

Juvenile Transfer to Adult Court

December 2014

This compilation includes laws and enacted bills that allow or require a juvenile court judge to certify a minor for criminal prosecution, laws that give the prosecutor discretion in deciding where to file charges, and laws that exempt juveniles from juvenile court by either age or age and crime. There are states that allow juveniles to petition a criminal court to waive jurisdiction back to a juvenile court; those laws are not included in this compilation. Laws which permanently place juveniles in criminal court based on a previous waiver, or “Once an Adult, Always an Adult” laws are also not included. Please keep in mind that this area of law is subject to change and confirm the state of the law in your jurisdiction before relying on this compilation.

ALABAMA.....	6
ALA. CODE § 12-15-203 (2014). Transfer of cases from juvenile court.....	6
ALA. CODE § 12-15-204 (2014). Acts for which person who has attained age 16 shall be charged, arrested, and tried as adult; removal of person from jurisdiction of juvenile court.	7
ALASKA.....	9
ALASKA STAT. § 47.12.100 (2014). Waiver of jurisdiction	9
ARIZONA.....	9
ARIZ. REV. STAT. § 8-302 (2014). Transfer between juvenile and criminal courts	9
Ariz. Rev. Stat. § 8-327 (2014). Transfer hearing	10
ARIZ. REV. STAT. § 13-501 (2014). Persons under eighteen years of age; felony charging; definitions ..	12
ARKANSAS	14
ARK. CODE ANN. § 9-27-318 (2014). Filing and transfer to the criminal division of circuit court.....	14
ARK. CODE ANN. § 9-27-501 (2014). Extended juvenile jurisdiction designation	17
CALIFORNIA.....	18
CAL. WELF. & INST. CODE § 602 (2014). Minors violating laws defining crime; ward of court	18
CAL. WELF. & INST. CODE § 603 (2014). Preliminary examination; trying case upon accusatory pleading	19
CAL. WELF. & INST. CODE § 603.5 (2014). Vehicle Code infractions or violations of local ordinances involving motor vehicles; jurisdiction; referral to juvenile court; application of section	19
CAL. WELF. & INST. CODE § 604 (2014). Proceedings; suspension, resumption, new proceedings; certification to juvenile court; pleadings.....	20
CAL. WELF. & INST. CODE § 606 (2014). Subjecting minor to criminal prosecution	21
CAL. WELF. & INST. CODE § 607 (2014). Retention of, and discharge from, jurisdiction	21
CAL. WELF. & INST. CODE § 707 (2014). Fitness hearing	22
CAL. WELF. & INST. CODE § 707.01 (2014). Minor found unfit subject for juvenile court law pursuant to § 707; previous juvenile court adjudications; transfers to court of criminal jurisdiction; appeal of finding of fitness	28
COLORADO.....	30
COLO. REV. STAT. § 19-2-517 (2014). Direct filing	30
COLO. REV. STAT. § 19-2-518 (2014). Transfers	34
CONNECTICUT.....	38
CONN. GEN. STAT. § 46b-127 (2014). Transfer of child charged with a felony to the regular criminal docket. Transfer of youth age sixteen to docket for juvenile matters	38
CONN. GEN. STAT. § 46b-133c (2014). Serious juvenile repeat offender prosecution. Sentencing	40
CONN. GEN. STAT. § 46b-145 (2014). Prohibition on prosecution of child before regular criminal docket. Exceptions	41
DELAWARE.....	42

DEL. CODE ANN. tit. 10, § 1010 (2014). Proceeding against child as an adult; amenability proceeding; referral to another court	42
DISTRICT OF COLUMBIA.....	44
D.C. CODE ANN. § 16-2301 (2014). Definitions	44
D.C. CODE ANN. § 16-2307 (2014). Transfer for criminal prosecution.	51
FLORIDA.....	54
FLA. STAT. ANN. § 985.556 (2014). Waiver of juvenile court jurisdiction; hearing	54
FLA. STAT. ANN. § 985.557 (2014). Direct filing of an information; discretionary and mandatory criteria	57
GEORGIA.....	60
GA. CODE ANN. § 15-11-2 (2014). Definitions	61
GA. CODE ANN. § 15-11-560 (2014). Concurrent jurisdictions; exclusive original jurisdiction of superior court; transfer to juvenile court.....	74
GA. CODE ANN. § 15-11-562 (2014). Criteria court must consider in determination whether to transfer child to superior court; transfer evaluation	75
HAWAII.....	76
HAW. REV. STAT. ANN. § 571-22 (2014). Waiver of jurisdiction; transfer to other courts	76
IDAHO.....	78
IDAHO CODE ANN. § 20-508 (2014). Waiver of jurisdiction and transfer to other courts	78
IDAHO CODE ANN. § 20-509 (2014). Violent offenses, controlled substances violations near schools and offenders	81
ILLINOIS	83
705 ILL. COMP. STAT. ANN 405/5-125 (2014). Concurrent jurisdiction.....	83
705 ILL. COMP. STAT. ANN 405/5-130 (2014). Excluded jurisdiction.....	83
705 ILL. COMP. STAT. ANN 405/5-805 (2014). Transfer of jurisdiction	89
INDIANA.....	94
IND. CODE ANN. § 14-15-10-3 (2014). Juveniles tried as adults	94
IND. CODE ANN. § 31-30-1-4 (2014). Juvenile court lacks jurisdiction over individuals at least 16 years old committing certain felonies; retention of jurisdiction by court having adult criminal jurisdiction.....	94
IND. CODE ANN. § 31-30-3-2 (2014). Heinous or aggravated act, or act as part of repetitive pattern of delinquent acts	95
IND. CODE ANN. § 31-30-3-3 (2014). Act that would be felony relating to controlled substances	95
IND. CODE ANN. § 31-30-3-4 (2014). Act that would be murder	95
IND. CODE ANN. § 31-30-3-5 (2014). Acts that would be felonies, involuntary manslaughter, or reckless homicide	96
IND. CODE ANN. § 31-30-3-6 (2014). Act that would be felony and prior felony or nontraffic misdemeanor conviction.....	96
IND. CODE ANN. § 31-30-3-10 (2014). Waiver order; findings.....	96
IOWA.....	97
IOWA CODE § 232.8 (2014). Jurisdiction	97
IOWA CODE § 232.45 (2014). Waiver hearing and waiver of jurisdiction.....	98
KANSAS.....	102
KAN. STAT. ANN. § 38-2302 (2014). Definitions	102
KAN. STAT. ANN. § 38-2347 (2014). Prosecution as an adult; extended jurisdiction juvenile prosecution; burden of proof; authorization	105
KENTUCKY	108
KY. REV. STAT. ANN. § 610.010 (2014). District Court jurisdiction of juvenile matters	109
KY. REV. STAT. ANN. § 610.010 (2014). District Court jurisdiction of juvenile matters	111
KY. REV. STAT. ANN. § 635.020 (2014). Criteria for determining how child is to be tried	113
KY. REV. STAT. ANN. § 640.010 (2014). Preliminary hearing; proof required to try child as youthful offender in Circuit Court	115
LOUISIANA	116
LA. CHILD. CODE. art. 305 (2014). Divestiture of juvenile court jurisdiction; original criminal court jurisdiction over children; when acquired.....	116
LA. CHILD. CODE. art. 804 (2014). Definitions	118
LA. CHILD. CODE. art. 857 (2014). Transfers for criminal prosecution; authority	119

LA. CHILD. CODE. art. 858 (2014). Motion for transfer; notice	120
LA. CHILD. CODE. art. 862 (2014). Transfer hearing; required findings	121
MAINE.....	121
ME. REV. STAT. ANN. tit. 15, § 3101 (2014). Jurisdiction	121
MARYLAND.....	124
MD. CODE ANN., CTS. & JUD. PROC. § 3-8A-03 (2014). Jurisdiction of court	124
MD. CODE ANN., CTS. & JUD. PROC. § 3-8A-06 (2014). Waiver of exclusive jurisdiction by the court.....	127
MASSACHUSETTS	128
MASS. ANN. LAWS ch. 119, § 74 (2014). Limitations on criminal proceedings against children	128
MICHIGAN.....	129
MICH. COMP. LAWS ANN. § 600.606 (2014). Circuit courts, jurisdiction to hear specified juvenile violations; specified juvenile violation, defined	129
MICH. COMP. LAWS ANN. § 712A.2 (2014). Family division of circuit court; authority and jurisdiction	130
MICH. COMP. LAWS ANN. § 712A.2 (2014). Authority and jurisdiction; family division of circuit court	135
MICH. COMP. LAWS ANN. § 712A.2d (2014). Petitions to try juvenile as adult; best interests of the juvenile and public, factors; trial; probable cause hearing; procedural protections and guarantees; disposition upon conviction; violations	140
MICH. COMP. LAWS ANN. § 712A.4 (2014). Waiver of jurisdiction	142
MINNESOTA	144
MINN. STAT. § 260B.007 (2014). Definitions	145
MINN. STAT. § 260B.125 (2014). Certification	148
MINN. STAT. § 260B.130 (2014). Extended jurisdiction juvenile prosecutions	151
MINN. STAT. § 260B.225 (2014). Juvenile traffic offender; procedures; dispositions	153
MISSISSIPPI.....	156
MISS. CODE ANN. § 43-21-151 (2014). Exclusive original jurisdiction; exceptions; children under 13.....	157
MISS. CODE ANN. § 43-21-157 (2014). Transfer to other courts; prospects of rehabilitation	158
MISS. CODE ANN. § 43-21-159 (2014). Transfer of cases.....	160
MISSOURI.....	162
MO. REV. STAT. § 211.021 (2014). Definitions	162
MO. REV. STAT. § 211.071 (2014). Certification of juvenile for trial as adult--procedure--mandatory hearing, certain offenses--misrepresentation of age, effect.....	163
MONTANA.....	166
MONT. CODE ANN. § 41-5-203 (2013). Jurisdiction of court	166
MONT. CODE ANN. § 41-5-206 (2013). Filing in district court prior to formal proceedings in youth court	167
NEBRASKA	169
NEB. REV. STAT. ANN. § 43-247 (2014). Juvenile court; jurisdiction	169
NEB. REV. STAT. ANN. § 43-247 (2014). Juvenile court; jurisdiction	171
NEB. REV. STAT. ANN. § 43-276 (2014). County attorney; criminal charge, juvenile court petition, pretrial diversion, or mediation; determination; considerations.....	172
NEB. REV. STAT. ANN. § 43-276 (2014). County attorney; criminal charge, juvenile court petition, pretrial diversion, or mediation; determination; considerations.....	173
NEVADA	173
NEV. REV. STAT. ANN. § 62B.390 (2014). Certification of child for criminal proceedings as adult.....	173
NEV. REV. STAT. ANN. § 62B.400 (2014). Child who escapes or attempts escape from facility for detention of juveniles deemed escaped prisoner; when court may certify such child for criminal proceedings; when deemed delinquent act	175
NEW HAMPSHIRE	175
N.H. REV. STAT. ANN. § 169-B:2 (2014). Definitions.....	175
N.H. REV. STAT. ANN. § 169-B:4 (2011). Jurisdiction Over Certain Persons.....	178
N.H. REV. STAT. ANN. § 169-B:24 (2014). Transfer to Superior Court.....	181
N.H. REV. STAT. ANN. § 169-B:25 (2014). Petition by County Attorney or Attorney General.....	182
N.H. REV. STAT. ANN. § 169-B:25 (2014). Petition by County Attorney or Attorney General.....	183
N.H. REV. STAT. ANN. § 169-B:26 (2014). Petition by Minor.....	183

N.H. REV. STAT. ANN. § 169-B:26 (2014). Petition by Minor	183
NEW JERSEY	184
N.J. STAT. ANN. § 2A:4A-26 (2014). Referral to another court without juvenile's consent	184
N.J. STAT. ANN. § 2A:4A-27 (2014). Referral to other court at election of juvenile	186
NEW MEXICO	186
N.M. STAT. ANN. § 32A-2-3 (2014). Definitions	186
NEW YORK	189
N.Y. CRIM. PROC. LAW § 1.20 (2014). Definitions of terms of general use in this chapter	189
N.Y. FAM. CT. ACT. § 301.2 (2014). Definitions	197
NORTH CAROLINA	200
N.C. GEN. STAT. § 7B-1604 (2014). Limitations on juvenile court jurisdiction	200
N.C. GEN. STAT. § 7B-2200 (2014). Transfer of jurisdiction of juvenile to superior court	200
N.C. GEN. STAT. § 7B-2202 (2014). Probable cause hearing	200
N.C. GEN. STAT. § 7B-2203 (2014). Transfer hearing	201
NORTH DAKOTA	202
N.D. CENT. CODE § 27-20-34 (2013). Transfer to other courts	202
OHIO	205
OHIO REV. CODE ANN. § 2152.02 (2014). Definitions	205
OHIO REV. CODE ANN. § 2152.10 (2014). Mandatory transfer; discretionary transfer	209
OHIO REV. CODE ANN. § 2152.12 (2014). Transfer of cases from juvenile court	210
OKLAHOMA	214
OKLA. STAT. ANN. tit. 10A § 2-2-403 (2014). Preliminary hearing	214
OKLA. STAT. ANN. tit. 10A § 2-5-101 (2014). Juveniles of certain ages to be considered adults for certain offenses committed--Detention--Warrants--Certification as child	216
OKLA. STAT. ANN. tit. 10A § 2-5-205 (2014). Certification as youthful offender or juvenile	218
OREGON	221
OR. REV. STAT. § 419C.349 (2014). Grounds for waiver to circuit, justice, or municipal court	221
OR. REV. STAT. § 419C.352 (2014). Grounds for waiver of youth under 15 years for prosecution as adult	222
OR. REV. STAT. § 419C.355 (2014). Findings of fact	223
OR. REV. STAT. § 419C.370 (2014). Waiver of motor vehicle, boating, game, violation and property offense cases; recall for failure to appear; records	223
PENNSYLVANIA	224
42 PA. CONS. STAT. ANN. § 6302 (2014). Definitions	224
42 PA. CONS. STAT. ANN. § 6302 (2014). Definitions	229
42 PA. CONS. STAT. ANN. § 6355 (2014). Transfer to criminal proceedings	234
RHODE ISLAND	236
R.I. GEN. LAWS § 14-1-7 (2014). Waiver of jurisdiction or certification hearing	236
R.I. GEN. LAWS § 14-1-7.1 (2014). Waiver of jurisdiction--Proof	237
R.I. GEN. LAWS § 14-1-7.2 (2014). Certification--Proof	237
R.I. GEN. LAWS § 14-1-7.4 (2014). Waiver or certification of juvenile drug offenders	238
SOUTH CAROLINA	238
S.C. CODE ANN. § 63-19-20 (2014). Definitions.	238
S.C. CODE ANN. § 63-19-1210 (2014). Transfer of jurisdiction	239
SOUTH DAKOTA	241
S.D. CODIFIED LAWS § 26-11-3.1 (2014). Request for transfer hearing by delinquent child charged with felony	241
S.D. CODIFIED LAWS § 26-11-4 (2014). Criminal proceedings against child charged with a felony permitted by circuit court--Transfer hearing--Factors considered--Order holding child--Retention of jurisdiction by court	241
TENNESSEE	243
TENN. CODE ANN. § 37-1-134 (2014). Transfers to criminal courts	243
TEXAS	246
TEX. FAM. CODE ANN. § 51.02 (2013). Definitions	246
TEX. FAM. CODE ANN. § 54.02 (2013). Waiver of Jurisdiction and Discretionary Transfer to Criminal Court	249

UTAH.....	253
UTAH CODE ANN. § 78A-6-701 (2014). Jurisdiction of district court	253
UTAH CODE ANN. § 78A-6-702 (2014). Serious youth offender--Procedure	255
UTAH CODE ANN. § 78A-6-703 (2014). Certification hearings--Juvenile court to hold preliminary hearing--Factors considered by juvenile court for waiver of jurisdiction to district court.....	259
VERMONT	263
VT. STAT. ANN. tit. 33, § 5102 (2014). Definitions and provisions of general application	263
VT. STAT. ANN. tit. 33, § 5201 (2014). Commencement of delinquency proceedings	267
VT. STAT. ANN. tit. 33, § 5204 (2014). Transfer from juvenile court	268
VIRGINIA.....	270
VA. CODE ANN. § 16.1-269.1 (2014). Trial in circuit court; preliminary hearing; direct indictment; remand	270
VA. CODE ANN. § 16.1-270 (2014). Waiver of jurisdiction of juvenile court in certain cases	273
WASHINGTON	273
WASH. REV. CODE ANN. § 13.40.110 (2014). Hearing on question of declining jurisdiction--Held, when--Findings	273
WEST VIRGINIA.....	274
W. VA. CODE ANN. § 49-5-10 (2014). Waiver and transfer of jurisdiction.....	274
WISCONSIN	277
WIS. STAT. ANN. § 938.02 (2014). Definitions	277
WIS. STAT. ANN. § 938.18 (2014). Jurisdiction for criminal proceedings for juveniles 14 or older; waiver hearing	282
WIS. STAT. ANN. § 938.183 (2014). Original adult court jurisdiction for criminal proceedings	284
WYOMING.....	287
WYO. STAT. ANN. § 14-6-237 (2014). Transfer hearing; transfer of proceedings commenced in district court or in municipal or circuit court	287
FEDERAL LEGISLATION	288
18 U.S.C.S. § 5032 (2014). Delinquency proceedings in district courts; transfer for criminal prosecution	288
AMERICAN SAMOA	291
AM. SAMOA CODE ANN. § 45.0115 (2014). Original jurisdiction.	291
AM. SAMOA CODE ANN. § 45.0333 (2014). Adjudicatory hearing-Allegation of delinquent child.	292
AM. SAMOA CODE ANN. § 45.0340 (2014). Certification of child for criminal proceedings as an adult.	292
GUAM.....	292
GUAM CODE ANN. tit. 19 § 5106 (2010). Certification for Criminal Proceedings	292
PUERTO RICO	293
P.R. LAWS ANN. tit. 34, § 2203 (2011). Definitions	293
P.R. LAWS ANN. tit. 34, § 2204 (2011). Jurisdiction of the court	295
P.R. LAWS ANN. tit. 34, § 2215 (2011). Waiver of jurisdiction	296
P.R. LAWS ANN. tit. 34, § 2216 (2011). Waiver of jurisdiction – In absentia.....	297
P.R. LAWS ANN. tit. 34, § 2217 (2011). Transfer of case to adults' court	297
U.S. VIRGIN ISLANDS	298
V.I. CODE ANN. tit. 5, § 2508 (2014). Transfer from the Family Division	298
V.I. CODE ANN. tit. 5, § 2509 (2014). Procedure for transfer	300

ALABAMA

ALA. CODE § 12-15-203 (2014). Transfer of cases from juvenile court.

(a) A prosecutor, before a hearing on a delinquency petition on its merits and after notifying, verbally or in writing, the juvenile probation officer, may file a motion requesting the juvenile court judge to transfer a child for criminal prosecution to the circuit or district court, if the child was 14 or more years of age at the time of the conduct charged and is alleged to have committed an act which would constitute a criminal offense as defined by this code if committed by an adult.

(b) The juvenile court judge shall conduct a hearing on all motions for the purpose of determining whether it is in the best interests of the child or the public to grant the motion. Only if there are no reasonable grounds to believe the child is committable to an institution, department, or agency for individuals with an intellectual disability or mental illness, may the juvenile court judge order the case transferred for criminal prosecution.

(c) When there are grounds to believe that the child is committable to an institution, department, or agency for individuals with an intellectual disability or mental illness, the juvenile court judge shall order an examination pursuant to Section 12-15-130.

(d) Evidence of the following and other relevant factors shall be considered in determining whether the motion shall be granted:

- (1) The nature of the present alleged offense.
- (2) The extent and nature of the prior delinquency record of the child.
- (3) The nature of past treatment efforts and the nature of the response of the child to the efforts.
- (4) Demeanor.
- (5) The extent and nature of the physical and mental maturity of the child.
- (6) The interests of the community and of the child requiring that the child be placed under legal restraint or discipline.

(e) Prior to a hearing on the motion by the prosecutor, a written study and report to the juvenile court judge, relevant to the factors listed in subsection (d), shall be made by a juvenile probation officer.

(f) When a child is transferred for criminal prosecution, the juvenile court judge shall set forth in writing his or her reasons for granting the motion, which shall include a finding of probable cause for believing that the allegations are true and correct.

(g) The finding of probable cause by the juvenile court judge shall preclude the necessity for a preliminary hearing subsequent to the transfer of the case for criminal prosecution, and the court having jurisdiction of the offense or offenses charged may exercise any authority over the case and the child, subsequent to the transfer, which is otherwise applicable to cases involving adult offenders pursuant to provisions of laws or rules of procedure adopted by the Supreme Court of Alabama.

(h) A child who is transferred to a court for criminal prosecution shall be tried as an adult for the offense charged and all lesser included offenses of the offense charged.

(i) A conviction or adjudication as a youthful offender of a child of a criminal offense, with the exception of a nonfelony traffic offense, shall terminate the jurisdiction of the juvenile court over that child with respect to any future delinquent acts and with respect to any pending allegations of delinquency which have not been disposed of by the juvenile court at the time of the criminal conviction or adjudication as a youthful offender. Any pending or future criminal acts committed by the child shall be prosecuted as other criminal charges are prosecuted. Termination of the jurisdiction of the juvenile court over the child with respect to future criminal charges and pending allegations of delinquency, as provided herein, shall not affect the jurisdiction of the juvenile court over the child with respect to any other matter provided in this chapter, specifically including any prior allegations of delinquency which, at the time of the criminal conviction, has been disposed of by the juvenile court either through informal adjustment, consent decree, or adjudication. The juvenile court is specifically authorized, to the extent practicable, to continue exercising its jurisdiction over the child with respect to such previously disposed delinquency cases after the termination of its jurisdiction with respect to other criminal charges, including jurisdiction to enforce its order requiring the payment of fines, costs, restitution, or other money ordered by the juvenile court pursuant to Section 12-15-117.

ALA. CODE § 12-15-204 (2014). Acts for which person who has attained age 16 shall be charged, arrested, and tried as adult; removal of person from jurisdiction of juvenile court.

(a) Notwithstanding any other provision of law, any person who has attained the age of 16 years at the time of the conduct charged and who is charged with the commission of any act or conduct, which if committed by an adult would constitute any of the following, shall not be subject to the jurisdiction of juvenile court but shall be charged, arrested, and tried as an adult:

- (1) A capital offense.
- (2) A Class A felony.
- (3) A felony which has as an element thereof the use of a deadly weapon.

(4) A felony which has as an element thereof the causing of death or serious physical injury.

(5) A felony which has as an element thereof the use of a dangerous instrument against any person who is one of the following:

- a. A law enforcement officer or official.
- b. A correctional officer or official.
- c. A parole or probation officer or official.
- d. A juvenile court probation officer or official.
- e. A district attorney or other prosecuting officer or official.
- f. A judge or judicial official.
- g. A court officer or official.
- h. A person who is a grand juror, juror, or witness in any legal proceeding of whatever nature when the offense stems from, is caused by, or is related to the role of the person as a juror, grand juror, or witness.
- i. A teacher, principal, or employee of the public education system of Alabama.

(6) Trafficking in drugs in violation of Section 13A-12-231, or as the same may be amended.

(7) Any lesser included offense of the above offenses charged or any lesser felony offense charged arising from the same facts and circumstances and committed at the same time as the offenses listed above. Provided, however, that the juvenile court shall maintain original jurisdiction over these lesser included offenses if the grand jury fails to indict for any of the offenses enumerated in subsections (a)(1) to (a)(6), inclusive. The juvenile court shall also maintain original jurisdiction over these lesser included offenses, subject to double jeopardy limitations, if the court handling criminal offenses dismisses all charges for offenses enumerated in subsections (a)(1) to (a)(6), inclusive.

(b) Notwithstanding any other provision of law, any person who has been convicted or adjudicated a youthful offender in a court handling criminal offenses pursuant to the provisions of this section shall not thereafter be subject to the jurisdiction of juvenile court for any pending or subsequent offense. Provided, however, pursuant to Section 12-15-117, the juvenile court shall retain jurisdiction over an individual of any age for the enforcement of any prior orders of the juvenile court requiring the payment of fines, court costs, restitution, or other money ordered by the juvenile court until paid in full.

