TRANSFER OF JURISDICTION OF CERTAIN  
3 JUVENILES TO SUPERIOR COURT.

4 The General Assembly of North Carolina enacts:

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

6 "**§ 7A-608. Transfer of jurisdiction of juvenile to superior court.**

7 (a) Discretionary Transfer. – The court after notice, hearing, and a finding of  
8 probable cause may transfer jurisdiction over a juvenile ~~14 years of age or older to~~  
9 superior court if either of the following conditions is met:

10 (1) ~~the~~ The alleged offense would be a felony if committed by an adult and  
11 the juvenile was 14 years of age or older at the time he the juvenile  
12 allegedly committed an offense which would be a felony if committed by  
13 an adult. the offense.

14 (2) The alleged offense would be a violent felony, as defined by  
15 subsection (c), if committed by an adult and the juvenile was 13 years  
16 of age but not yet 14 years of age at the time the juvenile allegedly  
17 committed the offense.

18 (b) Mandatory Transfer. – ~~If the alleged felony constitutes~~ would be a Class A  
19 felony-violent felony, as defined in subsection (c), if committed by an adult, the juvenile  
20 was 14 years of age or older at the time the juvenile allegedly committed the felony, and  
21 the judge court finds probable cause, the judge court shall transfer the case to the  
22 superior court for trial as in the case of adults.

1 (c) Violent Felony Defined. – For the purpose of this section, a violent felony is  
2 any of the following felonies:

- 3 (1) First-degree murder, G.S. 14-17.
- 4 (2) First-degree rape, G.S. 14-27.2.
- 5 (3) First-degree sexual offense by force with a deadly weapon, inflicting  
6 serious injury, or aided and abetted by another, G.S. 14-27.4(a)(2).
- 7 (4) Second-degree murder, G.S. 14-17.
- 8 (5) Killing adversary in duel, G.S. 14-20.
- 9 (6) Adulterated or misbranded food, drugs, etc., with intent to cause  
10 serious injury or death, G.S. 14-34.4(a).
- 11 (7) Second-degree rape, G.S. 14-27.3.
- 12 (8) Second-degree sexual offense against a mentally defective, mentally  
13 incapacitated, or physically helpless person, G.S. 14-27.5(a)(2).
- 14 (9) Malicious castration, G.S. 14-28.
- 15 (10) First-degree kidnapping, G.S. 14-39.
- 16 (11) Assault with deadly weapon with intent to kill inflicting serious injury,  
17 G.S. 14-32(a).
- 18 (12) Assault with deadly weapon with intent to kill on handicapped person,  
19 G.S. 14-32.1(b) and (d).
- 20 (13) Malicious maiming, G.S. 14-30.
- 21 (14) Malicious damage of occupied property by use of explosive or  
22 incendiary, G.S. 14-49.1.
- 23 (15) First-degree burglary, G.S. 14-51.
- 24 (16) First-degree arson, G.S. 14-58.
- 25 (17) Burning of mobile home, manufactured-type house, or recreational  
26 trailer home, G.S. 14-58.2.
- 27 (18) Breaking out of a dwelling house burglary, G.S. 14-53.
- 28 (19) Robbery with firearms or other dangerous weapons, G.S. 14-87, but  
29 only if a firearm is used.
- 30 (20) Malicious injury to another by explosive or incendiary device, G.S. 14-  
31 49(a).
- 32 (21) Burglary with explosives, G.S. 14-57.
- 33 (22) Malicious throwing of corrosive acid or alkali, G.S. 14-30.1.
- 34 (23) Assault with a deadly weapon inflicting serious injury, G.S. 14-32(b),  
35 but only if a firearm is used.
- 36 (24) Assault with a deadly weapon with intent to kill, G.S. 14-32(c), but  
37 only if a firearm is used.
- 38 (25) Discharging certain barrellled weapons or a firearm into occupied  
39 property, G.S. 14-34.1."

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

41 "(a) ~~The judge-cour~~ shall conduct a hearing to determine probable cause in all  
42 felony cases ~~in which a juvenile was 14 years of age or older when the offense was allegedly~~  
43 ~~committed unless counsel as provided in G.S. 7A-608. Counsel for the juvenile waives~~  
44 ~~may waive~~ in writing ~~his~~ ~~the~~ right to the hearing and ~~stipulates~~ stipulate to a finding of

1 probable cause. The ~~judge~~ court may exclude the public from the hearing unless the  
2 juvenile moves that the hearing be open, which motion shall be granted."

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

4 "(a) If probable cause is ~~found~~, found and transfer to superior court is not required  
5 by G.S. 7A-608, the prosecutor or the juvenile may move that the case be transferred to  
6 the superior court for trial as in the case of adults. ~~If the alleged felony does not constitute~~  
7 ~~a capital offense, the~~ The judge may proceed to shall determine whether the needs of the  
8 juvenile or the best interest of the State will be served by transfer of the case to superior  
9 court for trial as in the case of adults. When the case is transferred to superior court, the  
10 superior court has jurisdiction over that felony, any offense based on the same act or  
11 transaction or on a series of acts or transactions connected together or constituting parts  
12 of a single scheme or plan of that felony, and any greater or lesser included offense of  
13 that felony."

14 Sec. 4. G.S. 7A-601(3) reads as rewritten:

15 "(3) If a juvenile ~~14~~ 13 years of age or older is found to have committed a  
16 delinquent act ~~which~~ that would be a felony if committed by an adult,  
17 all records resulting from a nontestimonial order may be retained in the  
18 court file. Special precautions shall be taken to ensure that these  
19 records will be maintained in such a manner and under such safeguards  
20 as to limit their use to inspection for comparison purposes by law-  
21 enforcement officers only in the investigation of a crime."

22 Sec. 5. This act becomes effective May 1, 1994, and applies to offenses  
23 committed on or after that date.