(c) This section shall apply to all cases in which the alleged criminal conduct occurred after April 14, 1994. All conduct occurring before April 14, 1994, shall be governed by pre-existing law.

ALASKA

ALASKA STAT. § 47.12.100 (2014). Waiver of jurisdiction

(a) If the court finds at a hearing on a petition that there is probable cause for believing that a minor is delinquent and finds that the minor is not amenable to treatment under this chapter, it shall order the case closed. After a case is closed under this subsection, the minor may be prosecuted as an adult.

(b) A minor is unamenable to treatment under this chapter if the minor probably cannot be rehabilitated by treatment under this chapter before reaching 20 years of age. In determining whether a minor is unamenable to treatment, the court may consider the seriousness of the offense the minor is alleged to have committed, the minor's history of delinquency, the probable cause of the minor's delinquent behavior, and the facilities available to the department for treating the minor.

(c) For purposes of making a determination under this section,

(1) the standard of proof is by a preponderance of the evidence; and

(2) the burden of proof that a minor is not amenable to treatment under this chapter is on the state; however, if the petition filed under AS 47.12.040 seeking to have the court declare a minor a delinquent is based on the minor's alleged commission of an offense that is an unclassified felony or class A felony and that is a crime against a person, the minor

(A) is rebuttably presumed not to be amenable to treatment under this chapter; and

(B) has the burden of proof of showing that the minor is amenable to treatment under this chapter.

ARIZONA

ARIZ. REV. STAT. § 8-302 (2014). Transfer between juvenile and criminal courts

A. If during the pendency of a criminal charge in any court of this state the court determines that the defendant is a juvenile who is not subject to prosecution as an adult pursuant to § 13-501, the court shall transfer the case to the juvenile court, together with all of the original accusatory pleadings and other papers, documents and transcripts of any testimony relating to the case. On transfer, the court shall order that the defendant be

taken to a place of detention designated by the juvenile court or to that court itself or shall release the juvenile to the custody of the juvenile's parent or guardian or any other person legally responsible for the juvenile. If the juvenile is released to the juvenile's parent or guardian or any other person legally responsible for the juvenile, the court shall require that the parent, guardian or other person bring the juvenile to appear before the juvenile court at a designated time. The juvenile court shall then proceed with all further proceedings as if a petition alleging delinquency had been filed with the juvenile court under § 8-301 on the effective date of the transfer. This subsection does not apply to a juvenile who is subject to prosecution pursuant to § 13-501 but who is convicted of an offense not listed in § 13-501.

B. If during the pendency of a criminal charge in any court of this state the court determines that the defendant is a juvenile who is subject to prosecution as an adult pursuant to § 13-501, subsection B, on motion of the prosecutor the court shall transfer the case to the juvenile court, together with all of the original accusatory pleadings and other papers, documents and transcripts of any testimony relating to the case. On transfer, the court shall order that the juvenile be taken to a place of detention designated by the juvenile court or to that court itself or shall release the juvenile to the custody of the juvenile's parent or guardian or any other person legally responsible for the juvenile. If the juvenile is released to the juvenile's parent or guardian or any other person legally responsible for the juvenile, the court shall require that the parent, guardian or other person bring the juvenile to appear before the juvenile court at a designated time. The juvenile court shall then proceed with all further proceedings as if a petition alleging delinquency had been filed with the juvenile court under § 8-301 on the effective date of the transfer.

C. During the pendency of a delinquency action in any court of this state, on the motion of the prosecution and before the adjudication hearing, the court shall dismiss without prejudice any count in the petition charging an offense for which the juvenile is subject to prosecution as an adult pursuant to § 13-501 to allow criminal charges to be filed.

D. If a juvenile reaches eighteen years of age during the pendency of a delinquency action or before completion of the sentence in any court in this state for an act that if committed by an adult would be a misdemeanor or petty offense or a civil traffic violation, the court shall transfer the case to the appropriate criminal court, together with all of the original accusatory pleadings and other papers, documents and transcripts of any testimony relating to the case and any sentencing order. The appropriate criminal court shall then proceed with all further proceedings as if a uniform Arizona traffic ticket and complaint form or a complaint alleging a misdemeanor or petty offense or a civil traffic violation had been filed with the appropriate criminal court pursuant to § 13-3903 or the Arizona rules of criminal procedure, the rules of procedure in traffic cases or the rules of procedure in civil traffic violation cases.

Ariz. Rev. Stat. § 8-327 (2014). Transfer hearing

A. The state may request an order of the juvenile court transferring jurisdiction of the criminal prosecution of any felony filed in the juvenile court to the criminal division of

the superior court.

B. On request of the state that a juvenile be transferred, the court shall hold a transfer hearing before the adjudication hearing.

C. If the judge finds by a preponderance of the evidence that probable cause exists to believe that the offense was committed, that the juvenile committed the offense and that the public safety would best be served by the transfer of the juvenile for criminal prosecution, the judge shall order that the juvenile be transferred for criminal prosecution to the appropriate court having jurisdiction of the offense. The judge shall state on the record the reasons for transferring or not transferring the juvenile for criminal prosecution.

D. The court shall consider the following factors in determining if the public safety would be served by the transfer of a juvenile for criminal prosecution:

1. The seriousness of the offense involved.
2. The record and previous history of the juvenile, including previous contacts with the courts and law enforcement, previous periods of any court ordered probation and the results of that probation.
3. Any previous commitments of the juvenile to juvenile residential placements and secure institutions.
4. If the juvenile was previously committed to the department of juvenile corrections for a felony offense.
5. If the juvenile committed another felony offense while the juvenile was a ward of the department of juvenile corrections.
6. If the juvenile committed the alleged offense while participating in, assisting, promoting or furthering the interests of a criminal street gang, a criminal syndicate or a racketeering enterprise.
7. The views of the victim of the offense.
8. If the degree of the juvenile's participation in the offense was relatively minor but not so minor as to constitute a defense to prosecution.
9. The juvenile's mental and emotional condition.
10. The likelihood of the juvenile's reasonable rehabilitation through the use of services and facilities that are currently available to the juvenile court.

E. At the conclusion of the transfer hearing, the court shall make a written determination whether the juvenile should be transferred to the criminal division of the superior court for criminal prosecution. The court shall not defer the decision as to the transfer. If the court determines that the juvenile should not be transferred to the criminal division of the superior court, the court shall set an adjudication hearing.

ARIZ. REV. STAT. § 13-501 (2014). Persons under eighteen years of age; felony charging; definitions

A. The county attorney shall bring a criminal prosecution against a juvenile in the same manner as an adult if the juvenile is fifteen, sixteen or seventeen years of age at the time the alleged offense is committed and the juvenile is accused of any of the following offenses:

1. First degree murder in violation of § 13-1105.
2. Second degree murder in violation of § 13-1104.
3. Forcible sexual assault in violation of § 13-1406.
4. Armed robbery in violation of § 13-1904.
5. Any other violent felony offense.
6. Any felony offense committed by a chronic felony offender.
7. Any offense that is properly joined to an offense listed in this subsection.

B. Except as provided in subsection A of this section, the county attorney may bring a criminal prosecution against a juvenile in the same manner as an adult if the juvenile is at least fourteen years of age at the time the alleged offense is committed and the juvenile is accused of any of the following offenses:

1. A class 1 felony.
2. A class 2 felony.
3. A class 3 felony in violation of any offense in chapters 10 through 17 or chapter 19 or 23 of this title.
4. A class 3, 4, 5 or 6 felony involving a dangerous offense.
5. Any felony offense committed by a chronic felony offender.
6. Any offense that is properly joined to an offense listed in this subsection.

C. A criminal prosecution shall be brought against a juvenile in the same manner as an adult if the juvenile has been accused of a criminal offense and has a historical prior felony conviction.

D. At the time the county attorney files a complaint or indictment the county attorney shall file a notice stating that the juvenile is a chronic felony offender. Subject to subsection E of this section, the notice shall establish and confer jurisdiction over the juvenile as a chronic felony offender.

E. On motion of the juvenile the court shall hold a hearing after arraignment and before trial to determine if a juvenile is a chronic felony offender. At the hearing the state shall prove by a preponderance of the evidence that the juvenile is a chronic felony offender. If the court does not find that the juvenile is a chronic felony offender, the court shall transfer the juvenile to the juvenile court pursuant to § 8-302. If the court finds that the juvenile is a chronic felony offender or if the juvenile does not file a motion to determine if the juvenile is a chronic felony offender, the criminal prosecution shall continue.

F. Except as provided in § 13-921, a person who is charged pursuant to this section shall be sentenced in the criminal court in the same manner as an adult for any offense for which the person is convicted.

G. Unless otherwise provided by law, nothing in this section shall be construed as to confer jurisdiction in the juvenile court over any person who is eighteen years of age or older.

H. For the purposes of this section:

1. "Accused" means a juvenile against whom a complaint, information or indictment is filed.
2. "Chronic felony offender" means a juvenile who has had two prior and separate adjudications and dispositions for conduct that would constitute a historical prior felony conviction if the juvenile had been tried as an adult.
3. "Forcible sexual assault" means sexual assault pursuant to § 13-1406 that is committed without consent as defined in § 13-1401, paragraph 5, subdivision (a).
4. "Other violent felony offense" means:
 - (a) Aggravated assault pursuant to § 13-1204, subsection A, paragraph 1.
 - (b) Aggravated assault pursuant to § 13-1204, subsection A, paragraph 2 involving the use of a deadly weapon.
 - (c) Drive by shooting pursuant to § 13-1209.

(d) Discharging a firearm at a structure pursuant to § 13-1211.

ARKANSAS

ARK. CODE ANN. § 9-27-318 (2014). Filing and transfer to the criminal division of circuit court

Subsection (l) has been held invalid by the Supreme Court of Arkansas in *State v. A.G.*, 383 S.W.3d 317 (Ark. 2011).

(a) The state may proceed with a case as a delinquency only when the case involves a juvenile:

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

(2) Less than eighteen (18) years of age when he or she engages in conduct that if committed by an adult would be any misdemeanor.

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

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

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

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

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

(D) Aggravated assault, § 5-13-204;

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

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

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

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

(I) First degree escape, § 5-54-110;

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

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

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

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

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

(c) A prosecuting attorney may charge a juvenile in either the juvenile or criminal division of circuit court when a case involves a juvenile:

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

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

- (A) Capital murder, § 5-10-101;
- (B) Murder in the first degree, § 5-10-102;
- (C) Kidnapping, § 5-11-102;
- (D) Aggravated robbery, § 5-12-103;

(E) Rape, § 5-14-103;

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

(G) Terroristic act, § 5-13-310.

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

(e) Upon the motion of the court or of any party, the judge of the division of circuit court in which a delinquency petition or criminal charges have been filed shall conduct a transfer hearing to determine whether to transfer the case to another division of circuit court.

(f) The court shall conduct a transfer hearing within thirty (30) days if the juvenile is detained and no longer than ninety (90) days from the date of the motion to transfer the case.

(g) In the transfer hearing, the court shall consider all of the following factors:

(1) The seriousness of the alleged offense and whether the protection of society requires prosecution in the criminal division of circuit court;

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

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

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

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

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

(7) Whether there are facilities or programs available to the judge of the juvenile division of circuit court that are likely to rehabilitate the juvenile before the expiration

of the juvenile's twenty-first birthday;

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

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

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

(h)(1) The court shall make written findings on all of the factors set forth in subsection (g) of this section.

(2) Upon a finding by clear and convincing evidence that a case should be transferred to another division of circuit court, the judge shall enter an order to that effect.

(i) Upon a finding by the criminal division of circuit court that a juvenile fourteen (14) through seventeen (17) years of age and charged with the crimes in subdivision (c)(2) of this section should be transferred to the juvenile division of circuit court, the criminal division of circuit court may enter an order to transfer as an extended juvenile jurisdiction case.

(j) If a juvenile fourteen (14) or fifteen (15) years of age is found guilty in the criminal division of circuit court for an offense other than an offense listed in subsection (b) or subdivision (c)(2) of this section, the judge shall enter a juvenile delinquency disposition under § 9-27-330.

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

(l) Any party may appeal from a transfer order.

(m) The circuit court may conduct a transfer hearing and an extended juvenile jurisdiction hearing under § 9-27-503 at the same time.

ARK. CODE ANN. § 9-27-501 (2014). Extended juvenile jurisdiction designation

(a) The state may request an extended juvenile jurisdiction designation in a delinquency petition or file a separate motion if the:

(1) Juvenile, under thirteen (13) years of age at the time of the alleged offense, is charged with capital murder, § 5-10-101, or murder in the first degree, § 5-10-102, and the state has overcome presumptions of lack of fitness to proceed and lack of capacity as set forth in § 9-27-502;

(2)(A) Juvenile, thirteen (13) years of age at the time of the alleged offense, is charged with capital murder, § 5-10-101, or murder in the first degree, § 5-10-102.

(B) However, juveniles thirteen (13) years of age at the time of the alleged offense shall have an evaluation to [FN1] § 9-27-502, and the burden will be upon the juvenile to establish lack of fitness to proceed and lack of capacity;

(3) Juvenile, fourteen (14) or fifteen (15) years of age at the time of the alleged offense, is charged with any of the crimes listed in §§ 9-27-318(b)(1) and 9-27-318(c)(2); or

(4) Juvenile, sixteen (16) or seventeen (17) years of age at the time of the alleged offense, is charged with any of the crimes listed in §§ 9-27-318(b)(1) and 9-27-318(c)(2).

(b) The juvenile's attorney may file a motion to request extended juvenile jurisdiction if the state could have filed pursuant to subsection (a) of this section.

CALIFORNIA

CAL. WELF. & INST. CODE § 602 (2014). Minors violating laws defining crime; ward of court

(a) Except as provided in subdivision (b), any person who is under 18 years of age when he or she violates any law of this state or of the United States or any ordinance of any city or county of this state defining crime other than an ordinance establishing a curfew based solely on age, is within the jurisdiction of the juvenile court, which may adjudge such person to be a ward of the court.

(b) Any person who is alleged, when he or she was 14 years of age or older, to have committed one of the following offenses shall be prosecuted under the general law in a court of criminal jurisdiction:

(1) Murder, as described in Section 187 of the Penal Code, if one of the circumstances enumerated in subdivision (a) of Section 190.2 of the Penal Code is alleged by the prosecutor, and the prosecutor alleges that the minor personally killed the victim.

(2) The following sex offenses, if the prosecutor alleges that the minor personally committed the offense, and if the prosecutor alleges one of the circumstances enumerated in the One Strike law, subdivision (d) or (e) of Section 667.61 of the Penal Code, applies:

(A) Rape, as described in paragraph (2) of subdivision (a) of Section 261 of the Penal Code.

(B) Spousal rape, as described in paragraph (1) of subdivision (a) of Section 262 of the Penal Code.

(C) Forcible sex offenses in concert with another, as described in Section 264.1 of the Penal Code.

(D) Forcible lewd and lascivious acts on a child under 14 years of age, as described in subdivision (b) of Section 288 of the Penal Code.

(E) Forcible sexual penetration, as described in subdivision (a) of Section 289 of the Penal Code.

(F) Sodomy or oral copulation in violation of Section 286 or 288a of the Penal Code, by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(G) Lewd and lascivious acts on a child under 14 years of age, as defined in subdivision (a) of Section 288, unless the defendant qualifies for probation under subdivision (d) of Section 1203.066 of the Penal Code.

CAL. WELF. & INST. CODE § 603 (2014). Preliminary examination; trying case upon accusatory pleading

(a) No court shall have jurisdiction to conduct a preliminary examination or to try the case of any person upon an accusatory pleading charging that person with the commission of a public offense or crime when the person was under the age of 18 years at the time of the alleged commission thereof unless the matter has first been submitted to the juvenile court by petition as provided in Article 7 (commencing with Section 650), and the juvenile court has made an order directing that the person be prosecuted under the general law.

(b) This section shall not apply in any case involving a minor against whom a complaint may be filed directly in a court of criminal jurisdiction pursuant to Section 707.01.

CAL. WELF. & INST. CODE § 603.5 (2014). Vehicle Code infractions or violations of local ordinances involving motor vehicles; jurisdiction; referral to juvenile court; application of section

(a) Notwithstanding any other provision of law, in a county that adopts the provisions of this section, jurisdiction over the case of a minor alleged to have committed only a violation of the Vehicle Code classified as an infraction or a violation of a local ordinance involving the driving, parking, or operation of a motor vehicle, is with the superior court, except that the court may refer to the juvenile court for adjudication, cases involving a minor who has been adjudicated a ward of the juvenile court, or who has other matters pending in the juvenile court.

(b) The cases specified in subdivision (a) shall not be governed by the procedures set forth in the juvenile court law.

(c) Any provisions of juvenile court law requiring that confidentiality be observed as to cases and proceedings, prohibiting or restricting the disclosure of juvenile court records,

or restricting attendance by the public at juvenile court proceedings shall not apply. The procedures for bail specified in Chapter 1 (commencing with Section 1268) of Title 10 of Part 2 of the Penal Code shall apply.

(d) The provisions of this section shall apply in a county in which the trial courts make the section applicable as to any matters to be heard and the court has determined that there is available funding for any increased costs.

CAL. WELF. & INST. CODE § 604 (2014). Proceedings; suspension, resumption, new proceedings; certification to juvenile court; pleadings

(a) Whenever a case is before any court upon an accusatory pleading and it is suggested or appears to the judge before whom the person is brought that the person charged was, at the date the offense is alleged to have been committed, under the age of 18 years, the judge shall immediately suspend all proceedings against the person on the charge. The judge shall examine into the age of the person, and if, from the examination, it appears to his or her satisfaction that the person was at the date the offense is alleged to have been committed under the age of 18 years, he or she shall immediately certify all of the following to the juvenile court of the county:

- (1) That the person (naming him or her) is charged with a crime (briefly stating its nature).
- (2) That the person appears to have been under the age of 18 years at the date the offense is alleged to have been committed, giving the date of birth of the person when known.
- (3) That proceedings have been suspended against the person on the charge by reason of his or her age, with the date of the suspension.

The judge shall attach a copy of the accusatory pleading to the certification.

(b) When a court certifies a case to the juvenile court pursuant to subdivision (a), it shall be deemed that jeopardy has not attached by reason of the proceedings prior to certification, but the court may not resume proceedings in the case, nor may a new proceeding under the general law be commenced in any court with respect to the same matter unless the juvenile court has found that the minor is not a fit subject for consideration under the juvenile court law and has ordered that proceedings under the general law resume or be commenced.

(c) The certification and accusatory pleading shall be promptly transmitted to the clerk of the juvenile court. Upon receipt thereof, the clerk of the juvenile court shall immediately notify the probation officer who shall immediately proceed in accordance with Article 16 (commencing with Section 650).

(d) This section does not apply to any minor who may have a complaint filed directly against him or her in a court of criminal jurisdiction pursuant to Section 707.01.

CAL. WELF. & INST. CODE § 606 (2014). Subjecting minor to criminal prosecution

When a petition has been filed in a juvenile court, the minor who is the subject of the petition shall not thereafter be subject to criminal prosecution based on the facts giving rise to the petition unless the juvenile court finds that the minor is not a fit and proper subject to be dealt with under this chapter and orders that criminal proceedings be resumed or instituted against him, or the petition is transferred to a court of criminal jurisdiction pursuant to subdivision (b) of Section 707.01.

CAL. WELF. & INST. CODE § 607 (2014). Retention of, and discharge from, jurisdiction

(a) The court may retain jurisdiction over any person who is found to be a ward or dependent child of the juvenile court until the ward or dependent child attains 21 years of age, except as provided in subdivisions (b), (c), and (d).

(b) The court may retain jurisdiction over any person who is found to be a person described in Section 602 by reason of the commission of any of the offenses listed in subdivision (b) or paragraph (2) of subdivision (d) of Section 707, until that person attains 25 years of age if the person was committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(c) The court shall not discharge any person from its jurisdiction who has been committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities so long as the person remains under the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, including periods of extended control ordered pursuant to Section 1800.

(d) The court may retain jurisdiction over any person described in Section 602 by reason of the commission of any of the offenses listed in subdivision (b) or paragraph (2) of subdivision (d) of Section 707, who has been confined in a state hospital or other appropriate public or private mental health facility pursuant to Section 702.3 until that person attains 25 years of age, unless the court that committed the person finds, after notice and hearing, that the person's sanity has been restored.

(e) The court may retain jurisdiction over any person while that person is the subject of a warrant for arrest issued pursuant to Section 663.

(f) Notwithstanding subdivisions (b) and (d), on and after July 1, 2012, every person committed by the juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, who is found to be a person described in Section 602 by reason of the violation of any of the offenses listed in subdivision (b) or paragraph (2) of subdivision (d) of Section 707 shall be discharged upon the expiration of a two-year period of control, or when the person attains 23 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to

Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5. This section shall not apply to persons committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or persons confined in a state hospital or other appropriate public or private mental health facility, by a court prior to July 1, 2012, pursuant to subdivisions (b) and (d).

(g) The amendments to this section made by the act adding this subdivision shall apply retroactively.

CAL. WELF. & INST. CODE § 707 (2014). Fitness hearing

(a)(1) In any case in which a minor is alleged to be a person described in subdivision (a) of Section 602 by reason of the violation, when he or she was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

(A) The degree of criminal sophistication exhibited by the minor.

(B) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(C) The minor's previous delinquent history.

(D) Success of previous attempts by the juvenile court to rehabilitate the minor.

(E) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea that may have been entered already shall constitute evidence at the hearing.

(2)(A) This paragraph shall apply to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she has attained 16 years of age, of any felony offense when the minor has been declared to be a ward of the court pursuant to Section 602 on one or more prior occasions if both of the following apply:

(i) The minor has previously been found to have committed two or more felony offenses.

(ii) The offenses upon which the prior petition or petitions were based were committed when the minor had attained 14 years of age.

(B) Upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of the following criteria:

(i) The degree of criminal sophistication exhibited by the minor.

(ii) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(iii) The minor's previous delinquent history.

(iv) Success of previous attempts by the juvenile court to rehabilitate the minor.

(v) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefore recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating and mitigating circumstances in evaluating each of the above criteria. In any case in which the hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may have been entered already shall constitute evidence at the hearing. If the minor is found to be a fit and proper subject to be dealt with under the juvenile court law pursuant to this subdivision, the minor shall be committed to placement in a juvenile hall, ranch camp, forestry camp, boot camp, or secure juvenile home pursuant to Section 730, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(3) If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found

guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.

(b) Subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation of one of the following offenses:

- (1) Murder.
- (2) Arson, as provided in subdivision (a) or (b) of Section 451 of the Penal Code.
- (3) Robbery.
- (4) Rape with force, violence, or threat of great bodily harm.
- (5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.
- (6) A lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.
- (7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.
- (8) An offense specified in subdivision (a) of Section 289 of the Penal Code.
- (9) Kidnapping for ransom.
- (10) Kidnapping for purposes of robbery.
- (11) Kidnapping with bodily harm.
- (12) Attempted murder.
- (13) Assault with a firearm or destructive device.
- (14) Assault by any means of force likely to produce great bodily injury.
- (15) Discharge of a firearm into an inhabited or occupied building.
- (16) An offense described in Section 1203.09 of the Penal Code.
- (17) An offense described in Section 12022.5 or 12022.53 of the Penal Code.
- (18) A felony offense in which the minor personally used a weapon described in any provision listed in Section 16590 of the Penal Code.

(19) A felony offense described in Section 136.1 or 137 of the Penal Code.

(20) Manufacturing, compounding, or selling one-half ounce or more of a salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.

(21) A violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, which also would constitute a felony violation of subdivision (b) of Section 186.22 of the Penal Code.

(22) Escape, by the use of force or violence, from a county juvenile hall, home, ranch, camp, or forestry camp in violation of subdivision (b) of Section 871 if great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.

(23) Torture as described in Sections 206 and 206.1 of the Penal Code.

(24) Aggravated mayhem, as described in Section 205 of the Penal Code.

(25) Carjacking, as described in Section 215 of the Penal Code, while armed with a dangerous or deadly weapon.

(26) Kidnapping for purposes of sexual assault, as punishable in subdivision (b) of Section 209 of the Penal Code.

(27) Kidnapping as punishable in Section 209.5 of the Penal Code.

(28) The offense described in subdivision (c) of Section 26100 of the Penal Code.

(29) The offense described in Section 18745 of the Penal Code.

(30) Voluntary manslaughter, as described in subdivision (a) of Section 192 of the Penal Code.

(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 14 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria:

- (1) The degree of criminal sophistication exhibited by the minor.
- (2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.
- (3) The minor's previous delinquent history.
- (4) Success of previous attempts by the juvenile court to rehabilitate the minor.
- (5) The circumstances and gravity of the offenses alleged in the petition to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefore recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of the above criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may have been entered already shall constitute evidence at the hearing. If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.

(d)(1) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading in a court of criminal jurisdiction against any minor 16 years of age or older who is accused of committing an offense enumerated in subdivision (b).

(2) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading against a minor 14 years of age or older in a court of criminal jurisdiction in any case in which any one or more of the following circumstances apply:

(A) The minor is alleged to have committed an offense that if committed by an adult would be punishable by death or imprisonment in the state prison for life.

(B) The minor is alleged to have personally used a firearm during the commission or attempted commission of a felony, as described in Section 12022.5 or 12022.53 of the Penal Code.

(C) The minor is alleged to have committed an offense listed in subdivision (b) in which any one or more of the following circumstances apply:

(i) The minor has previously been found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (b).

(ii) The offense was committed for the benefit of, at the direction of, or in association with any criminal street gang, as defined in subdivision (f) of Section 186.22 of the Penal Code, with the specific intent to promote, further, or assist in criminal conduct by gang members.

(iii) The offense was committed for the purpose of intimidating or interfering with any other person's free exercise or enjoyment of a right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because the minor perceives that the other person has one or more of those characteristics, as described in Title 11.6 (commencing with Section 422.55) of Part 1 of the Penal Code.

(iv) The victim of the offense was 65 years of age or older, or blind, deaf, quadriplegic, paraplegic, developmentally disabled, or confined to a wheelchair, and that disability was known or reasonably should have been known to the minor at the time of the commission of the offense.

(3) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading in a court of criminal jurisdiction against any minor 16 years of age or older who is accused of committing one or more of the following offenses, if the minor has previously been found to be a person described in Section 602 by reason of the violation of a felony offense, when he or she was 14 years of age or older:

(A) A felony offense in which it is alleged that the victim of the offense was 65 years of age or older, or blind, deaf, quadriplegic, paraplegic, developmentally disabled, or confined to a wheelchair, and that disability was known or reasonably should have been known to the minor at the time of the commission of the offense.

(B) A felony offense committed for the purposes of intimidating or interfering with any other person's free exercise or enjoyment of a right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because the minor perceived that the other person had one or more of those characteristics, as described in Title 11.6 (commencing with Section 422.55) of Part 1 of the Penal Code.

(C) The offense was committed for the benefit of, at the direction of, or in association with any criminal street gang as prohibited by Section 186.22 of the Penal Code.

(4) In any case in which the district attorney or other appropriate prosecuting officer has filed an accusatory pleading against a minor in a court of criminal jurisdiction pursuant to this subdivision, the case shall then proceed according to the laws applicable to a criminal case. In conjunction with the preliminary hearing as provided in Section 738 of the Penal Code, the magistrate shall make a finding that reasonable cause exists to believe that the minor comes within this subdivision. If reasonable cause is not established, the criminal court shall transfer the case to the juvenile court having jurisdiction over the matter.

(5) For an offense for which the prosecutor may file the accusatory pleading in a court of criminal jurisdiction pursuant to this subdivision, but elects instead to file a petition in the juvenile court, if the minor is subsequently found to be a person described in subdivision (a) of Section 602, the minor shall be committed to placement in a juvenile hall, ranch camp, forestry camp, boot camp, or secure juvenile home pursuant to Section 730, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(6) If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.

(e) A report submitted by a probation officer pursuant to this section regarding the behavioral patterns and social history of the minor being considered for a determination of unfitness shall include any written or oral statement offered by the victim, the victim's parent or guardian if the victim is a minor, or if the victim has died, the victim's next of kin, as authorized by subdivision (b) of Section 656.2. Victims' statements shall be considered by the court to the extent they are relevant to the court's determination of unfitness.

CAL. WELF. & INST. CODE § 707.01 (2014). Minor found unfit subject for juvenile court law pursuant to § 707; previous juvenile court adjudications; transfers to court of criminal jurisdiction; appeal of finding of fitness

(a) If a minor is found an unfit subject to be dealt with under the juvenile court law pursuant to Section 707, then the following shall apply:

(1) The jurisdiction of the juvenile court with respect to any previous adjudication resulting in the minor being made a ward of the juvenile court that did not result in the minor's commitment to the Youth Authority shall not terminate, unless a hearing is held pursuant to Section 785 and the jurisdiction of the juvenile court over the minor is terminated.

(2) The jurisdiction of the juvenile court and the Youth Authority with respect to any previous adjudication resulting in the minor being made a ward of the juvenile court that resulted in the minor's commitment to the Youth Authority shall not terminate.

(3) All petitions pending against the minor shall be transferred to the court of criminal jurisdiction where one of the following applies:

(A) Jeopardy has not attached and the minor was 16 years of age or older at the time he or she is alleged to have violated the criminal statute or ordinance.

(B) Jeopardy has not attached and the minor is alleged to have violated a criminal statute for which he or she may be presumed or may be found to be not a fit and proper subject to be dealt with under the juvenile court law.

(4) All petitions pending against the minor shall be disposed of in the juvenile court pursuant to the juvenile court law, where one of the following applies:

(A) Jeopardy has attached.

(B) The minor was under 16 years of age at the time he or she is alleged to have violated a criminal statute for which he or she may not be presumed or may not be found to be not a fit and proper subject to be dealt with under the juvenile court law.

(5) If, subsequent to a finding that a minor is an unfit subject to be dealt with under the juvenile court law, the minor is convicted of the violations which were the subject of the proceeding that resulted in a finding of unfitness, a new petition or petitions alleging the violation of any law or ordinance defining crime which would otherwise cause the minor to be a person described in Section 602 committed by the minor prior to or after the finding of unfitness need not be filed in the juvenile court if one of the following applies:

(A) The minor was 16 years of age or older at the time he or she is alleged to have violated a criminal statute or ordinance.

(B) The minor is alleged to have violated a criminal statute for which he or she may be presumed or may be found to be not a fit and proper subject to be dealt with under the juvenile court law.

(6) Subsequent to a finding that a minor is an unfit subject to be dealt with under the juvenile court law, which finding was based solely on either or both the minor's previous delinquent history or a lack of success of previous attempts by the juvenile court to rehabilitate the minor, and the minor was not convicted of the offense, a new petition or petitions alleging the violation of any law or ordinance defining crime which would otherwise cause the minor to be a person described in Section 602 committed by the minor prior to or after the finding of unfitness need not be filed in the juvenile court

if one of the following applies:

(A) The minor was 16 years of age or older at the time he or she is alleged to have violated a criminal statute or ordinance.

(B) The minor is alleged to have violated a criminal statute for which he or she may be presumed or may be found to be not a fit and proper subject to be dealt with under the juvenile court law.

(7) If, subsequent to a finding that a minor is an unfit subject to be dealt with under the juvenile court law, the minor is not convicted of the violations which were the subject of the proceeding that resulted in a finding of unfitness and the finding of unfitness was not based solely on either or both the minor's previous delinquent history or a lack of success of previous attempts by the juvenile court to rehabilitate the minor, a new petition or petitions alleging the violation of any law or ordinance defining a crime which would otherwise cause the minor to be a person described in Section 602 committed by the minor prior to or after the finding of unfitness shall be first filed in the juvenile court. This paragraph does not preclude the prosecuting attorney from seeking to find the minor unfit in a subsequent petition.

(b) As to a violation referred to in paragraph (5) or (6) of subdivision (a), if a petition based on those violations has already been filed in the juvenile court, it shall be transferred to the court of criminal jurisdiction without any further proceedings.

(c) The probation officer shall not be required to investigate or submit a report regarding the fitness of a minor for any charge specified in paragraph (5) or (6) of subdivision (a) which is refiled in the juvenile court.

(d) This section shall not be construed to affect the right to appellate review of a finding of unfitness or the duration of the jurisdiction of the juvenile court as specified in Section 607.

COLORADO

COLO. REV. STAT. § 19-2-517 (2014). Direct filing

(1) A juvenile may be charged by the direct filing of an information in the district court or by indictment only if:

(a) The juvenile is sixteen years of age or older at the time of the commission of the alleged offense and:

(I) Is alleged to have committed a class 1 or class 2 felony; or

(II) Is alleged to have committed a sexual assault that is a crime of violence pursuant to section 18-1.3-406, C.R.S., or a sexual assault under the circumstances described in section 18-3-402(5)(a), C.R.S.; or

(III)(A) Is alleged to have committed a felony enumerated as a crime of violence pursuant to section 18-1.3-406, C.R.S., other than a sexual assault as described in subparagraph (II) of this paragraph (a), or is alleged to have committed sexual assault pursuant to section 18-3-402, C.R.S., sexual assault on a child pursuant to section 18-3-405, C.R.S., or sexual assault on a child by one in a position of trust pursuant to section 18-3-405.3, C.R. S.; and

(B) Is found to have a prior adjudicated felony offense; or

(IV) Has previously been subject to proceedings in district court as a result of a direct filing pursuant to this section or a transfer pursuant to section 19-2-518; except that:

(A) If the juvenile is found not guilty in district court of the prior felony or any lesser included offense, the subsequent charge shall be remanded to the juvenile court; and

(B) If the juvenile is convicted in district court in the prior case of a lesser included or nonenumerated offense for which criminal charges could not have been originally filed by information or indictment in the district court pursuant to this section, the subsequent charge may be remanded to the juvenile court.

(V) to (VII) Deleted by Laws 2012, Ch. 128, § 1, eff. April 20, 2012.

(b) to (c) Deleted by Laws 2012, Ch. 128, § 1, eff. April 20, 2012.

(1.5) If, after a preliminary hearing, the district court does not find probable cause for an offense that may be charged by direct filing, or if the direct file eligible offense is dismissed at a later date, the court shall remand the case to the juvenile court.

(2) Notwithstanding the provisions of section 19-2-518, after filing charges in the juvenile court but before the juvenile court conducts a transfer hearing, the district attorney may file the same or different charges against the juvenile by direct filing of an information in the district court or by indictment pursuant to this section. Upon the filing or indictment in the district court, the juvenile court shall no longer have jurisdiction over proceedings concerning the charges.

(3)(a) After a juvenile case has been charged by direct filing of information or by an indictment in district court, the juvenile may file in district court a motion to transfer the case to juvenile court. The juvenile must file the motion no later than the time to request a preliminary hearing. Upon receipt of the motion, the court shall set the reverse-transfer hearing with the preliminary hearing. The court shall permit the district attorney to file a response to the juvenile's motion to transfer the case to juvenile court. The district

attorney shall file the response no later than fourteen days before the reverse-transfer hearing.

(b) In determining whether the juvenile and the community would be better served by adjudicative proceedings pursuant to this article or by proceedings under title 16, C.R.S., the court shall consider the following factors:

(I) The seriousness of the alleged offense and whether the protection of the community requires response or consequence beyond that afforded by this article;

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

(III) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;

(IV) The age of the juvenile and the maturity of the juvenile as determined by considerations of the juvenile's home, environment, emotional attitude, and pattern of living;

(V) The record and previous history of the juvenile in prior court-related matters;

(VI) The current and past mental health status of the juvenile as evidenced by relevant mental health or psychological assessments or screenings that are made available to both the district attorney and defense counsel;

(VII) The likelihood of the juvenile's rehabilitation by use of the sentencing options available in the juvenile courts and district courts;

(VIII) The interest of the community in the imposition of a punishment commensurate with the gravity of the offense;

(IX) The impact of the offense on the victim;

(X) Whether the juvenile was previously committed to the department of human services following an adjudication for a delinquent act that constitutes a felony; and

(XI) Whether the juvenile used, or possessed and threatened the use of, a deadly weapon in the commission of the delinquent act.

(c) If the district court determines pursuant to paragraph (b) of this subsection (3) that the juvenile and the community would be better served by adjudicative proceedings pursuant to this article, the court shall enter an order directing that the offenses against the juvenile be adjudicated in juvenile court pursuant to the provisions of this article.

(4) to (5) Deleted by Laws 2012, Ch. 128, § 1, eff. April 20, 2012.

(6)(a) If a juvenile is convicted following the filing of criminal charges by information or indictment in the district court pursuant to this section, the district judge shall sentence the juvenile either:

(I) As an adult; except that a juvenile is excluded from the mandatory minimum sentencing provisions in section 18-1.3-406, C.R.S., unless the juvenile is convicted of a class 1 felony or a sex offense that is subject to part 9 of article 1.3 of title 18, C.R.S.; or

(II) To the youthful offender system in the department of corrections in accordance with section 18-1.3-407, C.R.S.; except that a juvenile shall be ineligible for sentencing to the youthful offender system if the juvenile is convicted of:

(A) A class 1 felony;

(B) Any sexual offense described in section 18-6-301 or 18-6-302, C.R.S., or part 4 of article 3 of title 18, C.R.S.; or

(C) A second or subsequent offense, if the juvenile received a sentence to the department of corrections or to the youthful offender system for the prior offense.

(III) Deleted by Laws 2012, Ch. 128, § 1, eff. April 20, 2012.

(b) The district court judge may sentence a juvenile pursuant to the provisions of this article if the juvenile is convicted of a lesser included or nonenumerated felony offense for which criminal charges could not have been originally filed by information or indictment in the district court pursuant to this section. If the juvenile is convicted of only a misdemeanor offense or misdemeanor offenses, the court shall adjudicate the juvenile a delinquent and sentence the juvenile pursuant to this article.

(c) If a juvenile is convicted of an offense that is not eligible for district court jurisdiction under either this section or section 19-2-518, the juvenile shall be remanded to juvenile court.

(7) In the case of a person who is sentenced as a juvenile pursuant to subsection (6) of this section, the following provisions shall apply:

(a) Section 19-2-908(1)(a), regarding mandatory sentence offenders;

(b) Section 19-2-908(1)(b), regarding repeat juvenile offenders;

(c) Section 19-2-908(1)(c), regarding violent juvenile offenders; and

(d) Section 19-2-601, regarding aggravated juvenile offenders.

(8) The court in its discretion may appoint a guardian ad litem for a juvenile charged by the direct filing of an information in the district court or by indictment pursuant to this section.

(9) When a juvenile is sentenced pursuant to the provisions of this article, the juvenile's conviction shall be adjudicated as a juvenile delinquency adjudication.

(10) For purposes of this section, "violent juvenile offender" has the same meaning as defined in section 19-2-516(3).

COLO. REV. STAT. § 19-2-518 (2014). Transfers

(1)(a) The juvenile court may enter an order certifying a juvenile to be held for criminal proceedings in the district court if:

(I) A petition filed in juvenile court alleges the juvenile is:

(A) Twelve or thirteen years of age at the time of the commission of the alleged offense and is a juvenile delinquent by virtue of having committed a delinquent act that constitutes a class 1 or class 2 felony or a crime of violence, as defined in section 18-1.3-406, C.R.S.; or

(B) Fourteen years of age or older at the time of the commission of the alleged offense and is a juvenile delinquent by virtue of having committed a delinquent act that constitutes a felony; and

(II) After investigation and a hearing, the juvenile court finds it would be contrary to the best interests of the juvenile or of the public to retain jurisdiction.

(b) A petition may be transferred from the juvenile court to the district court only after a hearing as provided in this section.

(c) If the crime alleged to have been committed is a felony defined by section 18-8-208, C.R.S., and no other crime is alleged to have been committed and the juvenile has been adjudicated a juvenile delinquent for a delinquent act which constitutes a class 4 or 5 felony, then the charge for the crime may not be filed directly in the district court, but the juvenile court may transfer such charge to the district court pursuant to paragraph (a) of this subsection (1).

(d)(I) Except as otherwise provided in subparagraph (II) of this paragraph (d), in cases in which criminal charges are transferred to the district court pursuant to the provisions of this section, the judge of the district court shall sentence the juvenile pursuant to the provisions of section 18-1.3-401, C.R.S., if the juvenile is:

(A) Convicted of a class 1 felony;

(B) Convicted of a crime of violence, as defined in section 18-1.3-406, C.R.S.; or

(C) Convicted of any other criminal charge specified in paragraph (a) of this subsection (1) and the juvenile was previously adjudicated a mandatory sentence offender, a violent juvenile offender, or an aggravated juvenile offender.

(II) In cases in which criminal charges are transferred to the district court pursuant to the provisions of this section, the judge of the district court may sentence to the youthful offender system created in section 18-1.3-407, C.R.S., any juvenile who would otherwise be sentenced pursuant to the provisions of subparagraph (I) of this paragraph (d); except that a juvenile shall be ineligible for sentencing to the youthful offender system if the juvenile is convicted of:

(A) A class 1 felony;

(B) Deleted by Laws 2010, Ch. 264, § 2, eff. Aug. 11, 2010.

(C) Deleted by Laws 2010, Ch. 264, § 2, eff. Aug. 11, 2010.

(D) Deleted by Laws 2010, Ch. 264, § 2, eff. Aug. 11, 2010.

(E) Any sexual offense described in section 18-6-301 or 18-6-302, C.R.S., or part 4 of article 3 of title 18, C.R.S.

(III) In cases in which criminal charges are transferred to the district court pursuant to the provisions of this section and the juvenile is not eligible for sentencing pursuant to subparagraph (I) of this paragraph (d), the judge of the district court shall have the power to make any disposition of the case that any juvenile court would have or to remand the case to the juvenile court for disposition at its discretion.

(IV) If, following transfer of criminal charges to the district court pursuant to this section, a juvenile is convicted of a lesser included offense for which criminal charges could not originally have been transferred to the district court, the court shall sentence the juvenile pursuant to the provisions of this article.

(d.5) Deleted by Laws 2010, Ch. 264, § 2, eff. Aug. 11, 2010.

(e) Whenever a juvenile under the age of fourteen years is sentenced pursuant to section 18-1.3-401, C.R.S., as provided in paragraph (d) of this subsection (1), the department of corrections shall contract with the department of human services to house and provide services to the juvenile in a facility operated by the department of human services until the juvenile reaches the age of fourteen years. On reaching the age of fourteen years, the juvenile shall be transferred to an appropriate facility operated by the department of corrections for the completion of the juvenile's sentence.

(2) After filing charges in the juvenile court but prior to the time that the juvenile court conducts a transfer hearing, the district attorney may file the same or different charges

against the juvenile by direct filing of an information in the district court or by indictment pursuant to section 19-2-517. Upon said filing or indictment in the district court, the juvenile court shall no longer have jurisdiction over proceedings concerning said charges.

(3) At the transfer hearing, the court shall consider:

(a) Whether there is probable cause to believe that the juvenile has committed a delinquent act for which waiver of juvenile court jurisdiction over the juvenile and transfer to the district court may be sought pursuant to subsection (1) of this section; and

(b) Whether the interests of the juvenile or of the community would be better served by the juvenile court's waiving its jurisdiction over the juvenile and transferring jurisdiction over him or her to the district court.

(4)(a) The hearing shall be conducted as provided in section 19-1-106, and the court shall make certain that the juvenile and his or her parents, guardian, or legal custodian have been fully informed of their right to be represented by counsel.

(b) In considering whether or not to waive juvenile court jurisdiction over the juvenile, the juvenile court shall consider the following factors:

(I) The seriousness of the offense and whether the protection of the community requires isolation of the juvenile beyond that afforded by juvenile facilities;

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

(III) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;

(IV) The maturity of the juvenile as determined by considerations of the juvenile's home, environment, emotional attitude, and pattern of living;

(V) The record and previous history of the juvenile;

(VI) The likelihood of rehabilitation of the juvenile by use of facilities available to the juvenile court;

(VII) The interest of the community in the imposition of a punishment commensurate with the gravity of the offense;

(VIII) The impact of the offense on the victim;

(IX) That the juvenile was twice previously adjudicated a delinquent juvenile for delinquent acts that constitute felonies;

(X) That the juvenile was previously adjudicated a juvenile delinquent for a delinquent act that constitutes a crime of violence, as defined in section 18-1.3-406, C.R.S.;

(XI) That the juvenile was previously committed to the department of human services following an adjudication for a delinquent act that constitutes a felony;

(XII) That the juvenile is sixteen years of age or older at the time of the offense and the present act constitutes a crime of violence, as defined in section 18-1.3-406, C.R.S.;

(XIII) That the juvenile is sixteen years of age or older at the time of the offense and has been twice previously adjudicated a juvenile delinquent for delinquent acts against property that constitute felonies; and

(XIV) That the juvenile used, or possessed and threatened the use of, a deadly weapon in the commission of a delinquent act.

(c) The amount of weight to be given to each of the factors listed in paragraph (b) of this subsection (4) is discretionary with the court; except that a record of two or more previously sustained petitions for delinquent acts that constitute felonies or a record of two or more juvenile probation revocations based on acts that constitute felonies shall establish prima facie evidence that to retain jurisdiction in juvenile court would be contrary to the best interests of the juvenile or of the community.

(d) The insufficiency of evidence pertaining to any one or more of the factors listed in paragraph (b) of this subsection (4) shall not in and of itself be determinative of the issue of waiver of juvenile court jurisdiction.

(5) Repealed by Laws 2012, Ch. 128, § 2, eff. April 20, 2012.

(6) Written reports and other materials relating to the juvenile's mental, physical, educational, and social history may be considered by the court, but the court, if so requested by the juvenile, his or her parent or guardian, or other interested party, shall require the person or agency preparing the report and other material to appear and be subject to both direct and cross-examination.

(7)(a) If the court finds that its jurisdiction over a juvenile should be waived, it shall enter an order to that effect; except that such order of waiver shall be null and void if the district attorney fails to file an information in the criminal division of the district court within five days of issuance of the written order of waiver, exclusive of Saturdays, Sundays, and court holidays. Upon failure of the district attorney to file an information within five days of the issuance of the written order of waiver, exclusive of Saturdays, Sundays, and court holidays, the juvenile court shall retain jurisdiction and shall proceed as provided in this article.

(b) As a condition of the waiver of jurisdiction, the court in its discretion may provide that a juvenile shall continue to be held in custody pending the filing of an information in the criminal division of the district court. Where the juvenile has made bond in proceedings in the juvenile court, the bond may be continued and made returnable in and transmitted to the district court, where it shall continue in full force and effect unless modified by order of the district court.

(8) If the court finds that it is in the best interests of the juvenile and of the public for the court to retain jurisdiction, it shall proceed with the adjudicatory trial as provided in part 8 of this article.

CONNECTICUT

CONN. GEN. STAT. § 46b-127 (2014). Transfer of child charged with a felony to the regular criminal docket. Transfer of youth age sixteen to docket for juvenile matters

(a) (1) The court shall automatically transfer from the docket for juvenile matters to the regular criminal docket of the Superior Court the case of any child charged with the commission of a capital felony under the provisions of section 53a-54b in effect prior to April 25, 2012, a class A or B felony or a violation of section 53a-54d, provided such offense was committed after such child attained the age of fourteen years and counsel has been appointed for such child if such child is indigent. Such counsel may appear with the child but shall not be permitted to make any argument or file any motion in opposition to the transfer. The child shall be arraigned in the regular criminal docket of the Superior Court at the next court date following such transfer, provided any proceedings held prior to the finalization of such transfer shall be private and shall be conducted in such parts of the courthouse or the building in which the court is located that are separate and apart from the other parts of the court which are then being used for proceedings pertaining to adults charged with crimes.

(2) A state's attorney may, at any time after such arraignment, file a motion to transfer the case of any child charged with the commission of a class B felony or a violation of subdivision (2) of subsection (a) of section 53a-70 to the docket for juvenile matters for proceedings in accordance with the provisions of this chapter.

(b) (1) Upon motion of a prosecutorial official, the superior court for juvenile matters shall conduct a hearing to determine whether the case of any child charged with the commission of a class C, D or E felony or an unclassified felony shall be transferred from the docket for juvenile matters to the regular criminal docket of the Superior Court. The court shall not order that the case be transferred under this subdivision unless the court finds that (A) such offense was committed after such child attained the age of fourteen years, (B) there is probable cause to believe the child has committed the act for which the child is charged, and (C) the best interests of the child and the public will not be served by maintaining the case in the superior court for juvenile matters. In making such findings, the court shall consider (i) any prior criminal or juvenile offenses committed by

the child, (ii) the seriousness of such offenses, (iii) any evidence that the child has intellectual disability or mental illness, and (iv) the availability of services in the docket for juvenile matters that can serve the child's needs. Any motion under this subdivision shall be made, and any hearing under this subdivision shall be held, not later than thirty days after the child is arraigned in the superior court for juvenile matters.

(2) If a case is transferred to the regular criminal docket pursuant to subdivision (1) of this subsection, the court sitting for the regular criminal docket may return the case to the docket for juvenile matters at any time prior to a jury rendering a verdict or the entry of a guilty plea for good cause shown for proceedings in accordance with the provisions of this chapter.

(c) Upon the effectuation of the transfer, such child shall stand trial and be sentenced, if convicted, as if such child were eighteen years of age. Such child shall receive credit against any sentence imposed for time served in a juvenile facility prior to the effectuation of the transfer. A child who has been transferred may enter a guilty plea to a lesser offense if the court finds that such plea is made knowingly and voluntarily. Any child transferred to the regular criminal docket who pleads guilty to a lesser offense shall not resume such child's status as a juvenile regarding such offense. If the action is dismissed or nolle or if such child is found not guilty of the charge for which such child was transferred or of any lesser included offenses, the child shall resume such child's status as a juvenile until such child attains the age of eighteen years.

(d) Any child whose case is transferred to the regular criminal docket of the Superior Court who is detained pursuant to such case shall be in the custody of the Commissioner of Correction upon the finalization of such transfer. A transfer shall be final (1) upon the arraignment on the regular criminal docket until a motion filed by the state's attorney pursuant to subsection (a) of this section is granted by the court, or (2) upon the arraignment on the regular criminal docket of a transfer ordered pursuant to subsection (b) of this section until the court sitting for the regular criminal docket orders the case returned to the docket for juvenile matters for good cause shown. Any child whose case is returned to the docket for juvenile matters who is detained pursuant to such case shall be in the custody of the Judicial Department.

(e) The transfer of a child to a Department of Correction facility shall be limited as provided in subsection (d) of this section and said subsection shall not be construed to permit the transfer of or otherwise reduce or eliminate any other population of juveniles in detention or confinement within the Judicial Department or the Department of Children and Families.

(f) Upon the motion of any party or upon the court's own motion, the case of any youth age sixteen or seventeen, except a case that has been transferred to the regular criminal docket of the Superior Court pursuant to subsection (a) or (b) of this section, which is pending on the youthful offender docket, regular criminal docket of the Superior Court or any docket for the presentment of defendants in motor vehicle matters, where the youth is charged with committing any offense or violation for which a term of imprisonment may

be imposed, other than a violation of section 14-227a or 14-227g, may, before trial or before the entry of a guilty plea, be transferred to the docket for juvenile matters if (1) the youth is alleged to have committed such offense or violation on or after January 1, 2010, while sixteen years of age, or is alleged to have committed such offense or violation on or after July 1, 2012, while seventeen years of age, and (2) after a hearing considering the facts and circumstances of the case and the prior history of the youth, the court determines that the programs and services available pursuant to a proceeding in the superior court for juvenile matters would more appropriately address the needs of the youth and that the youth and the community would be better served by treating the youth as a delinquent. Upon ordering such transfer, the court shall vacate any pleas entered in the matter and advise the youth of the youth's rights, and the youth shall (A) enter pleas on the docket for juvenile matters in the jurisdiction where the youth resides, and (B) be subject to prosecution as a delinquent child. The decision of the court concerning the transfer of a youth's case from the youthful offender docket, regular criminal docket of the Superior Court or any docket for the presentment of defendants in motor vehicle matters shall not be a final judgment for purposes of appeal.

CONN. GEN. STAT. § 46b-133c (2014). Serious juvenile repeat offender prosecution. Sentencing

(a) Whenever a child is referred for the commission of a felony committed after such child attained the age of fourteen years and such child is a serious juvenile repeat offender, as defined in section 46b-120, the prosecutorial official may request the court to designate the proceeding as a serious juvenile repeat offender prosecution.

(b) If a prosecutorial official requests that a proceeding be designated a serious juvenile repeat offender prosecution, the court shall hold a hearing not later than thirty days after the filing of such request unless good cause is shown by the prosecutorial official or by the child as to why the hearing should not be held within such period. If good cause is shown, the hearing shall be held not later than ninety days after the filing of such request. The court shall decide whether to designate the proceeding as a serious juvenile repeat offender prosecution not later than thirty days after the completion of such hearing. The court shall grant the request to designate the proceeding as a serious juvenile repeat offender prosecution if the prosecutorial official shows by clear and convincing evidence that such designation will serve the public safety. The decision to designate the proceeding as a serious juvenile repeat offender prosecution shall not be a final judgment for purposes of appeal.

(c) A proceeding designated as a serious juvenile repeat offender prosecution pursuant to subsection (b) of this section shall be held before the court without a jury provided the child has waived his right to a trial by jury. If a child is convicted of or pleads guilty to a felony in such proceeding, the court shall: (1) Sentence the child in accordance with section 46b-140 or 46b-141a and (2) sentence the child in accordance with section 53a-28 with the execution of such sentence stayed on the condition that the child not violate the conditions of the sentence imposed pursuant to subdivision (1) of this subsection or commit a subsequent crime.

(d) If a child is convicted of or pleads guilty to a misdemeanor in a proceeding designated as a serious juvenile repeat offender prosecution pursuant to subsection (b) of this section, the court shall sentence the child in accordance with section 46b-140 or 46b-141a.

(e) Whenever it appears that a child who has been sentenced pursuant to subsection (c) of this section has violated the conditions of the sentence imposed pursuant to subdivision (1) of said subsection (c) or has committed a subsequent crime, the court may, without notice, order that the child be immediately taken into custody in accordance with the provisions of section 46b-125. The court shall notify the child and such child's parent or guardian and the attorney of record, if any, in writing of the reasons alleged to exist for the lifting of the stay of execution of the sentence imposed pursuant to subdivision (2) of said subsection (c). If the child challenges such reasons, the court shall hold a hearing at which the child shall be entitled to be heard and be represented by counsel. After such hearing, if the court finds that the child has violated the conditions of the sentence imposed pursuant to subdivision (1) of said subsection (c) or committed a subsequent crime, it shall order the child to serve a sentence not to exceed that imposed pursuant to subdivision (2) of said subsection (c) unless it determines there are mitigating circumstances that justify continuing the stay of execution and specifically states such mitigating circumstances in writing for the record. The child shall receive credit against any sentence imposed pursuant to subdivision (2) of said subsection (c) for time served in a juvenile facility pursuant to the sentence imposed pursuant to subdivision (1) of said subsection (c).

(f) Whenever a proceeding has been designated a serious juvenile repeat offender prosecution pursuant to subsection (b) of this section and the child does not waive such child's right to a trial by jury, the court shall transfer the case from the docket for juvenile matters to the regular criminal docket of the Superior Court. Upon transfer, such child shall stand trial and be sentenced, if convicted, as if such child were eighteen years of age, except that no such child shall be placed in a correctional facility but shall be maintained in a facility for children and youths until such child attains eighteen years of age or until such child is sentenced, whichever occurs first. Such child shall receive credit against any sentence imposed for time served in a juvenile facility prior to the effectuation of the transfer. A child who has been transferred may enter a guilty plea to a lesser offense if the court finds that such plea is made knowingly and voluntarily. Any child transferred to the regular criminal docket who pleads guilty to a lesser offense shall not resume such child's status as a juvenile regarding such offense. If the action is dismissed or nolle or if such child is found not guilty of the charge for which such child was transferred, the child shall resume such child's status as a juvenile until such child attains eighteen years of age.

CONN. GEN. STAT. § 46b-145 (2014). Prohibition on prosecution of child before regular criminal docket. Exceptions

No child shall be prosecuted for an offense before the regular criminal docket of the Superior Court except as provided in section 46b-127 and subsection (f) of section 46b-133c.

DELAWARE

DEL. CODE ANN. tit. 10, § 1010 (2014). Proceeding against child as an adult; amenability proceeding; referral to another court

(a) A child shall be proceeded against as an adult where:

(1) The acts alleged to have been committed constitute first- or second-degree murder, rape in the first degree or rape in the second degree, assault in the first degree, robbery in the first degree (where such offense involves the display of what appears to be a deadly weapon or involves the representation by word or conduct that the person was in possession or control of a deadly weapon or involves the infliction of serious physical injury upon any person who was not a participant in the crime and where the child has previously been adjudicated delinquent of 1 or more offenses which would constitute a felony were the child charged under the laws of this State) or kidnapping in the first degree, or any attempt to commit said crimes;

(2) The child is not amenable to the rehabilitative processes available to the Court;

(3) The child has previously been adjudicated delinquent of 1 or more offenses which would constitute a felony were he or she charged as an adult under the laws of this State, and has reached his or her sixteenth birthday and the acts which form the basis of the current allegations constitute 1 or more of the following offenses: conspiracy first degree, rape in the third degree, arson first degree, burglary first degree, home invasion, §§ 4752 and 4753 of Title 16 or any attempt to commit any of the offenses set forth in this paragraph;

(4) The General Assembly has heretofore or shall hereafter so provide.

(b) In all cases specified in subsection (a) of this section the Court shall, upon application, hold a preliminary hearing and, if the facts warrant, thereafter refer the child to the Superior Court or to any other court having jurisdiction over the offense for trial as an adult.

(c)(1) In determining whether a child is amenable to the rehabilitative processes of the Court, the Court shall take into consideration, among others, the following factors which are deemed to be nonexclusive:

a. Whether, in view of the age and other personal characteristics of the child, the people of Delaware may best be protected and the child may best be made a useful member of society by some form of correctional treatment which the Family Court lacks power to assign; or

b. Whether it is alleged death or serious personal injury was inflicted by the child upon anyone in the course of commission of the offense or in immediate flight therefrom; or

c. Whether the child has been convicted of any prior criminal offense; or

d. Whether the child has previously been subjected to any form of correctional treatment by the Family Court; or

e. Whether it is alleged a dangerous instrument was used by the child; or

f. Whether other participants in the same offense are being tried as adult offenders.

(2) The Court shall defer further proceedings in the Family Court and shall conduct a hearing to determine whether the child is amenable to the rehabilitative process of the Court:

a. Upon motion of the Court, whenever a child is charged with delinquency;

b. Upon motion of the Attorney General, whenever a child has reached his or her fourteenth birthday and is thereafter charged with being delinquent; or

c. Whenever a child has reached his or her fourteenth birthday, and is thereafter charged in accordance with § 1009(c)(5) of this title.

(3) Notwithstanding any provision of this section or title to the contrary, any child who has previously been declared to be nonamenable to the rehabilitative processes of the Court pursuant to this section, or who has previously been the subject of a denied application for transfer pursuant to § 1011 of this title, and who thereafter is charged with being delinquent shall be referred to the Superior Court or to any other court having jurisdiction over the offense for trial as an adult.

If it decides that the child is amenable, it may proceed to hear the case. If it decides that the child is not amenable, it shall refer the child to the Superior Court or to any other court having jurisdiction over the offense for trial as an adult.

(d) Notwithstanding any provisions of this title to the contrary, in any case in which the Superior Court has jurisdiction over a child, the Court shall retain jurisdiction for purposes of sentencing and all other postconviction proceedings if any judge or jury shall find the child guilty of a lesser included crime following a trial or plea of guilty.

(e) Notwithstanding any provision of this section or title to the contrary, when a child has reached his or her fifteenth birthday and is thereafter charged with being delinquent by having committed any offense which would constitute a felony were he or she charged as an adult under the laws of this State, said offense occurring while the child was an escapee from any Level IV or V facility operated for or by the Department of Services for

Children, Youth and Their Families, upon motion of the Attorney General, or upon its own motion, the Court shall defer further proceedings in the Family Court and shall conduct a hearing to determine whether the child should be referred to the Superior Court for trial as an adult. If, at the conclusion of the hearing, the Court finds that evidence demonstrates that there is a fair likelihood that the child may be convicted of the charge or charges, it shall refer the child to the Superior Court for trial as an adult. If, at the conclusion of the hearing, the Court determines that there is no fair likelihood of conviction, the case shall remain within the jurisdiction of the Family Court, subject to all other provisions of this section and title.

DISTRICT OF COLUMBIA

D.C. CODE ANN. § 16-2301 (2014). Definitions

As used in this subchapter-

(1) The term “Division” means the Family Division of the Superior Court of the District of Columbia. Pursuant to section 16-2301.01, the term “Division” shall be deemed to refer to the Family Court of the Superior Court of the District of Columbia.

(1A) “Family Court” means the Family Court of the Superior Court of the District of Columbia.

(2) The term “judge” means a judge assigned to the Family Division of the Superior Court.

(3) The term “child” means an individual who is under 18 years of age, except that the term “child” does not include an individual who is sixteen years of age or older and-

(A) charged by the United States attorney with (i) murder, first degree sexual abuse, burglary in the first degree, robbery while armed, or assault with intent to commit any such offense, or (ii) an offense listed in clause (i) and any other offense properly joinable with such an offense;

(B) charged with an offense referred to in subparagraph (A)(i) and convicted by plea or verdict of a lesser included offense; or

(C) charged with a traffic offense.

For purposes of this subchapter the term “child” also includes a person under the age of twenty-one who is charged with an offense referred to in subparagraph (A)(i) or (C) committed before he attained the age of sixteen, or a delinquent act committed before he attained the age of eighteen.

(4) The term “minor” means an individual who is under the age of twenty-one years.

(5) The term “adult” means an individual who is twenty-one years of age or older.

(6) The term “delinquent child” means a child who has committed a delinquent act and is in need of care or rehabilitation.

(7) The term “delinquent act” means an act designated as an offense under the law of the District of Columbia, or of a State if the act occurred in a State, or under Federal law. Traffic offenses shall not be deemed delinquent acts unless committed by an individual who is under the age of sixteen.

(8) The term “child in need of supervision” means a child who-

(A)(i) subject to compulsory school attendance and habitually truant from school without justification;

(ii) has committed an offense committable only by children; or

(iii) is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; and

(B) is in need of care or rehabilitation.

(9)(A) The term “neglected child” means a child:

(i) who has been abandoned or abused by his or her parent, guardian, or custodian, or whose parent, guardian, or custodian has failed to make reasonable efforts to prevent the infliction of abuse upon the child. For the purposes of this sub-subparagraph, the term “reasonable efforts” includes filing a petition for civil protection from intrafamily violence pursuant to section 16-1003;

(ii) who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his or her physical, mental, or emotional health, and the deprivation is not due to the lack of financial means of his or her parent, guardian, or custodian;

(iii) whose parent, guardian, or custodian is unable to discharge his or her responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity;

(iv) whose parent, guardian, or custodian refuses or is unable to assume the responsibility for the child's care, control, or subsistence and the person or institution which is providing for the child states an intention to discontinue such care;

(v) who is in imminent danger of being abused and another child living in the same household or under the care of the same parent, guardian, or custodian has been abused;

(vi) who has received negligent treatment or maltreatment from his or her parent, guardian, or custodian;

(vii) who has resided in a hospital located in the District of Columbia for at least 10 calendar days following the birth of the child, despite a medical determination that the child is ready for discharge from the hospital, and the parent, guardian, or custodian of the child has not taken any action or made any effort to maintain a parental, guardianship, or custodial relationship or contact with the child;

(viii) who is born addicted or dependent on a controlled substance or has a significant presence of a controlled substance in his or her system at birth;

(ix) in whose body there is a controlled substance as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian; or

(x) who is regularly exposed to illegal drug-related activity in the home.

(B) No child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for that reason alone be considered a neglected child for the purposes of this subchapter.

(C) Subparagraph (A)(viii), (ix), and (x) of this paragraph shall apply as of October 1, 2003.

(10) Repealed.

(11) Repealed.

(12) The term “custodian” means a person or agency, other than a parent or legal guardian:

(A) to whom the legal custody of a child has been granted by the order of a court;

(B) who is acting in loco parentis; or

(C) who is a day care provider or an employee of a residential facility, in the case of the placement of an abused or neglected child.

(13) The term “detention” means the temporary, secure custody of a child in facilities, designated by the Division, pending a final disposition of a petition.

(14) The term “shelter care” means the temporary care of a child in physically unrestricting facilities, designated by the Division, pending a final disposition of a petition.

(15) The term “detention or shelter care hearing” means a hearing to determine whether a child who is in custody should be placed or continued in detention or shelter care.

(16) The term “factfinding hearing” means a hearing to determine whether the allegations of a petition are true.

(17) The term “dispositional hearing” means a hearing, after a finding of fact, to determine-

(A) whether the child in a delinquency or need of supervision case is in need of care or rehabilitation and, if so, what order of disposition should be made; or

(B) what order of disposition should be made in a neglect case.

(18) The term “probation” means a legal status created by Division order following an adjudication of delinquency or need of supervision, whereby a minor is permitted to remain in the community subject to appropriate supervision and return to the Division for violation of probation at any time during the period of probation.

(19) The term “protective supervision” means a legal status created by Division order in neglect cases whereby a minor is permitted to remain in his home under supervision, subject to return to the Division during the period of protective supervision.

(20) The term “guardianship of the person of a minor” means the duty and authority to make important decisions in matters having a permanent effect on the life and development of the minor, and concern with his general welfare. It includes (but is not limited to)-

(A) authority to consent to marriage, enlistment in the armed forces of the United States, and major medical, surgical, or psychiatric treatment; to represent the minor in legal actions; and to make other decisions concerning the minor of substantive legal significance;

(B) the authority and duty of reasonable visitation (except as limited by Division order);

(C) the rights and responsibilities of legal custody when guardianship of the person is exercised by the natural or adoptive parent (except where legal custody has been vested in another person or an agency or institution); and

(D) the authority to exercise residual parental rights and responsibilities when the rights of his parents or only living parent have been judicially terminated or when both parents are dead.

(21) The term “legal custody” means a legal status created by Division order which vests in a custodian the responsibility for the custody of a minor which includes-

(A) physical custody and the determination of where and with whom the minor shall live;

(B) the right and duty to protect, train, and discipline the minor; and

(C) the responsibility to provide the minor with food, shelter, education, and ordinary medical care. A Division order of “legal custody” is subordinate to the rights and responsibilities of the guardian of the person of the minor and any residual parental rights and responsibilities.

(22) The term “residual parental rights and responsibilities” means those rights and responsibilities remaining with the parent after transfer of legal custody or guardianship of the person, including (but not limited to) the right of visitation, consent to adoption, and determination of religious affiliation and the responsibility for support.

(23)(A) The term “abused”, when used with reference to a child, means:

(i) infliction of physical or mental injury upon a child;

(ii) sexual abuse or exploitation of a child; or

(iii) negligent treatment or maltreatment of a child.

(B)(i) The term “abused”, when used with reference to a child, does not include discipline administered by a parent, guardian or custodian to his or her child; provided, that the discipline is reasonable in manner and moderate in degree and otherwise does not constitute cruelty. For the purposes of this paragraph, the term “discipline” does not include:

(I) burning, biting, or cutting a child;

(II) striking a child with a closed fist;

(III) inflicting injury to a child by shaking, kicking, or throwing the child;

(IV) nonaccidental injury to a child under the age of 18 months;

(V) interfering with a child's breathing; and

(VI) threatening a child with a dangerous weapon or using such a weapon on a child. For purposes of this provision, the term “dangerous weapon” means a firearm, a knife, or any of the prohibited weapons described in section 22-4514.

(ii) The list in sub-subparagraph (i) of this subparagraph is illustrative of unacceptable discipline and is not intended to be exclusive or exhaustive.

(24) The term “negligent treatment” or “maltreatment” means failure to provide adequate food, clothing, shelter, or medical care, which includes medical neglect, and the deprivation is not due to the lack of financial means of his or her parent, guardian, or other custodian.

(25) The term “sexual exploitation” means a parent, guardian, or other custodian allows a child to engage in prostitution as defined in section 2(1) of the Control of Prostitution and Sale of Controlled Substances in Public Places Criminal Control Act of 1981, effective December 10, 1981 (D.C. Law 4-57; § 22-2701.01), or means a parent, guardian, or other custodian engages a child or allows a child to engage in obscene or pornographic photography, filming, or other forms of illustrating or promoting sexual conduct as defined in section 2(5) of the District of Columbia Protection of Minors Act of 1982, effective March 9, 1983 (D.C. Law 4-173; § 22-3101(5)).

(26) The term “parenting classes” means any program which enhances the parenting skills of individuals through providing role models, discussion, training in early childhood development and child psychology, or other instruction designed to strengthen the parent, guardian, or custodian's ability to nurture children.

(27) The term “family counseling” means any psychological or psychiatric or other social service offered by a provider to the parent and 1 or more members of the extended family or the child's guardian or other caretaker of a child who has been adjudicated neglected, delinquent, or in need of supervision. A caretaker is an adult person in whose care a minor has been entrusted by written authorization of the child's parent, guardian, or legal custodian.

(28) The term “entry into foster care” means the earlier of:

(A) The date of the first judicial finding that the child has been neglected; or

(B) The date that is 60 days after the date on which the child is removed from the home.

(29) The term “Agency” means the Child and Family Services Agency established by section 6-2121.01.

(30) The term “physical injury” means bodily harm greater than transient pain or minor temporary marks.

(31) The term “mental injury” means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal, or outwardly aggressive behavior, or a combination of those behaviors, and which may be demonstrated by a change in behavior, emotional response, or cognition.

(32) The term “sexual abuse” means:

(A) engaging in, or attempting to engage in, a sexual act or sexual contact with a child;

(B) causing or attempting to cause a child to engage in sexually explicit conduct; or

(C) exposing a child to sexually explicit conduct.

(33) The term “sexually explicit conduct” means actual or simulated:

(A) sexual act;

(B) sexual contact;

(C) bestiality;

(D) masturbation; or

(E) lascivious exhibition of the genitals, anus, or pubic area.

(34) The term “sexual act” shall have the same meaning as provided in section 101(8) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001(8)).

(35) The term “sexual contact” shall have the same meaning as provided in section 101(9) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001(9)).

(36) The term “controlled substance” means a drug or chemical substance, or immediate precursor, as set forth in Schedules I through V of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.01 et seq.), which has not been prescribed by a physician.

(37) The term “drug-related activity” means the use, sale, distribution, or manufacture of a drug or drug paraphernalia without a legally valid license or medical prescription.

(38) The term “incompetent to proceed” means that a child alleged to be delinquent is not competent to participate in a hearing on the petition pursuant to section 16-2316(a) or any other hearing in a delinquency proceeding, except scheduling, status, and competency hearings, because he or she does not have sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding or does not have a rational, as well as a factual, understanding of the proceedings against him or her.

(39) The term “psychiatrist” means a physician who is licensed to practice medicine in the District of Columbia, or is employed by the federal government, and has completed a residency in psychiatry.

(40) The term “qualified psychologist” means a person who is licensed pursuant to section 3-1205.01, and has one year of formal training within a hospital setting, or 2 years of supervised clinical experience in an organized health care setting, one of which must be post-doctoral.

(41)(A) The term “victim” means any person, organization, partnership, business, corporation, agency or governmental entity:

(i) against whom a crime, delinquent act, or an attempted crime or delinquent act has been committed;

(ii) who suffers any physical or mental injury as a result of a crime, delinquent act, or an attempted crime or delinquent act;

(iii) who may have been exposed to the HIV/AIDS virus as a result of a crime, delinquent act, or an attempted crime or delinquent act; or

(iv) who suffers any loss of property, including pecuniary loss, as a result of a crime, delinquent act, or an attempted crime or delinquent act.

(B) The term “victim” shall not include any person who committed or aided or abetted in the commission of the crime, delinquent act, or attempted crime or delinquent act.

(42) The term “immediate family member” means:

(A) the person's parent, brother, sister, grandparent, or child, and the spouse of any such parent, brother, sister, grandparent, or child;

(B) any person who maintains or has maintained a romantic relationship, not necessarily including a sexual relationship, with the person; or

(C) any person who has a child in common with the person.

(43) The term “weapons offense” means any violation of any law, rule, or regulation which involves the sale, purchase, transfer in any manner, receipt, acquisition, possession, having under control, use, repair, manufacture, carrying, or transportation of any firearm, ammunition, or destructive device as these terms are defined in section 7-2501.01.

(44) The term “domestic partner” shall have the same meaning as provided in § 32-701(3).

(45) The term “Superior Court” means the Superior Court of the District of Columbia.

D.C. CODE ANN. § 16-2307 (2014). Transfer for criminal prosecution.

(a) Within twenty-one days (excluding Sundays and legal holidays) of the filing of a delinquency petition, or later for good cause shown, and prior to a factfinding hearing on the petition, the Corporation Counsel may file a motion, supported by a statement of facts, requesting transfer of the child for criminal prosecution, if-

(1) the child was fifteen or more years of age at the time of the conduct charged, and is alleged to have committed an act which would constitute a felony if committed by an adult;

(2) the child is sixteen or more years of age and is already under commitment to an agency or institution as a delinquent child;

(3) a minor eighteen years of age or older is alleged to have committed a delinquent act prior to having become eighteen years of age; or

(4) a child under 18 years of age is charged with the illegal possession or control of a firearm within 1000 feet of a public or private day care center, elementary school, vocational school, secondary school, college, junior college, or university, or any public swimming pool, playground, video arcade, or youth center, or an event sponsored by any of the above entities. For the purposes of this paragraph "playground" means any facility intended for recreation, open to the public, and with any portion of the facility that contains 1 or more separate apparatus intended for the recreation of children, including, but not limited to, sliding boards, swingsets, and teeterboards. For the purposes of this paragraph "video arcade" means any facility legally accessible to persons under 18 years of age, intended primarily for the use of pinball and video machines for amusement, and which contains a minimum of 10 pinball or video machines. For the purposes of this paragraph "youth center" means any recreational facility or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provide athletic, civic, or cultural activities.

(b) Following the filing of the motion by the Corporation Counsel, summonses shall be issued and served in conformity with the provisions of section 16-2306.

(c) When there are grounds to believe that the child is incompetent to proceed, the Division shall stay the proceedings for the purpose of obtaining an examination pursuant to Chapter 5A of Title 24. If the Division determines, pursuant to Chapter 5A of Title 24, that the child is incompetent to proceed, the Division shall not proceed to a determination under subsection (d) of this section unless it subsequently has determined that the competency of the child has been restored.

(d)(1)(A) Except as provided in subsection (c) of this section, the Division shall conduct a hearing on each transfer motion to determine whether to transfer the child for criminal prosecution. The hearing shall be held within 30 days (excluding Sundays and legal holidays) after the filing of the transfer motion. Upon motion of the child or the Corporation Counsel, for good cause shown, the hearing may be continued for an

additional period not to exceed 30 days (excluding Sundays and legal holidays). If the hearing commences more than 60 days (excluding Sundays and legal holidays) after the filing of the transfer motion, the Division must state in the order the extraordinary circumstances for the delay.

(B) The judicial decision whether to transfer the child shall be made within 30 days (excluding Sundays and legal holidays) after the conclusion of the transfer hearing. For good cause shown, the Division may extend the time in which to issue its decision by an additional period not to exceed 30 days (excluding Sundays and legal holidays).

(2)(A) The Division shall order the transfer if it determines that it is in the interest of the public welfare and protection of the public security and there are no reasonable prospects for rehabilitation of the child.

(B) A statement of the Division's reasons for ordering the transfer shall accompany the transfer order. The Division's findings with respect to each of the factors set forth in subsection (e) of this section relating to the public welfare and protection of the public security shall be included in the statement. The statement shall be available upon request to any court in which the transfer is challenged, but shall not be available to the trier of fact of the criminal charge prior to verdict.

(e) Evidence of the following factors shall be considered in determining whether there are reasonable prospects for rehabilitating a child prior to his majority and whether it is in the interest of the public welfare to transfer for criminal prosecution:

(1) the child's age;

(2) the nature of the present offense and the extent and nature of the child's prior delinquency record;

(3) the child's mental condition;

(4) the child's response to past treatment efforts including whether the child has absconded from the legal custody of the Mayor or a juvenile institution;

(5) the techniques, facilities, and personnel for rehabilitation available to the Division and to the court that would have jurisdiction after transfer; and

(6) The potential rehabilitative effect on the child of providing parenting classes or family counseling for one or more members of the child's family or for the child's caregiver or guardian.

(e-1) For purposes of the transfer hearing the Division shall assume that the child committed the delinquent act alleged.

(e-2) There is a rebuttable presumption that a child 15 through 18 years of age who has been charged with any of the following offenses, should be transferred for criminal prosecution in the interest of public welfare and the protection of the public security:

(1) Murder, first degree sexual abuse, burglary in the first degree, robbery while armed, or assault with intent to commit any such offense;

(2) Any offense listed in paragraph (1) of this subsection and any other offense properly joinable with such an offense;

(3) Any crime committed with a firearm; or

(4) Any offense that if the child were charged as an adult would constitute a violent felony and the child has three or more prior delinquency adjudications.

(f) Prior to a transfer hearing, a study and report, in writing, relevant to the factors in subsection (e), shall be made by the Director of Social Services. This report and all social records that are to be made available to the judge at the transfer hearing shall be made available to counsel for the child and to the Corporation Counsel at least three days prior to the hearing.

(g) A judge who conducts a hearing pursuant to this section shall not, over the objection of the child for whom a motion to transfer was filed, participate in any subsequent factfinding proceedings relating to the offense.

(h) Transfer of a child for criminal prosecution terminates the jurisdiction of the Division over the child with respect to any subsequent delinquent act; except that jurisdiction of the Division over the child is restored if (1) the criminal prosecution is terminated other than by a plea of guilty, a verdict of guilty, or a verdict of not guilty by reason of insanity, and (2) at the time of the termination of the criminal prosecution no indictment or information has been filed for criminal prosecution for an offense alleged to have been committed by the child subsequent to transfer.

FLORIDA

FLA. STAT. ANN. § 985.556 (2014). Waiver of juvenile court jurisdiction; hearing

(1) Voluntary waiver.--The court shall transfer and certify a child's criminal case for trial as an adult if the child is alleged to have committed a violation of law and, prior to the commencement of an adjudicatory hearing, the child, joined by a parent or, in the absence of a parent, by the guardian or guardian ad litem, demands in writing to be tried as an adult. Once a child has been transferred for criminal prosecution pursuant to a voluntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child shall be handled thereafter in every respect as an adult

for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565(4)(b).

(2) Involuntary discretionary waiver.--Except as provided in subsection (3), the state attorney may file a motion requesting the court to transfer the child for criminal prosecution if the child was 14 years of age or older at the time the alleged delinquent act or violation of law was committed.

(3) Involuntary mandatory waiver.--

(a) If the child was 14 years of age or older, and if the child has been previously adjudicated delinquent for an act classified as a felony, which adjudication was for the commission of, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, aggravated assault, or burglary with an assault or battery, and the child is currently charged with a second or subsequent violent crime against a person; or

(b) If the child was 14 years of age or older at the time of commission of a fourth or subsequent alleged felony offense and the child was previously adjudicated delinquent or had adjudication withheld for or was found to have committed, or to have attempted or conspired to commit, three offenses that are felony offenses if committed by an adult, and one or more of such felony offenses involved the use or possession of a firearm or violence against a person;

the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such request, or proceed under s. 985.557(1). Upon the state attorney's request, the court shall either enter an order transferring the case and certifying the case for trial as if the child were an adult or provide written reasons for not issuing such an order.

(4) Waiver hearing.--

(a) Within 7 days, excluding Saturdays, Sundays, and legal holidays, after the date a petition alleging that a child has committed a delinquent act or violation of law has been filed, or later with the approval of the court, but before an adjudicatory hearing and after considering the recommendation of the juvenile probation officer, the state attorney may file a motion requesting the court to transfer the child for criminal prosecution.

(b) After the filing of the motion of the state attorney, summonses must be issued and served in conformity with s. 985.319. A copy of the motion and a copy of the delinquency petition, if not already served, must be attached to each summons.

(c) The court shall conduct a hearing on all transfer request motions for the purpose of determining whether a child should be transferred. In making its determination, the court shall consider:

1. The seriousness of the alleged offense to the community and whether the protection of the community is best served by transferring the child for adult sanctions.

2. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

3. Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted.

4. The probable cause as found in the report, affidavit, or complaint.

5. The desirability of trial and disposition of the entire offense in one court when the child's associates in the alleged crime are adults or children who are to be tried as adults.

6. The sophistication and maturity of the child.

7. The record and previous history of the child, including:

a. Previous contacts with the department, the Department of Corrections, the former Department of Health and Rehabilitative Services, the Department of Children and Families, other law enforcement agencies, and courts;

b. Prior periods of probation;

c. Prior adjudications that the child committed a delinquent act or violation of law, greater weight being given if the child has previously been found by a court to have committed a delinquent act or violation of law involving an offense classified as a felony or has twice previously been found to have committed a delinquent act or violation of law involving an offense classified as a misdemeanor; and

d. Prior commitments to institutions.

8. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if the child is found to have committed the alleged offense, by the use of procedures, services, and facilities currently available to the court.

(d) Prior to a hearing on the transfer request motion by the state attorney, a study and report to the court relevant to the factors in paragraph (c) must be made in writing by an authorized agent of the department. The child and the child's parents or legal guardians and counsel and the state attorney shall have the right to examine these reports and to question the parties responsible for them at the hearing.

(e) Any decision to transfer a child for criminal prosecution must be in writing and include consideration of, and findings of fact with respect to, all criteria in paragraph (c). The court shall render an order including a specific finding of fact and the reasons for a

decision to impose adult sanctions. The order shall be reviewable on appeal under s. 985.534 and the Florida Rules of Appellate Procedure.

(5) Effect of order waiving jurisdiction.--

(a) Once a child has been transferred for criminal prosecution pursuant to an involuntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child shall thereafter be handled in every respect as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565.

(b) When a child is transferred for criminal prosecution as an adult, the court shall immediately transfer and certify to the adult circuit court all felony cases pertaining to the child, for prosecution of the child as an adult, which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If the child is acquitted of all charged offenses or lesser included offenses contained in the original case transferred to adult court, all felony cases that were transferred to adult court under this paragraph shall be subject to the same penalties such cases were subject to before being transferred to adult court.

FLA. STAT. ANN. § 985.557 (2014). Direct filing of an information; discretionary and mandatory criteria

(1) Discretionary direct file.--

(a) With respect to any child who was 14 or 15 years of age at the time the alleged offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed and when the offense charged is for the commission of, attempt to commit, or conspiracy to commit:

1. Arson;
2. Sexual battery;
3. Robbery;
4. Kidnapping;
5. Aggravated child abuse;
6. Aggravated assault;
7. Aggravated stalking;
8. Murder;

9. Manslaughter;

10. Unlawful throwing, placing, or discharging of a destructive device or bomb;

11. Armed burglary in violation of s. 810.02(2)(b) or specified burglary of a dwelling or structure in violation of s. 810.02(2)(c), or burglary with an assault or battery in violation of s. 810.02(2)(a);

12. Aggravated battery;

13. Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age;

14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony;

15. Grand theft in violation of s. 812.014(2)(a);

16. Possessing or discharging any weapon or firearm on school property in violation of s. 790.115;

17. Home invasion robbery;

18. Carjacking; or

19. Grand theft of a motor vehicle in violation of s. 812.014(2)(c) 6. or grand theft of a motor vehicle valued at \$20,000 or more in violation of s. 812.014(2)(b) if the child has a previous adjudication for grand theft of a motor vehicle in violation of s. 812.014(2)(c) 6. or s. 812.014(2)(b).

(b) With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed. However, the state attorney may not file an information on a child charged with a misdemeanor, unless the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which involved an offense classified as a felony under state law.

(2) Mandatory direct file.--

(a) With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney shall file an information if the child has been previously adjudicated delinquent for an act classified as a felony, which adjudication was for the commission of, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated

battery, or aggravated assault, and the child is currently charged with a second or subsequent violent crime against a person.

(b) With respect to any child 16 or 17 years of age at the time an offense classified as a forcible felony, as defined in s. 776.08, was committed, the state attorney shall file an information if the child has previously been adjudicated delinquent or had adjudication withheld for three acts classified as felonies each of which occurred at least 45 days apart from each other. This paragraph does not apply when the state attorney has good cause to believe that exceptional circumstances exist which preclude the just prosecution of the juvenile in adult court.

(c) The state attorney must file an information if a child, regardless of the child's age at the time the alleged offense was committed, is alleged to have committed an act that would be a violation of law if the child were an adult, that involves stealing a motor vehicle, including, but not limited to, a violation of s. 812.133, relating to carjacking, or s. 812.014(2)(c) 6., relating to grand theft of a motor vehicle, and while the child was in possession of the stolen motor vehicle the child caused serious bodily injury to or the death of a person who was not involved in the underlying offense. For purposes of this section, the driver and all willing passengers in the stolen motor vehicle at the time such serious bodily injury or death is inflicted shall also be subject to mandatory transfer to adult court. "Stolen motor vehicle," for the purposes of this section, means a motor vehicle that has been the subject of any criminal wrongful taking. For purposes of this section, "willing passengers" means all willing passengers who have participated in the underlying offense.

(d) 1. With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney shall file an information if the child has been charged with committing or attempting to commit an offense listed in s. 775.087(2)(a)1.a.-q., and, during the commission of or attempt to commit the offense, the child:

a. Actually possessed a firearm or destructive device, as those terms are defined in s. 790.001.

b. Discharged a firearm or destructive device, as described in s. 775.087(2)(a) 2.

c. Discharged a firearm or destructive device, as described in s. 775.087(2)(a) 3., and, as a result of the discharge, death or great bodily harm was inflicted upon any person.

2. Upon transfer, any child who is:

a. Charged under sub-subparagraph 1.a. and who has been previously adjudicated or had adjudication withheld for a forcible felony offense or any offense involving a firearm, or who has been previously placed in a residential commitment program, shall be subject to sentencing under s. 775.087(2)(a), notwithstanding s. 985.565.

b. Charged under sub-subparagraph 1.b. or sub-subparagraph 1.c., shall be subject to sentencing under s. 775.087(2)(a), notwithstanding s. 985.565.

3. Upon transfer, any child who is charged under this paragraph, but who does not meet the requirements specified in subparagraph 2., shall be sentenced under s. 985.565; however, if the court imposes a juvenile sanction, the court must commit the child to a high-risk or maximum-risk juvenile facility.

4. This paragraph shall not apply if the state attorney has good cause to believe that exceptional circumstances exist that preclude the just prosecution of the child in adult court.

5. The Department of Corrections shall make every reasonable effort to ensure that any child 16 or 17 years of age who is convicted and sentenced under this paragraph be completely separated such that there is no physical contact with adult offenders in the facility, to the extent that it is consistent with chapter 958.

(3) Effect of direct file.--

(a) Once a child has been transferred for criminal prosecution pursuant to an information and has been found to have committed the presenting offense or a lesser included offense, the child shall be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565.

(b) When a child is transferred for criminal prosecution as an adult, the court shall immediately transfer and certify to the adult circuit court all felony cases pertaining to the child, for prosecution of the child as an adult, which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If a child is acquitted of all charged offenses or lesser included offenses contained in the original case transferred to adult court, all felony cases that were transferred to adult court as a result of this paragraph shall be subject to the same penalties to which such cases would have been subject before being transferred to adult court.

(c) When a child has been transferred for criminal prosecution as an adult and has been found to have committed a violation of state law, the disposition of the case may be made under s. 985.565 and may include the enforcement of any restitution ordered in any juvenile proceeding.

(4) An information filed pursuant to this section may include all charges that are based on the same act, criminal episode, or transaction as the primary offenses.

GEORGIA

GA. CODE ANN. § 15-11-2 (2014). Definitions

As used in this chapter, the term:

(1) “Abandonment” or “abandoned” means any conduct on the part of a parent, guardian, or legal custodian showing an intent to forgo parental duties or relinquish parental claims. Intent to forgo parental duties or relinquish parental claims may be evidenced by:

(A) Failure, for a period of at least six months, to communicate meaningfully with a child;

(B) Failure, for a period of at least six months, to maintain regular visitation with a child;

(C) Leaving a child with another person without provision for his or her support for a period of at least six months;

(D) Failure, for a period of at least six months, to participate in any court ordered plan or program designed to reunite a child's parent, guardian, or legal custodian with his or her child;

(E) Leaving a child without affording means of identifying such child or his or her parent, guardian, or legal custodian and:

(i) The identity of such child's parent, guardian, or legal custodian cannot be ascertained despite diligent searching; and

(ii) A parent, guardian, or legal custodian has not come forward to claim such child within three months following the finding of such child;

(F) Being absent from the home of his or her child for a period of time that creates a substantial risk of serious harm to a child left in the home;

(G) Failure to respond, for a period of at least six months, to notice of child protective proceedings; or

(H) Any other conduct indicating an intent to forgo parental duties or relinquish parental claims.

(2) “Abuse” means:

(A) Any nonaccidental physical injury or physical injury which is inconsistent with the explanation given for it suffered by a child as the result of the acts or omissions of a person responsible for the care of a child;

(B) Emotional abuse;

(C) Sexual abuse or sexual exploitation;

(D) Prenatal abuse; or

(E) The commission of an act of family violence as defined in Code Section 19-13-1 in the presence of a child. An act includes a single act, multiple acts, or a continuing course of conduct. As used in this subparagraph, the term “presence” means physically present or able to see or hear.

(3) “Adult” means any individual who is not a child as defined in paragraph (10) of this Code section.

(4) “Affiliate court appointed special advocate program” means a locally operated program operating with the approval of the local juvenile court which screens, trains, and supervises volunteers to advocate for the best interests of an abused or neglected child in dependency proceedings.

(5) “Aggravated circumstances” means the parent has:

(A) Abandoned a child;

(B) Aided or abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of another child of such parent;

(C) Subjected a child or his or her sibling to torture, chronic abuse, sexual abuse, or sexual exploitation;

(D) Committed the murder or voluntary manslaughter of his or her child's other parent or has been convicted of aiding or abetting, attempting, conspiring, or soliciting the murder or voluntary manslaughter of his or her child's other parent;

(E) Committed the murder or voluntary manslaughter of another child of such parent;
or

(F) Committed an assault that resulted in serious bodily injury to his or her child or another child of such parent.

(6) “Biological father” means the male who impregnated the biological mother resulting in the birth of a child.

(7) “Business day” means Mondays through Fridays and shall not include weekends or legal holidays.

(8) “Caregiver” means any person providing a residence for a child or any person legally obligated to provide or secure adequate care for a child, including his or her parent, guardian, or legal custodian.

(9) “Case plan” means a plan which is designed to ensure that a child receives protection, proper care, and case management and may include services for a child, his or her parent, guardian, or legal custodian, and other caregivers.

(10) “Child” means any individual who is:

(A) Under the age of 18 years;

(B) Under the age of 17 years when alleged to have committed a delinquent act;

(C) Under the age of 22 years and in the care of DFCS as a result of being adjudicated dependent before reaching 18 years of age;

(D) Under the age of 23 years and eligible for and receiving independent living services through DFCS as a result of being adjudicated dependent before reaching 18 years of age; or

(E) Under the age of 21 years who committed an act of delinquency before reaching the age of 17 years and who has been placed under the supervision of the court or on probation to the court for the purpose of enforcing orders of the court.

(11) “Child in need of services” means:

(A) A child adjudicated to be in need of care, guidance, counseling, structure, supervision, treatment, or rehabilitation and who is adjudicated to be:

(i) Subject to compulsory school attendance and who is habitually and without good and sufficient cause truant, as such term is defined in Code Section 15-11-381, from school;

(ii) Habitually disobedient of the reasonable and lawful commands of his or her parent, guardian, or legal custodian and is ungovernable or places himself or herself or others in unsafe circumstances;

(iii) A runaway, as such term is defined in Code Section 15-11-381;

(iv) A child who has committed an offense applicable only to a child;

(v) A child who wanders or loiters about the streets of any city or in or about any highway or any public place between the hours of 12:00 Midnight and 5:00 A.M.;

(vi) A child who disobeys the terms of supervision contained in a court order which has been directed to such child who has been adjudicated a child in need of services; or

(vii) A child who patronizes any bar where alcoholic beverages are being sold, unaccompanied by his or her parent, guardian, or legal custodian, or who possesses alcoholic beverages; or

(B) A child who has committed a delinquent act and is adjudicated to be in need of supervision but not in need of treatment or rehabilitation.

(12) “Class A designated felony act” means a delinquent act committed by a child 13 years of age or older which, if committed by an adult, would be one or more of the following crimes:

(A) Aggravated assault in violation of paragraph (1), (3), or (4) of subsection (b) or subsection (d), (e), (f), (j), or (m) of Code Section 16-5-21 or assault with a deadly weapon or with any object, device, or instrument which, when used offensively against a person, actually does result in serious bodily injury;

(B) Aggravated battery;

(C) Armed robbery not involving a firearm;

(D) Arson in the first degree;

(E) Attempted murder;

(F) Escape in violation of Code Section 16-10-52, if such child has previously been adjudicated to have committed a class A designated felony act or class B designated felony act;

(G) Hijacking a motor vehicle;

(G.1) Home invasion in the first degree;

(H) Kidnapping;

(I) Participating in criminal gang activity, as defined in subparagraphs (A) through (G) and (J) of paragraph (1) of Code Section 16-15-3, in violation of Code Section 16-15-4;

(J) Trafficking of substances in violation of Code Section 16-13-31 or 16-13-31.1;

(K) Any other act which, if committed by an adult, would be a felony in violation of Chapter 5 or 6 of Title 16, if such child has three times previously been adjudicated for delinquent acts all of which, if committed by an adult, would have been felonies in violation of any chapter of Title 16, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location; or

(L) Any other act which, if committed by an adult, would be a felony, if such child has three times previously been adjudicated for delinquent acts all of which, if committed by an adult, would have been felonies in violation of any chapter of Title 16 and one of which, if committed by an adult, would have been a felony in violation of Chapter 5 or 6 of Title 16, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location.

(13) “Class B designated felony act” means a delinquent act committed by a child 13 years of age or older which, if committed by an adult, would be one or more of the following crimes:

(A) Aggravated assault in violation of subsection (g), (h), or (k) of Code Section 16-5-21 or assault with a deadly weapon or with any object, device, or instrument which, when used offensively against a person, would be likely to result in serious bodily injury but which did not result in serious bodily injury;

(B) Arson in the second degree;

(C) Attempted kidnapping;

(D) Battery in violation of Code Section 16-5-23.1, if the victim is a teacher or other school personnel;

(E) Racketeering in violation of Code Section 16-14-4;

(F) Robbery;

(F.1) Home invasion in the second degree;

(G) Participating in criminal gang activity, as defined in subparagraph (H) of paragraph (1) of Code Section 16-15-3, in violation of Code Section 16-15-4;

(H) Smash and grab burglary;

(I) Possessing, manufacturing, transporting, distributing, possessing with the intent to distribute, or offering to distribute a destructive device in violation of Code Section 16-7-82;

(J) Distributing certain materials to persons under the age of 21 in violation of Code Section 16-7-84;

(K) Any subsequent violation of Code Sections 16-8-2 through 16-8-5 or 16-8-5.2 through 16-8-9, if the property which was the subject of the theft was a motor vehicle and such child has had one or more separate, prior adjudications of delinquency based upon a violation of Code Sections 16-8-2 through 16-8-5 or 16-8-5.2 through 16-8-9, provided

that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location;

(L) Any subsequent violation of Code Section 16-7-85 or 16-7-87, if such child has had one or more separate, prior adjudications of delinquency based upon a violation of Code Section 16-7-85 or 16-7-87, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location;

(M) Any subsequent violation of subsection (b) of Code Section 16-11-132, if such child has had one or more separate, prior adjudications of delinquency based upon a violation of subsection (b) of Code Section 16-11-132, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location;

(N) An act which constitutes a violation of Code Section 16-11-127.1; or

(O) Any other act which, if committed by an adult, would be a felony in violation of any chapter of Title 16 other than Chapter 5 or 6 of Title 16, if such child has three times previously been adjudicated for delinquent acts, all of which, if committed by an adult, would have been felonies in violation of any chapter of Title 16 other than Chapter 5 or 6 of Title 16, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location.

(14) "Complaint" is the initial document setting out the circumstances that resulted in a child being brought before the court.

(15) "Court" means the juvenile court or the court exercising jurisdiction over juvenile matters.

(16) "Court appointed special advocate" or "CASA" means a community volunteer who:

(A) Has been screened and trained regarding child abuse and neglect, child development, and juvenile court proceedings;

(B) Has met all the requirements of an affiliate court appointed special advocate program;

(C) Is being actively supervised by an affiliate court appointed special advocate program; and

(D) Has been sworn in by a judge of the juvenile court in the court or circuit in which he or she wishes to serve.

(17) "Criminal justice purposes" means the performance of any activity directly involving:

(A) The investigation, detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of children or adults who are accused of, convicted of, adjudicated of, or charged with crimes or delinquent acts; or

(B) The collection, storage, and dissemination of criminal history record information.

(18) “DBHDD” means the Department of Behavioral Health and Developmental Disabilities.

(19) “Delinquent act” means:

(A) An act committed by a child designated a crime by the laws of this state, or by the laws of another state if the act occurred in that state, under federal laws, or by local ordinance, and the act is not an offense applicable only to a child or a juvenile traffic offense;

(B) The act of disobeying the terms of supervision contained in a court order which has been directed to a child who has been adjudicated to have committed a delinquent act; or

(C) Failing to appear as required by a citation issued for an act that would be a crime if committed by an adult.

(20) “Delinquent child” means a child who has committed a delinquent act and is in need of treatment or rehabilitation.

(21) “Department” means the Department of Human Services.

(22) “Dependent child” means a child who:

(A) Has been abused or neglected and is in need of the protection of the court:

(B) Has been placed for care or adoption in violation of law; or

(C) Is without his or her parent, guardian, or legal custodian.

(23) “Detention assessment” shall have the same meaning as set forth in Code Section 49-4A-1.

(24) “Developmental disability” shall have the same meaning as set forth in Code Section 37-1-1.

(25) “Developmental level” is a child's ability to understand and communicate, taking into account such factors as age, maturity, mental capacity, level of education, cultural background, and degree of language acquisition.

(26) “DFCS” means the Division of Family and Children Services of the department.

(27) “Diligent search” means the efforts of DFCS to identify and locate a parent whose identity or location is unknown or a relative or other person who has demonstrated an ongoing commitment to a child.

(28) “DJJ” means the Department of Juvenile Justice.

(29) “Emancipation” means termination of the rights of a parent to the custody, control, services, and earnings of a child.

(30) “Emotional abuse” means acts or omissions by a person responsible for the care of a child that cause any mental injury to such child's intellectual or psychological capacity as evidenced by an observable and significant impairment in such child's ability to function within a child's normal range of performance and behavior or that create a substantial risk of impairment, if the impairment or substantial risk of impairment is diagnosed and confirmed by a licensed mental health professional or physician qualified to render such diagnosis.

(31) “Evaluation” means a comprehensive, individualized examination of a child by an examiner that may include the administration of one or more assessment instruments, diagnosing the type and extent of a child's behavioral health disorders and needs, if any, making specific recommendations, and assessing a child's legal competencies.

(32) “Examiner” means a licensed psychologist, psychiatrist, or clinical social worker who has expertise in child development specific to severe or chronic disability of children attributable to intellectual impairment or mental illness and has received training in forensic evaluation procedures through formal instruction, professional supervision, or both.

(33) “Fictive kin” means a person who is known to a child as a relative, but is not, in fact, related by blood or marriage to such child and with whom such child has resided or had significant contact.

(34) “Foster care” means placement in foster family homes, child care institutions, or another substitute care setting approved by the department. Such term shall exclude secure residential facilities or other facilities operated primarily for the purpose of detention of a child adjudicated for delinquent acts.

(35) “Guardian ad litem” means an individual appointed to assist the court in determining the best interests of a child.

(36) “Guardianship order” means the court judgment that establishes a permanent guardianship and enumerates a permanent guardian's rights and responsibilities concerning the care, custody, and control of a child.

(37) “Identification data” means the fingerprints, name, race, sex, date of birth, and any other unique identifiers of a child.

(38) “Indigent person” means a person who, at the time of requesting an attorney, is unable without undue financial hardship to provide for full payment of an attorney and all other necessary expenses for representation or a child who is a party to a dependency proceeding. To determine indigence in a delinquency proceeding, the court shall follow the standards set forth in Chapter 12 of Title 17.

(39) “Informal adjustment” means the disposition of a case other than by formal adjudication and disposition.

(40) “Judge” means the judge of the court exercising jurisdiction over juvenile matters.

(41) “Juvenile court intake officer” means the juvenile court judge, associate juvenile court judge, court service worker, DJJ staff member serving as an intake officer, or person employed as a juvenile probation or intake officer designated by the juvenile court judge or, where there is none, the superior court judge, who is on duty for the purpose of determining whether any child taken into custody should be released or detained and, if detained, the appropriate place of detention.

(42) “Legal custodian” means:

(A) A person to whom legal custody of a child has been given by order of a court; or

(B) A public or private agency or other private organization licensed or otherwise authorized by law to receive and provide care for a child to which legal custody of such child has been given by order of a court.

(43) “Legal father” means a male who has not surrendered or had terminated his rights to a child and who:

(A) Has legally adopted a child;

(B) Was married to the biological mother of a child at the time such child was conceived or was born, unless paternity was disproved by a final order pursuant to Article 3 of Chapter 7 of Title 19;

(C) Married the legal mother of a child after such child was born and recognized such child as his own, unless paternity was disproved by a final order pursuant to Article 3 of Chapter 7 of Title 19;

(D) Has been determined to be the father of a child by a final paternity order pursuant to Article 3 of Chapter 7 of Title 19;

(E) Has legitimated a child by a final order pursuant to Code Section 19-7-22; or

(F) Has legitimated a child pursuant to Code Section 19-7-21.1.

(44) “Legal mother” means the female who is the biological or adoptive mother of a child and who has not surrendered or had terminated her rights to such child.

(45) “Mediation” means the procedure in which a mediator facilitates communication between the parties concerning the matters in dispute and explores possible solutions to promote reconciliation, understanding, and settlement.

(46) “Mediator” means a neutral third party who attempts to focus the attention of the parties upon their needs and interests rather than upon their rights and positions and who lacks the authority to impose any particular agreement upon the parties or to recommend any particular disposition of the case to the court.

(47) “Mentally ill” means having a disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(48) “Neglect” means:

(A) The failure to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for a child's physical, mental, or emotional health or morals;

(B) The failure to provide a child with adequate supervision necessary for such child's well-being; or

(C) The abandonment of a child by his or her parent, guardian, or legal custodian.

(49) “Nonsecure residential facility” means community residential locations operated by or on behalf of DJJ and may include group homes, emergency shelters, wilderness or outdoor therapeutic programs, or other facilities that provide 24 hour care in a residential setting.

(50) “Other persons who have demonstrated an ongoing commitment to a child” includes fictive kin and other individuals, including but not limited to neighbors, teachers, scout masters, caregivers, or parents of friends of such child and with whom such child has resided or had significant contact.

(51) “Parent” means either the legal father or the legal mother of a child.

(52) “Party” means the state, a child, parent, guardian, legal custodian, or other person subject to any judicial proceeding under this chapter; provided, however, that for purposes of Articles 5 and 6 of this chapter, only a child and the state shall be a party.

(53) "Permanency plan" means a specific written plan prepared by DFCS designed to ensure that a child is reunified with his or her family or ensure that such child quickly attains a substitute long-term home when return to such child's family is not possible or is not in such child's best interests.

(54) "Permanent placement" means:

(A) Return of the legal custody of a child to his or her parent;

(B) Placement of a child with an adoptive parent pursuant to a final order of adoption;
or

(C) Placement of a child with a permanent guardian.

(55) "Person responsible for the care of a child" means:

(A) An adult member of a child's household;

(B) A person exercising supervision over a child for any part of the 24 hour day; or

(C) Any adult who, based on his or her relationship to the parent, guardian, or legal custodian or a member of a child's household, has access to such child.

(56) "Prenatal abuse" means exposure to chronic or severe use of alcohol or the unlawful use of any controlled substance, as such term is defined in Code Section 16-13-21, which results in:

(A) Symptoms of withdrawal in a newborn or the presence of a controlled substance or a metabolite thereof in a newborn's body, blood, urine, or meconium that is not the result of medical treatment; or

(B) Medically diagnosed and harmful effects in a newborn's physical appearance or functioning.

(57) "Probation and intake officer" means any probation officer and any personnel of a juvenile court to whom are delegated the duties of an intake officer under this chapter, other than a juvenile court judge, associate juvenile court judge, or court service worker.

(58) "Probation officer" means any personnel of a juvenile court or staff of DJJ to whom are delegated the duties of a probation officer under this chapter, other than a juvenile court judge or associate juvenile court judge.

(59) "Prosecuting attorney" means an attorney designated by the district attorney of the judicial circuit in which juvenile proceedings are instituted, unless otherwise provided in subsection (c) of Code Section 15-18-6.1.

(60) “Putative father registry” means the registry established and maintained pursuant to subsections (d) and (e) of Code Section 19-11-9.

(61) “Reasonable efforts” means due diligence and the provision of appropriate services.

(62) “Relative” means a person related to a child by blood, marriage, or adoption, including the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(63) “Restitution” means any property, lump sum, or periodic payment ordered to be made to any victim. Restitution may also be in the form of services ordered to be performed by a child.

(64) “Restrictive custody” means in the custody of DJJ for purposes of housing in a secure residential facility or nonsecure residential facility.

(65) “Risk assessment” shall have the same meaning as set forth in Code Section 49-4A-1.

(66) “Screening” means a relatively brief process to identify a child who potentially may have mental health or substance abuse needs, through administration of a formal screening instrument, to identify a child who may warrant immediate attention or intervention or a further, more comprehensive evaluation.

(67) “Secure residential facility” means a hardware secure residential institution operated by or on behalf of DJJ and shall include a youth development center or a regional youth detention center.

(68) “Services” means assistance including but not limited to care, guidance, education, counseling, supervision, treatment, and rehabilitation or any combination thereof.

(69) “Sexual abuse” means a caregiver or other person responsible for the care of a child employing, using, persuading, inducing, enticing, or coercing any child to engage in any act which involves:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) Bestiality;

(C) Masturbation;

(D) Lewd exhibition of the genitals or pubic area of any person;

(E) Flagellation or torture by or upon a person who is nude;

(F) The condition of being fettered, bound, or otherwise physically restrained on the part of a person who is nude;

(G) Physical contact in an act of apparent sexual stimulation or gratification with any person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed or unclothed breasts;

(H) Defecation or urination for the purpose of sexual stimulation; or

(I) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure by a licensed health care professional.

(70) “Sexual exploitation” means conduct by a caregiver or other person responsible for the care of a child who allows, permits, encourages, or requires a child to engage in:

(A) Prostitution, in violation of Code Section 16-6-9; or

(B) Sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct, in violation of Code Section 16-12-100.

(71) “Sibling” means a person with whom a child shares a biological father or one or both parents in common by blood, adoption, or marriage, even if the marriage was terminated by death or dissolution.

(72) “Staffing” means a meeting held periodically to develop and review progress on plans for meeting the identified needs of a child.

(73) “Statutory overnight delivery” means delivery of notice as provided in Code Section 9-10-12.

(74) “Unsupervised probation” means a period of probation or community supervision prior to the termination of a child's disposition in which:

(A) All of the conditions and limitations imposed by the court in placing such child on probation remain intact;

(B) Such child may have reduced reporting requirements; and

(C) A probation officer shall not actively supervise such child.

(75) “Visitation” means a period of access to a child by a parent, guardian, legal custodian, sibling, other relative, or any other person who has demonstrated an ongoing commitment to a child in order to maintain parental and familial involvement in a child's life when he or she is not residing with such person.

(76) “Weekend” means Saturday or Sunday.

GA. CODE ANN. § 15-11-560 (2014). Concurrent jurisdictions; exclusive original jurisdiction of superior court; transfer to juvenile court

(a) Except as provided in subsection (b) of this Code section, the court shall have concurrent jurisdiction with the superior court over a child who is alleged to have committed a delinquent act which would be considered a crime if tried in a superior court and for which an adult may be punished by loss of life, imprisonment for life without possibility of parole, or confinement for life in a penal institution.

(b) The superior court shall have exclusive original jurisdiction over the trial of any child 13 to 17 years of age who is alleged to have committed any of the following offenses:

- (1) Murder;
- (2) Murder in the second degree;
- (3) Voluntary manslaughter;
- (4) Rape;
- (5) Aggravated sodomy;
- (6) Aggravated child molestation;
- (7) Aggravated sexual battery; or
- (8) Armed robbery if committed with a firearm.

(c) The granting of bail or pretrial release of a child charged with an offense enumerated in subsection (b) of this Code section shall be governed by the provisions of Code Section 17-6-1.

(d) At any time before indictment, the district attorney may, after investigation and for cause, decline prosecution in the superior court of a child 13 to 17 years of age alleged to have committed an offense specified in subsection (b) of this Code section. Upon declining such prosecution in the superior court, the district attorney shall cause a petition to be filed in the appropriate juvenile court for adjudication within 72 hours if the child is in detention or 30 days if the child is not in detention. Except as provided in paragraph (8) of subsection (b) of Code Section 15-11-602, any case transferred by the district attorney to the juvenile court pursuant to this subsection shall be subject to the class A designated felony act provisions of Code Section 15-11-602, and the transfer of the case from superior court to juvenile court shall constitute notice to such child that such case is subject to the class A designated felony act provisions of Code Section 15-11-602.

(e) After indictment, the superior court may after investigation and for extraordinary cause transfer to the juvenile court any case involving a child 13 to 17 years of age alleged to have committed voluntary manslaughter, aggravated sodomy, aggravated child molestation, or aggravated sexual battery. Any such transfer shall be appealable by the State of Georgia pursuant to Code Section 5-7-1. Upon such a transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction of the superior court shall terminate. Except as provided in paragraph (8) of subsection (b) of Code Section 15-11-602, any case transferred by the superior court to the juvenile court pursuant to this subsection shall be subject to the class A designated felony act provisions of Code Section 15-11-602, and the transfer of the case from superior court to juvenile court shall constitute notice to such child that such case is subject to the class A designated felony act provisions of Code Section 15-11-602.

(f) The superior court may transfer any case involving a child 13 to 17 years of age alleged to have committed any offense enumerated in subsection (b) of this Code section and convicted of a lesser included offense not included in subsection (b) of this Code section to the juvenile court of the county of such child's residence for disposition. Upon such a transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction of the superior court shall terminate.

(g) Within 30 days of any proceeding in which a child 13 to 17 years of age is convicted of certain offenses over which the superior court has original jurisdiction as provided in subsection (b) of this Code section or adjudicated as a delinquent child on the basis of conduct which if committed by an adult would constitute such offenses, the superior court shall provide written notice to the school superintendent or his or her designee of the school in which such child is enrolled or, if the information is known, of the school in which such child plans to be enrolled at a future date. Such notice shall include the specific criminal offense that such child committed. The local school system to which such child is assigned may request further information from the court's file.

GA. CODE ANN. § 15-11-562 (2014). Criteria court must consider in determination whether to transfer child to superior court; transfer evaluation

(a) The criteria which the court shall consider in determining whether to transfer an alleged delinquent child as set forth in subsection (b) of Code Section 15-11-560 to superior court includes, but shall not be limited to:

- (1) The age of such child;
- (2) The seriousness of the alleged offense, especially if personal injury resulted;
- (3) Whether the protection of the community requires transfer of jurisdiction;
- (4) Whether the alleged offense involved violence or was committed in an aggressive or premeditated manner;

- (5) The culpability of such child including such child's level of planning and participation in the alleged offense;
 - (6) Whether the alleged offense is a part of a repetitive pattern of offenses which indicates that such child may be beyond rehabilitation in the juvenile justice system;
 - (7) The record and history of such child, including experience with the juvenile justice system, other courts, supervision, commitments to juvenile institutions, and other placements;
 - (8) The sophistication and maturity of such child as determined by consideration of his or her home and environmental situation, emotional condition, and pattern of living;
 - (9) The program and facilities available to the juvenile court in considering disposition; and
 - (10) Whether or not a child can benefit from the treatment or rehabilitative programs available to the juvenile court.
- (b) A probation officer shall prepare a written report developing fully all available information relevant to the transfer criteria. A probation officer shall submit such report to the parties and the court as soon as practicable but not later than 24 hours before the scheduled hearing. The child subject to transfer and the prosecuting attorney shall have the right to review such report and cross-examine the individual making such report.
- (c) The court may order a transfer evaluation of a child's clinical status as it may impact the criteria in subsection (a) of this Code section. Statements made by a child in a transfer evaluation shall only be admissible into evidence in an adjudication hearing or in a criminal proceeding as provided by Code Sections 15-11-479 and 15-11-563.

HAWAII

HAW. REV. STAT. ANN. § 571-22 (2014). Waiver of jurisdiction; transfer to other courts

- (a) The court may waive jurisdiction and order a minor or adult held for criminal proceedings after full investigation and hearing where the person during the person's minority, but on or after the person's sixteenth birthday, is alleged to have committed an act that would constitute a felony if committed by an adult, and the court finds that:
- (1) There is no evidence the person is committable to an institution for individuals with intellectual disabilities or the mentally ill;
 - (2) The person is not treatable in any available institution or facility within the State designed for the care and treatment of children; or

(3) The safety of the community requires that the person be subject to judicial restraint for a period extending beyond the person's minority.

(b) The court may waive jurisdiction and order a minor or adult held for criminal proceedings if, after a full investigation and hearing, the court finds that:

(1) The person during the person's minority, but on or after the person's fourteenth birthday, is alleged to have committed an act that would constitute a felony if committed by an adult and either:

(A) The act resulted in serious bodily injury to a victim;

(B) The act would constitute a class A felony if committed by an adult; or

(C) The person has more than one prior adjudication for acts that would constitute felonies if committed by an adult; and

(2) There is no evidence the person is committable to an institution for individuals with intellectual disabilities or the mentally ill.

(c) The factors to be considered in deciding whether jurisdiction should be waived under subsection (a) or (b) are as follows:

(1) The seriousness of the alleged offense;

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

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

(4) The desirability of trial and disposition of the entire offense in one court when the minor's associates in the alleged offense are adults who will be charged with a crime;

(5) The sophistication and maturity of the minor as determined by consideration of the minor's home, environmental situation, emotional attitude, and pattern of living;

(6) The record and previous history of the minor, including previous contacts with the family court, other law enforcement agencies, courts in other jurisdictions, prior periods of probation to the family court, or prior commitments to juvenile institutions;

(7) The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the minor (if the minor is found to have committed the alleged offense) by the use of procedures, services, and facilities currently available to the family court; and

(8) All other relevant matters.

(d) The court may waive jurisdiction and order a minor or adult held for criminal proceedings if, after a full investigation and hearing, the court finds that:

(1) The person during the person's minority is alleged to have committed an act that would constitute murder in the first degree or second degree or attempted murder in the first degree or second degree if committed by an adult; and

(2) There is no evidence the person is committable to an institution for individuals with intellectual disabilities or the mentally ill.

(e) Transfer of a minor for criminal proceedings terminates the jurisdiction of the court over the minor with respect to any subsequent acts that would otherwise be within the court's jurisdiction under section 571-11(1) and thereby confers jurisdiction over the minor to a court of competent criminal jurisdiction.

(f) If criminal proceedings instituted under subsection (a), (b), or (d) result in an acquittal or other discharge of the minor involved, no petition shall be filed thereafter in any family court based on the same facts as were alleged in the criminal proceeding.

(g) A minor shall not be subject to criminal prosecution based on the facts giving rise to a petition filed under this chapter, except as otherwise provided in this chapter.

(h) Where the petition has been filed in a circuit other than the minor's residence, the judge, in the judge's discretion, may transfer the case to the family court of the circuit of the minor's residence.

(i) When a petition is filed bringing a minor before the court under section 571-11(1) and (2), and the minor resides outside of the circuit, but within the State, the court, after a finding as to the allegations in the petition, may certify the case for disposition to the family court having jurisdiction where the minor resides. Thereupon, the court shall accept the case and may dispose of the case as if the petition was originally filed in that court. Whenever a case is so certified, the certifying court shall forward to the receiving court certified copies of all pertinent legal and social records.

(j) If the court waives jurisdiction pursuant to subsection (b) or (d), the court also may waive its jurisdiction with respect to any other felony charges arising from the same episode to the charge for which the minor was waived.

IDAHO

IDAHO CODE ANN. § 20-508 (2014). Waiver of jurisdiction and transfer to other courts

(1) After the filing of a petition and after full investigation and hearing, the court may

waive jurisdiction under the juvenile corrections act over the juvenile and order that the juvenile be held for adult criminal proceedings when:

(a) A juvenile is alleged to have committed any of the crimes enumerated in section 20-509, Idaho Code; or

(b) A juvenile is alleged to have committed an act other than those enumerated in section 20-509, Idaho Code, after the child became fourteen (14) years of age which would be a crime if committed by an adult; or

(c) An adult at the time of the filing of the petition is alleged to have committed an act prior to his having become eighteen (18) years of age which would be a felony if committed by an adult, and the court finds that the adult is not committable to an institution for people with intellectual disabilities or mental illness, is not treatable in any available institution or facility available to the state designed for the care and treatment of juveniles, or that the safety of the community requires the adult continue under restraint; or

(d) An adult already under the jurisdiction of the court is alleged to have committed a crime while an adult.

(2) A motion to waive jurisdiction under the juvenile corrections act and prosecute a juvenile under the criminal law may be made by the prosecuting attorney, the juvenile, or by motion of the court upon its own initiative. The motion shall be in writing and contain the grounds and reasons in support thereof.

(3) Upon the filing of a motion to waive jurisdiction under the juvenile corrections act, the court shall enter an order setting the motion for hearing at a time and date certain and shall order a full and complete investigation of the circumstances of the alleged offense to be conducted by county probation, or such other agency or investigation officer designated by the court.

(4) Upon setting the time for the hearing upon the motion to waive jurisdiction, the court shall give written notice of said hearing to the juvenile, and the parents, guardian or custodian of the juvenile, and the prosecuting attorney, at least ten (10) days before the date of the hearing, or a lesser period stipulated by the parties, and such notice shall inform the juvenile and the parents, guardian or custodian of the juvenile of their right to court appointed counsel. Service of the notice shall be made in the manner prescribed for service of a summons under section 20-512, Idaho Code.

(5) The hearing upon the motion to waive jurisdiction shall be held in the same manner as an evidentiary hearing upon the original petition and shall be made part of the record.

(6) If as a result of the hearing on the motion to waive jurisdiction the court shall determine that jurisdiction should not be waived, the petition shall be processed in the customary manner as a juvenile corrections act proceeding. However, in the event the

court determines, as a result of the hearing, that juvenile corrections act jurisdiction should be waived and the juvenile should be prosecuted under the criminal laws of the state of Idaho, the court shall enter findings of fact and conclusions of law upon which it bases such decision together with a decree waiving juvenile corrections act jurisdiction and binding the juvenile over to the authorities for prosecution under the criminal laws of the state of Idaho.

(7) No motion to waive juvenile corrections act jurisdiction shall be recognized, considered, or heard by the court in the same case once the court has entered an order or decree in that case that said juvenile has come within the purview of the juvenile corrections act, and all subsequent proceedings after the decree finding the juvenile within the purview of the act must be under and pursuant to the act and not as a criminal proceeding.

(8) In considering whether or not to waive juvenile court jurisdiction over the juvenile, the juvenile court shall consider the following factors:

(a) The seriousness of the offense and whether the protection of the community requires isolation of the juvenile beyond that afforded by juvenile facilities;

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

(c) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;

(d) The maturity of the juvenile as determined by considerations of his home, environment, emotional attitude, and pattern of living;

(e) The juvenile's record and previous history of contacts with the juvenile corrections system;

(f) The likelihood that the juvenile will develop competency and life skills to become a contributing member of the community by use of facilities and resources available to the court;

(g) The amount of weight to be given to each of the factors listed in subsection (8) of this section is discretionary with the court, and a determination that the juvenile is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one (1) or a combination of the factors set forth within this section, which shall be recited in the order of waiver.

(9) If the court does not waive jurisdiction and order a juvenile or adult held for criminal proceedings, the court in a county other than the juvenile's or adult's home county, after entering a decree that the juvenile or adult is within the purview of this chapter, may certify the case for sentencing to the court of the county in which the juvenile offender or

adult resides upon being notified that the receiving court is willing to accept transfer. In the event of a transfer, which should be made unless the court finds it contrary to the interest of the juvenile offender or adult, the jurisdiction of the receiving court shall attach to the same extent as if the court had original jurisdiction.

(10) Upon conviction of a juvenile offender held for adult criminal proceedings under this section, the sentencing judge may, if a finding is made that adult sentencing measures would be inappropriate:

(a) Sentence the convicted person in accordance with the juvenile sentencing options set forth in this chapter; or

(b) Sentence the convicted person to the county jail or to the custody of the state board of correction but suspend the sentence or withhold judgment pursuant to section 19-2601, Idaho Code, and commit the defendant to the custody of the department of juvenile corrections for an indeterminate period of time in accordance with section 20-520(1)(r), Idaho Code. The court, in its discretion, may order that the suspended sentence or withheld judgment be conditioned upon the convicted person's full compliance with all reasonable program requirements of the department of juvenile corrections. Such a sentence may also set terms of probation, which may be served under the supervision of county juvenile probation. However, in no event may the total of the actual time spent by the convicted person in the custody of the department plus any adult sentence imposed by the court exceed the maximum period of imprisonment that could be imposed on an adult convicted of the same crime.

(c) If a convicted person is given a suspended sentence or withheld judgment conditioned upon the convicted person's compliance with all reasonable program requirements of the department pursuant to paragraph (b) of this subsection, and if the department reasonably believes that the convicted person is failing to comply with all reasonable program requirements, the department may petition the sentencing court to revoke the commitment to the department and transfer the convicted person to the county jail or to the custody of the state board of correction for the remainder of the sentence.

IDAHO CODE ANN. § 20-509 (2014). Violent offenses, controlled substances violations near schools and offenders

(1) Any juvenile, age fourteen (14) years to age eighteen (18) years, who is alleged to have committed any of the following crimes or any person under age fourteen (14) years who is alleged to have committed any of the following crimes and, pursuant to section 20-508, Idaho Code, has been ordered by the court to be held for adult criminal proceedings:

(a) Murder of any degree or attempted murder;

(b) Robbery;

(c) Rape as defined in section 18-6101, Idaho Code;

(d) Male rape as defined in section 18-6108, Idaho Code;

(e) Forcible sexual penetration by the use of a foreign object;

(f) Infamous crimes against nature, committed by force or violence;

(g) Mayhem;

(h) Assault or battery with the intent to commit any of the above serious felonies;

(i) A violation of the provisions of section 37-2732(a)(1)(A), (B) or (C), Idaho Code, when the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school;

(j) Arson in the first degree and aggravated arson;

shall be charged, arrested and proceeded against by complaint, indictment or information as an adult. All other felonies or misdemeanors charged in the complaint, indictment or information, which are based on the same act or transaction or on one (1) or more acts or transactions as the violent or controlled substances offense shall similarly be charged, arrested and proceeded against as an adult. Any juvenile proceeded against pursuant to this section shall be accorded all constitutional rights, including bail and trial by jury, and procedural safeguards as if that juvenile were an adult defendant.

(2) Once a juvenile has been formally charged or indicted pursuant to this section or has been transferred for criminal prosecution as an adult pursuant to the waiver provisions of section 20-508, Idaho Code, or this section, the juvenile shall be held in a county jail or other adult prison facility unless the court, after finding good cause, orders otherwise.

(3) Except as otherwise allowed by subsection (4) of this section, once a juvenile offender has been found to have committed the offense for which the juvenile offender was charged, indicted or transferred pursuant to this section or section 20-508, Idaho Code, or has been found guilty or pled guilty to a lesser offense or amended charge growing out of or included within the original charge, whether or not such lesser offense or amended charge is included within the acts enumerated in subsection (1) of this section, the juvenile offender shall thereafter be handled in every respect as an adult. For any subsequent violation of Idaho law, the juvenile offender shall be handled in every respect as an adult.

(4) Upon the conviction of a juvenile offender pursuant to this section, the sentencing judge may, if a finding is made that adult sentencing measures would be inappropriate:

(a) Sentence the convicted person in accordance with the juvenile sentencing options set forth in this chapter; or

(b) Sentence the convicted person to the county jail or to the custody of the state board of correction but suspend the sentence or withhold judgment pursuant to section 19-2601, Idaho Code, and commit the defendant to the custody of the department of juvenile corrections for an indeterminate period of time in accordance with section 20-520(1)(r), Idaho Code. The court, in its discretion, may order that the suspended sentence or withheld judgment be conditioned upon the convicted person's full compliance with all reasonable program requirements of the department of juvenile corrections. Such a sentence may also set terms of probation, which may be served under the supervision of county juvenile probation. However, in no event may the total of the actual time spent by the convicted person in the custody of the department plus any adult sentence imposed by the court exceed the maximum period of imprisonment that could be imposed on an adult convicted of the same crime.

(c) If a convicted person is given a suspended sentence or withheld judgment conditioned upon the convicted person's compliance with all reasonable program requirements of the department pursuant to paragraph (b) of this subsection, and if the department reasonably believes that the convicted person is failing to comply with all reasonable program requirements, the department may petition the sentencing court to revoke the commitment to the department and transfer the convicted person to the county jail or to the custody of the state board of correction for the remainder of the sentence.

ILLINOIS

705 ILL. COMP. STAT. ANN 405/5-125 (2014). Concurrent jurisdiction

Any minor alleged to have violated a traffic, boating, or fish and game law, or a municipal or county ordinance, may be prosecuted for the violation and if found guilty punished under any statute or ordinance relating to the violation, without reference to the procedures set out in this Article, except that any detention, must be in compliance with this Article.

For the purpose of this Section, "traffic violation" shall include a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 relating to the offense of reckless homicide, Section 11-501 of the Illinois Vehicle Code, or any similar county or municipal ordinance.

705 ILL. COMP. STAT. ANN 405/5-130 (2014). Excluded jurisdiction

(1)(a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of an offense was at least 15 years of age and who is charged with: (i) first degree murder, (ii) aggravated criminal sexual assault, (iii) aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05 where the minor personally discharged a firearm as defined in Section 2-15.5 of the Criminal Code of 1961 or the Criminal Code

of 2012, (iv) armed robbery when the armed robbery was committed with a firearm, or (v) aggravated vehicular hijacking when the hijacking was committed with a firearm.

These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(b)(i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (1) the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (1) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the Criminal Code of 1961 or the Criminal Code of 2012.

(c)(i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (1), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (1), that finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Juvenile Justice for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(2) (Blank).

(3)(a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of the offense was at least 15 years of age and who is charged with a violation of the provisions of paragraph (1), (3), (4), or (10) of subsection (a) of Section 24-1 of the Criminal Code of 1961 or the Criminal Code of 2012 while in school, regardless of the time of day or the time of year, or on the real property comprising any school, regardless of the time of day or the time of year. School is defined, for purposes of this Section as any public or private elementary or secondary school, community college, college, or university. These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(b)(i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (3) the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the criminal laws of this State on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (3) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(c)(i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (3), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (3), that finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Juvenile Justice for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under

Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(4)(a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of an offense was at least 13 years of age and who is charged with first degree murder committed during the course of either aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping. However, this subsection (4) does not include a minor charged with first degree murder based exclusively upon the accountability provisions of the Criminal Code of 1961 or the Criminal Code of 2012.

(b)(i) If before trial or plea an information or indictment is filed that does not charge first degree murder committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the criminal laws of this State on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes first degree murder committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, and additional charges that are not specified in paragraph (a) of this subsection, all of the charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(c)(i) If after trial or plea the minor is convicted of first degree murder committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If the minor was not yet 15 years of age at the time of the offense, and if after trial or plea the court finds that the minor committed an offense other than first degree murder committed during the course of either aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, the finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine whether the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous delinquent history of the minor; (d) whether there are facilities

particularly available to the Juvenile Court or the Department of Juvenile Justice for the treatment and rehabilitation of the minor; (e) whether the best interest of the minor and the security of the public require sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(5)(a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who is charged with a violation of subsection (a) of Section 31-6 or Section 32-10 of the Criminal Code of 1961 or the Criminal Code of 2012 when the minor is subject to prosecution under the criminal laws of this State as a result of the application of the provisions of Section 5-125, or subsection (1) or (2) of this Section. These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(b)(i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (5), the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the criminal laws of this State on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (5) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(c)(i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (5), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (5), the conviction shall not invalidate the verdict or the prosecution of the minor under the criminal laws of this State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if whether the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of

the minor; (c) the previous delinquent history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Juvenile Justice for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(6) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who, pursuant to subsection (1) or (3) or Section 5-805 or 5-810, has previously been placed under the jurisdiction of the criminal court and has been convicted of a crime under an adult criminal or penal statute. Such a minor shall be subject to prosecution under the criminal laws of this State.

(7) The procedures set out in this Article for the investigation, arrest and prosecution of juvenile offenders shall not apply to minors who are excluded from jurisdiction of the Juvenile Court, except that minors under 18 years of age shall be kept separate from confined adults.

(8) Nothing in this Act prohibits or limits the prosecution of any minor for an offense committed on or after his or her 18th birthday even though he or she is at the time of the offense a ward of the court.

(9) If an original petition for adjudication of wardship alleges the commission by a minor 13 years of age or over of an act that constitutes a crime under the laws of this State, the minor, with the consent of his or her counsel, may, at any time before commencement of the adjudicatory hearing, file with the court a motion that criminal prosecution be ordered and that the petition be dismissed insofar as the act or acts involved in the criminal proceedings are concerned. If such a motion is filed as herein provided, the court shall enter its order accordingly.

(10) If, prior to August 12, 2005 (the effective date of Public Act 94-574), a minor is charged with a violation of Section 401 of the Illinois Controlled Substances Act under the criminal laws of this State, other than a minor charged with a Class X felony violation of the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act, any party including the minor or the court sua sponte may, before trial, move for a hearing for the purpose of trying and sentencing the minor as a delinquent minor. To request a hearing, the party must file a motion prior to trial. Reasonable notice of the motion shall be given to all parties. On its own motion or upon the filing of a motion by one of the parties including the minor, the court shall conduct a hearing to determine whether the minor should be tried and sentenced as a delinquent minor under this Article. In making its determination, the court shall consider among other matters:

- (a) The age of the minor;
- (b) Any previous delinquent or criminal history of the minor;
- (c) Any previous abuse or neglect history of the minor;
- (d) Any mental health or educational history of the minor, or both; and
- (e) Whether there is probable cause to support the charge, whether the minor is charged through accountability, and whether there is evidence the minor possessed a deadly weapon or caused serious bodily harm during the offense.

Any material that is relevant and reliable shall be admissible at the hearing. In all cases, the judge shall enter an order permitting prosecution under the criminal laws of Illinois unless the judge makes a finding based on a preponderance of the evidence that the minor would be amenable to the care, treatment, and training programs available through the facilities of the juvenile court based on an evaluation of the factors listed in this subsection (10).

(11) The changes made to this Section by Public Act 98-61 apply to a minor who has been arrested or taken into custody on or after January 1, 2014 (the effective date of Public Act 98-61).

705 ILL. COMP. STAT. ANN 405/5-805 (2014). Transfer of jurisdiction

(1) Mandatory transfers.

- (a) If a petition alleges commission by a minor 15 years of age or older of an act that constitutes a forcible felony under the laws of this State, and if a motion by the State's Attorney to prosecute the minor under the criminal laws of Illinois for the alleged forcible felony alleges that (i) the minor has previously been adjudicated delinquent or found guilty for commission of an act that constitutes a felony under the laws of this State or any other state and (ii) the act that constitutes the offense was committed in furtherance of criminal activity by an organized gang, the Juvenile Judge assigned to hear and determine those motions shall, upon determining that there is probable cause that both allegations are true, enter an order permitting prosecution under the criminal laws of Illinois.
- (b) If a petition alleges commission by a minor 15 years of age or older of an act that constitutes a felony under the laws of this State, and if a motion by a State's Attorney to prosecute the minor under the criminal laws of Illinois for the alleged felony alleges that (i) the minor has previously been adjudicated delinquent or found guilty for commission of an act that constitutes a forcible felony under the laws of this State or any other state and (ii) the act that constitutes the offense was committed in furtherance of criminal activities by an organized gang, the Juvenile Judge assigned to hear and determine those motions shall, upon determining that there is probable cause that both

allegations are true, enter an order permitting prosecution under the criminal laws of Illinois.

(c) If a petition alleges commission by a minor 15 years of age or older of: (i) an act that constitutes an offense enumerated in the presumptive transfer provisions of subsection (2); and (ii) the minor has previously been adjudicated delinquent or found guilty of a forcible felony, the Juvenile Judge designated to hear and determine those motions shall, upon determining that there is probable cause that both allegations are true, enter an order permitting prosecution under the criminal laws of Illinois.

(d) If a petition alleges commission by a minor 15 years of age or older of an act that constitutes the offense of aggravated discharge of a firearm committed in a school, on the real property comprising a school, within 1,000 feet of the real property comprising a school, at a school related activity, or on, boarding, or departing from any conveyance owned, leased, or contracted by a school or school district to transport students to or from school or a school related activity, regardless of the time of day or the time of year, the juvenile judge designated to hear and determine those motions shall, upon determining that there is probable cause that the allegations are true, enter an order permitting prosecution under the criminal laws of Illinois.

For purposes of this paragraph (d) of subsection (1):

“School” means a public or private elementary or secondary school, community college, college, or university.

“School related activity” means any sporting, social, academic, or other activity for which students' attendance or participation is sponsored, organized, or funded in whole or in part by a school or school district.

(2) Presumptive transfer.

(a) If the State's Attorney files a petition, at any time prior to commencement of the minor's trial, to permit prosecution under the criminal laws and the petition alleges the commission by a minor 15 years of age or older of: (i) a Class X felony other than armed violence; (ii) aggravated discharge of a firearm; (iii) armed violence with a firearm when the predicate offense is a Class 1 or Class 2 felony and the State's Attorney's motion to transfer the case alleges that the offense committed is in furtherance of the criminal activities of an organized gang; (iv) armed violence with a firearm when the predicate offense is a violation of the Illinois Controlled Substances Act, a violation of the Cannabis Control Act, or a violation of the Methamphetamine Control and Community Protection Act; (v) armed violence when the weapon involved was a machine gun or other weapon described in subsection (a)(7) of Section 24-1 of the Criminal Code of 1961 or the Criminal Code of 2012; (vi) an act in violation of Section 401 of the Illinois Controlled Substances Act which is a Class X felony, while in a school, regardless of the time of day or the time of year, or on any conveyance owned, leased, or contracted by a school to transport students to or from school or a

school related activity, or on residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development; or (vii) an act in violation of Section 401 of the Illinois Controlled Substances Act and the offense is alleged to have occurred while in a school or on a public way within 1,000 feet of the real property comprising any school, regardless of the time of day or the time of year when the delivery or intended delivery of any amount of the controlled substance is to a person under 17 years of age, (to qualify for a presumptive transfer under paragraph (vi) or (vii) of this clause (2)(a), the violation cannot be based upon subsection (b) of Section 407 of the Illinois Controlled Substances Act) and, if the juvenile judge assigned to hear and determine motions to transfer a case for prosecution in the criminal court determines that there is probable cause to believe that the allegations in the petition and motion are true, there is a rebuttable presumption that the minor is not a fit and proper subject to be dealt with under the Juvenile Justice Reform Provisions of 1998 (Public Act 90-590), and that, except as provided in paragraph (b), the case should be transferred to the criminal court.

(b) The judge shall enter an order permitting prosecution under the criminal laws of Illinois unless the judge makes a finding based on clear and convincing evidence that the minor would be amenable to the care, treatment, and training programs available through the facilities of the juvenile court based on an evaluation of the following:

(i) the age of the minor;

(ii) the history of the minor, including:

(A) any previous delinquent or criminal history of the minor,

(B) any previous abuse or neglect history of the minor, and

(C) any mental health, physical or educational history of the minor or combination of these factors;

(iii) the circumstances of the offense, including:

(A) the seriousness of the offense,

(B) whether the minor is charged through accountability,

(C) whether there is evidence the offense was committed in an aggressive and premeditated manner,

(D) whether there is evidence the offense caused serious bodily harm,

(E) whether there is evidence the minor possessed a deadly weapon;

(iv) the advantages of treatment within the juvenile justice system including whether there are facilities or programs, or both, particularly available in the juvenile system;

(v) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections:

(A) the minor's history of services, including the minor's willingness to participate meaningfully in available services;

(B) whether there is a reasonable likelihood that the minor can be rehabilitated before the expiration of the juvenile court's jurisdiction;

(C) the adequacy of the punishment or services.

In considering these factors, the court shall give greater weight to the seriousness of the alleged offense and the minor's prior record of delinquency than to the other factors listed in this subsection.

For purposes of clauses (2)(a)(vi) and (vii):

“School” means a public or private elementary or secondary school, community college, college, or university.

“School related activity” means any sporting, social, academic, or other activity for which students' attendance or participation is sponsored, organized, or funded in whole or in part by a school or school district.

(3) Discretionary transfer.

(a) If a petition alleges commission by a minor 13 years of age or over of an act that constitutes a crime under the laws of this State and, on motion of the State's Attorney to permit prosecution of the minor under the criminal laws, a Juvenile Judge assigned by the Chief Judge of the Circuit to hear and determine those motions, after hearing but before commencement of the trial, finds that there is probable cause to believe that the allegations in the motion are true and that it is not in the best interests of the public to proceed under this Act, the court may enter an order permitting prosecution under the criminal laws.

(b) In making its determination on the motion to permit prosecution under the criminal laws, the court shall consider among other matters:

(i) the age of the minor;

(ii) the history of the minor, including:

(A) any previous delinquent or criminal history of the minor,

(B) any previous abuse or neglect history of the minor, and

(C) any mental health, physical, or educational history of the minor or combination of these factors;

(iii) the circumstances of the offense, including:

(A) the seriousness of the offense,

(B) whether the minor is charged through accountability,

(C) whether there is evidence the offense was committed in an aggressive and premeditated manner,

(D) whether there is evidence the offense caused serious bodily harm,

(E) whether there is evidence the minor possessed a deadly weapon;

(iv) the advantages of treatment within the juvenile justice system including whether there are facilities or programs, or both, particularly available in the juvenile system;

(v) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections:

(A) the minor's history of services, including the minor's willingness to participate meaningfully in available services;

(B) whether there is a reasonable likelihood that the minor can be rehabilitated before the expiration of the juvenile court's jurisdiction;

(C) the adequacy of the punishment or services.

In considering these factors, the court shall give greater weight to the seriousness of the alleged offense and the minor's prior record of delinquency than to the other factors listed in this subsection.

(4) The rules of evidence for this hearing shall be the same as under Section 5-705 of this Act. A minor must be represented in court by counsel before the hearing may be commenced.

(5) If criminal proceedings are instituted, the petition for adjudication of wardship shall be dismissed insofar as the act or acts involved in the criminal proceedings. Taking of evidence in a trial on petition for adjudication of wardship is a bar to criminal proceedings based upon the conduct alleged in the petition.

INDIANA

IND. CODE ANN. § 14-15-10-3 (2014). Juveniles tried as adults

Sec. 3. A person at least sixteen (16) years of age and less than eighteen (18) years of age who violates this article may be prosecuted and tried in a court having jurisdiction over adults who violate this article.

IND. CODE ANN. § 31-30-1-4 (2014). Juvenile court lacks jurisdiction over individuals at least 16 years old committing certain felonies; retention of jurisdiction by court having adult criminal jurisdiction

The juvenile court does not have jurisdiction over an individual for an alleged violation of:

- (1) IC 35-41-5-1(a) (attempted murder);
- (2) IC 35-42-1-1 (murder);
- (3) IC 35-42-3-2 (kidnapping);
- (4) IC 35-42-4-1 (rape);
- (5) IC 35-42-4-2 (criminal deviate conduct) (before its repeal);
- (6) IC 35-42-5-1 (robbery) if:
 - (A) the robbery was committed while armed with a deadly weapon; or
 - (B) the robbery results in bodily injury or serious bodily injury;
- (7) IC 35-42-5-2 (carjacking) (before its repeal);
- (8) IC 35-47-2-1 (carrying a handgun without a license), if charged as a felony;
- (9) IC 35-47-10 (children and firearms), if charged as a felony;
- (10) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or
- (11) any offense that may be joined under IC 35-34-1-9(a)(2) with any crime listed in subdivisions (1) through (10);

if the individual was at least sixteen (16) years of age at the time of the alleged violation.

(b) Once an individual described in subsection (a) has been charged with any crime listed in subsection (a), the court having adult criminal jurisdiction shall retain jurisdiction over

the case even if the individual pleads guilty to or is convicted of a lesser included offense. A plea of guilty to or a conviction of a lesser included offense does not vest jurisdiction in the juvenile court.

IND. CODE ANN. § 31-30-3-2 (2014). Heinous or aggravated act, or act as part of repetitive pattern of delinquent acts

Upon motion of the prosecuting attorney and after full investigation and hearing, the juvenile court may waive jurisdiction if it finds that:

- (1) the child is charged with an act that is a felony:
 - (A) that is heinous or aggravated, with greater weight given to acts against the person than to acts against property; or
 - (B) that is a part of a repetitive pattern of delinquent acts, even though less serious;
- (2) the child was at least fourteen (14) years of age when the act charged was allegedly committed;
- (3) there is probable cause to believe that the child committed the act;
- (4) the child is beyond rehabilitation under the juvenile justice system; and
- (5) it is in the best interests of the safety and welfare of the community that the child stand trial as an adult.

IND. CODE ANN. § 31-30-3-3 (2014). Act that would be felony relating to controlled substances

Upon motion of the prosecuting attorney and after a full investigation and a hearing, the court may waive jurisdiction if it finds that:

- (1) the child is charged with an act that, if committed by an adult, would be a felony under IC 35-48-4;
- (2) there is probable cause to believe that the child has committed the act;
- (3) the child was at least sixteen (16) years of age when the act was allegedly committed; and
- (4) it is in the best interests of the safety and the welfare of the community for the child to stand trial as an adult.

IND. CODE ANN. § 31-30-3-4 (2014). Act that would be murder

Upon motion of the prosecuting attorney and after full investigation and hearing, the

juvenile court shall waive jurisdiction if it finds that:

- (1) the child is charged with an act that would be murder if committed by an adult;
 - (2) there is probable cause to believe that the child has committed the act; and
 - (3) the child was at least ten (10) years of age when the act charged was allegedly committed;
- unless it would be in the best interests of the child and of the safety and welfare of the community for the child to remain within the juvenile justice system.

IND. CODE ANN. § 31-30-3-5 (2014). Acts that would be felonies, involuntary manslaughter, or reckless homicide

Except for those cases in which the juvenile court has no jurisdiction in accordance with IC 31-30-1-4, the court shall, upon motion of the prosecuting attorney and after full investigation and hearing, waive jurisdiction if it finds that:

- (1) the child is charged with an act that, if committed by an adult, would be:
 - (A) a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony, except a felony defined by IC 35-48-4;
 - (B) involuntary manslaughter as a Level 5 felony under IC 35-42-1-4; or
 - (C) reckless homicide as a Level 5 felony under IC 35-42-1-5;
- (2) there is probable cause to believe that the child has committed the act; and
- (3) the child was at least sixteen (16) years of age when the act charged was allegedly committed;

unless it would be in the best interests of the child and of the safety and welfare of the community for the child to remain within the juvenile justice system.

IND. CODE ANN. § 31-30-3-6 (2014). Act that would be felony and prior felony or nontraffic misdemeanor conviction

Upon motion by the prosecuting attorney, the juvenile court shall waive jurisdiction if it finds that:

- (1) the child is charged with an act which would be a felony if committed by an adult; and
- (2) the child has previously been convicted of a felony or a nontraffic misdemeanor.

IND. CODE ANN. § 31-30-3-10 (2014). Waiver order; findings

A waiver order must include specific findings of fact to support the order.

IOWA

IOWA CODE § 232.8 (2014). Jurisdiction

1. a. The juvenile court has exclusive original jurisdiction in proceedings concerning a child who is alleged to have committed a delinquent act unless otherwise provided by law, and has exclusive original jurisdiction in proceedings concerning an adult who is alleged to have committed a delinquent act prior to having become an adult, and who has been transferred to the jurisdiction of the juvenile court pursuant to an order under section 803.5.

b. Violations by a child of provisions of chapter 321, 321G, 321I, 453A, 461A, 461B, 462A, 481A, 481B, 483A, 484A, or 484B, which would be simple misdemeanors if committed by an adult, and violations by a child of county or municipal curfew or traffic ordinances, are excluded from the jurisdiction of the juvenile court and shall be prosecuted as simple misdemeanors as provided by law. A child convicted of a violation excluded from the jurisdiction of the juvenile court under this paragraph shall be sentenced pursuant to section 805.8, where applicable, and pursuant to section 903.1, subsection 3, for all other violations.

c. Violations by a child, aged sixteen or older, which subject the child to the provisions of section 124.401, subsection 1, paragraph “e” or “f”, or violations of section 723A.2 which involve a violation of chapter 724, or violation of chapter 724 which constitutes a felony, or violations which constitute a forcible felony are excluded from the jurisdiction of the juvenile court and shall be prosecuted as otherwise provided by law unless the district court transfers jurisdiction of the child to the juvenile court upon motion and for good cause pursuant to section 803.6. Notwithstanding any other provision of the Code to the contrary, the district court may accept from a child in district court a plea of guilty, or may instruct the jury on a lesser included offense to the offense excluded from the jurisdiction of the juvenile court under this paragraph, in the same manner as regarding an adult. The judgment and sentence of a child in district court shall be as provided in section 901.5. However, the juvenile court shall have exclusive original jurisdiction in a proceeding concerning an offense of animal torture as provided in section 717B.3A alleged to have been committed by a child under the age of seventeen.

d. The juvenile court shall have jurisdiction in proceedings commenced against a child pursuant to section 236.3 over which the district court has waived its jurisdiction. The juvenile court shall hear the action in the manner of an adjudicatory hearing under section 232.47, subject to the following:

(1) The juvenile court shall abide by the provisions of sections 236.4 and 236.6 in holding hearings and making a disposition.

(2) The plaintiff is entitled to proceed pro se under sections 236.3A and 236.3B.

2. A case involving a person charged in a court other than the juvenile court with the commission of a public offense not exempted by law from the jurisdiction of the juvenile court and who is within the provisions of subsection 1 of this section shall immediately be transferred to the juvenile court. The transferring court shall order a transfer and shall forward the transfer order together with all papers, documents and a transcript of all testimony filed or admitted into evidence in connection with the case to the clerk of the juvenile court. The jurisdiction of the juvenile court shall attach immediately upon the signing of an order of transfer. From the time of transfer, the custody, shelter care and detention of the person alleged to have committed a delinquent act shall be in accordance with the provisions of this chapter and the case shall be processed in accordance with the provisions of this chapter.

3. a. The juvenile court, after a hearing and in accordance with the provisions of section 232.45, may waive jurisdiction of a child alleged to have committed a public offense so that the child may be prosecuted as an adult or youthful offender for such offense in another court. If the child pleads guilty or is found guilty of a public offense other than a class "A" felony in another court of this state, that court may suspend the sentence or, with the consent of the child, defer judgment or sentence and, without regard to restrictions placed upon deferred judgments or sentences for adults, place the child on probation for a period of not less than one year upon such conditions as it may require. Upon fulfillment of the conditions of probation, a child who receives a deferred judgment shall be discharged without entry of judgment. A child prosecuted as a youthful offender shall be sentenced pursuant to section 907.3A.

b. This subsection does not apply in a proceeding concerning an offense of animal torture as provided in section 717B.3A alleged to have been committed by a child under the age of seventeen.

4. In a proceeding concerning a child who is alleged to have committed a second delinquent act or a second violation excluded from the jurisdiction of the juvenile court, the court or the juvenile court shall determine whether there is reason to believe that the child regularly abuses alcohol or other controlled substance and may be in need of treatment. If the court so determines, the court shall advise appropriate juvenile authorities and refer such offenders to the juvenile court for disposition pursuant to section 232.52A.

5. Nothing in this chapter shall be interpreted as affecting the statutory limitations on prosecutions for murder in the first or second degree.

6. The supreme court shall prescribe rules under section 602.4202 to resolve jurisdictional and venue issues when juveniles who are placed in another court's jurisdiction are alleged to have committed subsequent delinquent acts.

IOWA CODE § 232.45 (2014). Waiver hearing and waiver of jurisdiction

1. After the filing of a petition which alleges that a child has committed a delinquent act on the basis of an alleged commission of a public offense and before an adjudicatory

hearing on the merits of the petition is held, the county attorney or the child may file a motion requesting the court to waive its jurisdiction over the child for the alleged commission of the public offense or for the purpose of prosecution of the child as an adult or a youthful offender. If the county attorney and the child agree, a motion for waiver for the purpose of being prosecuted as a youthful offender may be heard by the district court as part of the proceedings under section 907.3A, or by the juvenile court as provided in this section. If the motion for waiver for the purpose of being prosecuted as a youthful offender is made as a result of a conditional agreement between the county attorney and the child, the conditions of the agreement shall be disclosed to the court in the same manner as provided in rules of criminal procedure 2.8 and 2.10.

2. The court shall hold a waiver hearing on all such motions.

3. Reasonable notice that states the time, place, and purpose of the waiver hearing shall be provided to the persons required to be provided notice for adjudicatory hearings under section 232.37. Summons, subpoenas, and other process may be issued and served in the same manner as for adjudicatory hearings as provided in section 232.37.

4. Prior to the waiver hearing, the juvenile probation officer or other person or agency designated by the court shall conduct an investigation for the purpose of collecting information relevant to the court's decision to waive its jurisdiction over the child for the alleged commission of the public offense and shall submit a report concerning the investigation to the court. The report shall include any recommendations made concerning waiver. Prior to the hearing the court shall provide the child's counsel and the county attorney with access to the report and to all written material to be considered by the court.

5. At the waiver hearing all relevant and material evidence shall be admitted.

6. At the conclusion of the waiver hearing the court may waive its jurisdiction over the child for the alleged commission of the public offense for the purpose of prosecution of the child as an adult if all of the following apply:

a. The child is fourteen years of age or older.

b. The court determines, or has previously determined in a detention hearing under section 232.44, that there is probable cause to believe that the child has committed a delinquent act which would constitute the public offense.

c. The court determines that the state has established that there are not reasonable prospects for rehabilitating the child if the juvenile court retains jurisdiction over the child and the child is adjudicated to have committed the delinquent act, and that waiver of the court's jurisdiction over the child for the alleged commission of the public offense would be in the best interests of the child and the community.

7. a. At the conclusion of the waiver hearing and after considering the best interests of the child and the best interests of the community the court may, in order that the child may be prosecuted as a youthful offender, waive its jurisdiction over the child if all of the following apply:

(1) The child is twelve through fifteen years of age or the child is ten or eleven years of age and has been charged with a public offense that would be classified as a class "A" felony if committed by an adult.

(2) The court determines, or has previously determined in a detention hearing under section 232.44, that there is probable cause to believe that the child has committed a delinquent act which would constitute a public offense under section 232.8, subsection 1, paragraph "c", notwithstanding the application of that paragraph to children aged sixteen or older.

(3) The court determines that the state has established that there are not reasonable prospects for rehabilitating the child, prior to the child's eighteenth birthday, if the juvenile court retains jurisdiction over the child and the child enters into a plea agreement, is a party to a consent decree, or is adjudicated to have committed the delinquent act.

b. The court shall retain jurisdiction over the child for the purpose of determining whether the child should be released from detention under section 232.23. If the court has been apprised of conditions of an agreement between the county attorney and the child which resulted in a motion for waiver for purposes of the child being prosecuted as a youthful offender, and the court finds that the conditions are in the best interests of the child, the conditions of the agreement shall constitute conditions of the waiver order.

8. In making the determination required by subsection 6, paragraph "c", the factors which the court shall consider include but are not limited to the following:

a. The nature of the alleged delinquent act and the circumstances under which it was committed.

b. The nature and extent of the child's prior contacts with juvenile authorities, including past efforts of such authorities to treat and rehabilitate the child and the response to such efforts.

c. The programs, facilities and personnel available to the juvenile court for rehabilitation and treatment of the child, and the programs, facilities and personnel which would be available to the court that would have jurisdiction in the event the juvenile court waives its jurisdiction so that the child can be prosecuted as an adult.

9. In making the determination required by subsection 7, paragraph "a", subparagraph (3), the factors which the court shall consider include but are not limited to the following:

- a. The nature of the alleged delinquent act and the circumstances under which it was committed.
- b. The nature and extent of the child's prior contacts with juvenile authorities, including past efforts of such authorities to treat and rehabilitate the child and the response to such efforts.
- c. The age of the child, the programs, facilities, and personnel available to the juvenile court for rehabilitation and treatment of the child, and the programs, facilities, and personnel which would be available to the district court after the child reaches the age of eighteen in the event the child is given youthful offender status.

10. If at the conclusion of the hearing the court waives its jurisdiction over the child for the alleged commission of the public offense, the court shall make and file written findings as to its reasons for waiving its jurisdiction.

11. a. If the court waives jurisdiction, statements made by the child after being taken into custody and prior to intake are admissible as evidence in chief against the child in subsequent criminal proceedings provided that the statements were made with the advice of the child's counsel or after waiver of the child's right to counsel and provided that the court finds the child had voluntarily waived the right to remain silent. Other statements made by a child are admissible as evidence in chief provided that the court finds the statements were voluntary. In making its determination, the court may consider any factors it finds relevant and shall consider the following factors:

- (1) Opportunity for the child to consult with a parent, guardian, custodian, lawyer, or other adult.
- (2) The age of the child.
- (3) The child's level of education.
- (4) The child's level of intelligence.
- (5) Whether the child was advised of the child's constitutional rights.
- (6) Length of time the child was held in shelter care or detention before making the statement in question.
- (7) The nature of the questioning which elicited the statement.
- (8) Whether physical punishment such as deprivation of food or sleep was used upon the child during the shelter care, detention, or questioning.

b. Statements made by the child during intake or at a waiver hearing held pursuant to this section are not admissible as evidence in chief against the child in subsequent criminal proceedings over the child's objection in any event.

12. If the court waives its jurisdiction over the child for the alleged commission of the public offense so that the child may be prosecuted as an adult or a youthful offender, the judge who made the waiver decision shall not preside at any subsequent proceedings in connection with that prosecution if the child objects.

13. The waiver does not apply to other delinquent acts which are not alleged in the delinquency petition presented at the waiver hearing.

14. a. If a child who is alleged to have delivered, manufactured, or possessed with intent to deliver or manufacture, a controlled substance except marijuana, as defined in chapter 124, is waived to district court for prosecution, the mandatory minimum sentence provided in section 124.413 shall not be imposed if a conviction is had; however, each child convicted of such an offense shall be confined for not less than thirty days in a secure facility.

b. Upon application of a person charged or convicted under the authority of this subsection, the district court shall order the records in the case sealed if:

(1) Five years have elapsed since the final discharge of that person; and

(2) The person has not been convicted of a felony or an aggravated or serious misdemeanor, or adjudicated a delinquent for an act which if committed by an adult would be a felony, or an aggravated or serious misdemeanor since the final discharge of that person.

KANSAS

KAN. STAT. ANN. § 38-2302 (2014). Definitions

As used in this code, unless the context otherwise requires:

(a) "Commissioner" means the commissioner of juvenile justice or the commissioner's designee.

(b) "Conditional release" means release from a term of commitment in a juvenile correctional facility for an aftercare term pursuant to K.S.A. 38-2369, and amendments thereto, under conditions established by the commissioner.

(c) "Court-appointed special advocate" means a responsible adult, other than an attorney appointed pursuant to K.S.A. 38-2306, and amendments thereto, who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 38-2307, and amendments thereto, in a proceeding pursuant to this code.

(d) “Educational institution” means all schools at the elementary and secondary levels.

(e) “Educator” means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in subsections (a)(1) through (5) of K.S.A. 72-89b03, and amendments thereto.

(f) “Institution” means the following institutions: The Atchison juvenile correctional facility, the Larned juvenile correctional facility and the Kansas juvenile correctional complex.

(g) “Investigator” means an employee of the juvenile justice authority assigned by the commissioner with the responsibility for investigations concerning employees at the juvenile correctional facilities and juveniles in the custody of the commissioner at a juvenile correctional facility.

(h) “Jail” means:

(1) An adult jail or lockup; or

(2) a facility in the same building as an adult jail or lockup, unless the facility meets all applicable licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(i) “Juvenile” means a person to whom one or more of the following applies, the person: (1) Is 10 or more years of age but less than 18 years of age; (2) is alleged to be a juvenile offender; or (3) has been adjudicated as a juvenile offender and continues to be subject to the jurisdiction of the court.

(j) “Juvenile correctional facility” means a facility operated by the commissioner for the commitment of juvenile offenders.

(k) “Juvenile corrections officer” means a certified employee of the juvenile justice authority working at a juvenile correctional facility assigned by the commissioner with responsibility for maintaining custody, security and control of juveniles in the custody of the commissioner at a juvenile correctional facility.

(l) “Juvenile detention facility” means a public or private facility licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, which is used for the lawful custody of alleged or adjudicated juvenile offenders.

(m) “Juvenile intake and assessment worker” means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

(n) “Juvenile offender” means a person who commits an offense while 10 or more years of age but less than 18 years of age which if committed by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-5102, and amendments thereto, or who violates the provisions of K.S.A. 41-727, subsection (j) of K.S.A. 74-8810 or subsection (a)(14) of K.S.A. 21-6301, and amendments thereto, but does not include:

(1) A person 14 or more years of age who commits a traffic offense, as defined in subsection (d) of K.S.A. 8-2117, and amendments thereto;

(2) a person 16 years of age or over who commits an offense defined in chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

(3) a person under 18 years of age who previously has been:

(A) Convicted as an adult under the Kansas criminal code;

(B) sentenced as an adult under the Kansas criminal code following termination of status as an extended jurisdiction juvenile pursuant to K.S.A. 38-2364, and amendments thereto; or

(C) convicted or sentenced as an adult in another state or foreign jurisdiction under substantially similar procedures described in K.S.A. 38-2347, and amendments thereto, or because of attaining the age of majority designated in that state or jurisdiction.

(o) “Law enforcement officer” means any person who by virtue of that person's office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(p) “Parent” when used in relation to a juvenile, includes a guardian and every person who is, by law, liable to maintain, care for or support the juvenile.

(q) “Risk assessment tool” means an instrument administered to juveniles which delivers a score, or group of scores, describing, but not limited to describing, the juvenile's potential risk to the community.

(r) “Sanctions house” means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or

physical restraint in order to control the behavior of its residents. Upon an order from the court, a licensed juvenile detention facility may serve as a sanctions house.

(s) "Warrant" means a written order by a judge of the court directed to any law enforcement officer commanding the officer to take into custody the juvenile named or described therein.

(t) "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for juveniles and which is licensed pursuant to article 5 of chapter 65 or article 70 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

KAN. STAT. ANN. § 38-2347 (2014). Prosecution as an adult; extended jurisdiction juvenile prosecution; burden of proof; authorization

(a)(1) Except as otherwise provided in this section, at any time after commencement of proceedings under this code against a juvenile and prior to the beginning of an evidentiary hearing at which the court may enter a sentence as provided in K.S.A. 38-2356, and amendments thereto, the county or district attorney or the county or district attorney's designee may file a motion requesting that the court authorize prosecution of the juvenile as an adult under the applicable criminal statute. The juvenile shall be presumed to be a juvenile unless good cause is shown to prosecute the juvenile as an adult. No juvenile less than 12 years of age shall be prosecuted as an adult.

(2) The alleged juvenile offender shall be presumed to be an adult if the alleged juvenile offender was: (A) 14, 15, 16 or 17 years of age at the time of the offense or offenses alleged in the complaint, if any such offense: (i) If committed by an adult, would constitute an off-grid crime, a person felony or a nondrug severity level 1 through 6 felony; (ii) committed prior to July 1, 2012, if committed by an adult prior to July 1, 2012, would constitute a drug severity level 1, 2 or 3 felony; (iii) committed on or after July 1, 2012, if committed by an adult on or after July 1, 2012, would constitute a drug severity level 1, 2, 3 or 4 felony; or (iv) was committed while in possession of a firearm; or (B) charged with a felony or with more than one offense, one or more of which constitutes a felony, after having been adjudicated or convicted in a separate juvenile proceeding as having committed an offense which would constitute a felony if committed by an adult and the adjudications or convictions occurred prior to the date of the commission of the new act charged and prior to the beginning of an evidentiary hearing at which the court may enter a sentence as provided in K.S.A. 38-2356, and amendments thereto. If the juvenile is presumed to be an adult, the burden is on the juvenile to rebut the presumption by a preponderance of the evidence.

(3) At any time after commencement of proceedings under this code against a juvenile offender and prior to the beginning of an evidentiary hearing at which the court may enter a sentence as provided in K.S.A. 38-2356, and amendments thereto, the county or district attorney or the county or district attorney's designee may file a motion requesting that the court designate the proceedings as an extended jurisdiction juvenile prosecution.

(4) If the county or district attorney or the county or district attorney's designee files a motion to designate the proceedings as an extended jurisdiction juvenile prosecution and the juvenile was 14, 15, 16 or 17 years of age at the time of the offense or offenses alleged in the complaint and: (A) Charged with an offense: (i) If committed by an adult, would constitute an off-grid crime, a person felony or a nondrug severity level 1 through 6 felony; (ii) committed prior to July 1, 2012, if committed by an adult prior to July 1, 2012, would constitute a drug severity level 1, 2 or 3 felony; (iii) committed on or after July 1, 2012, if committed by an adult on or after July 1, 2012, would constitute a drug severity level 1, 2, 3 or 4 felony; or (iv) was committed while in possession of a firearm; or (B) charged with a felony or with more than, one offense, one or more of which constitutes a felony, after having been adjudicated or convicted in a separate juvenile proceeding as having committed an act which would constitute a felony if committed by an adult and the adjudications or convictions occurred prior to the date of the commission of the new offense charged, the burden is on the juvenile to rebut the designation of an extended jurisdiction juvenile prosecution by a preponderance of the evidence. In all other motions requesting that the court designate the proceedings as an extended jurisdiction juvenile prosecution, the juvenile is presumed to be a juvenile. The burden of proof is on the prosecutor to prove the juvenile should be designated as an extended jurisdiction juvenile.

(b) The motion also may contain a statement that the prosecuting attorney will introduce evidence of the offenses alleged in the complaint and request that, on hearing the motion and authorizing prosecution as an adult or designating the proceedings as an extended jurisdiction juvenile prosecution under this code, the court may make the findings required in a preliminary examination provided for in K.S.A. 22-2902, and amendments thereto, and the finding that there is no necessity for further preliminary examination.

(c)(1) Upon receiving the motion, the court shall set a time and place for hearing. The court shall give notice of the hearing to the juvenile, each parent, if service is possible, and the attorney representing the juvenile. The motion shall be heard and determined prior to any further proceedings on the complaint.

(2) At the hearing, the court shall inform the juvenile of the following:

(A) The nature of the charges in the complaint;

(B) the right of the juvenile to be presumed innocent of each charge;

(C) the right to trial without unnecessary delay and to confront and cross-examine witnesses appearing in support of the allegations of the complaint;

(D) the right to subpoena witnesses;

(E) the right of the juvenile to testify or to decline to testify; and

(F) the sentencing alternatives the court may select as the result of the juvenile being prosecuted under an extended jurisdiction juvenile prosecution.

(d) If the juvenile fails to appear for hearing on the motion after having been served with notice of the hearing, the court may hear and determine the motion in the absence of the juvenile. If the court is unable to obtain service of process and give notice of the hearing, the court may hear and determine the motion in the absence of the alleged juvenile offender after having given notice of the hearing at least once a week for two consecutive weeks in the official county newspaper of the county where the hearing will be held.

(e) In determining whether or not prosecution as an adult should be authorized or designating the proceeding as an extended jurisdiction juvenile prosecution, the court shall consider each of the following factors:

(1) The seriousness of the alleged offense and whether the protection of the community requires prosecution as an adult or designating the proceeding as an extended jurisdiction juvenile prosecution;

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

(3) whether the offense was against a person or against property. Greater weight shall be given to offenses against persons, especially if personal injury resulted;

(4) the number of alleged offenses unadjudicated and pending against the juvenile;

(5) the previous history of the juvenile, including whether the juvenile had been adjudicated a juvenile offender under this code or the Kansas juvenile justice code and, if so, whether the offenses were against persons or property, and any other previous history of antisocial behavior or patterns of physical violence;

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

(7) whether there are facilities or programs available to the court which are likely to rehabilitate the juvenile prior to the expiration of the court's jurisdiction under this code; and

(8) whether the interests of the juvenile or of the community would be better served by criminal prosecution or extended jurisdiction juvenile prosecution.

The insufficiency of evidence pertaining to any one or more of the factors listed in this subsection, in and of itself, shall not be determinative of the issue. Subject to the provisions of K.S.A. 38-2354, and amendments thereto, written reports and other

materials relating to the juvenile's mental, physical, educational and social history may be considered by the court.

(f)(1) The court may authorize prosecution as an adult upon completion of the hearing if the court finds from a preponderance of the evidence that the alleged juvenile offender should be prosecuted as an adult for the offense charged. In that case, the court shall direct the alleged juvenile offender be prosecuted under the applicable criminal statute and that the proceedings filed under this code be dismissed.

(2) The court may designate the proceeding as an extended jurisdiction juvenile prosecution upon completion of the hearing if the juvenile has failed to rebut the presumption or the court finds from a preponderance of the evidence that the juvenile should be prosecuted under an extended jurisdiction juvenile prosecution.

(3) After a proceeding in which prosecution as an adult is requested pursuant to subsection (a)(2), and prosecution as an adult is not authorized, the court may designate the proceedings to be an extended jurisdiction juvenile prosecution.

(4) A juvenile who is the subject of an extended jurisdiction juvenile prosecution shall have the right to a trial by jury, to the effective assistance of counsel and to all other rights of a defendant pursuant to the Kansas code of criminal procedure. Each court shall adopt local rules to establish the basic procedures for extended jurisdiction juvenile prosecution in such court's jurisdiction.

(g) If the juvenile is present in court and the court also finds from the evidence that it appears a felony has been committed and that there is probable cause to believe the felony has been committed by the juvenile, the court may direct that there is no necessity for further preliminary examination on the charges as provided for in K.S.A. 22-2902, and amendments thereto. In that case, the court shall order the juvenile bound over to the district judge having jurisdiction to try the case.

(h) If the juvenile is convicted, the authorization for prosecution as an adult shall attach and apply to any future prosecutions of the juvenile which are or would be cognizable under this code. If the juvenile is not convicted, the authorization for prosecution as an adult shall not attach and shall not apply to future prosecutions of the juvenile which are or would be cognizable under this code.

(i) If the juvenile is prosecuted as an adult under subsection (a)(2) and is not convicted in adult court of an offense listed in subsection (a)(2) but is convicted or adjudicated of a lesser included offense, the juvenile shall be a juvenile offender and receive a sentence pursuant to K.S.A. 38-2361, and amendments thereto.

KENTUCKY

KY. REV. STAT. ANN. § 610.010 (2014). District Court jurisdiction of juvenile matters

<Note: Section effective until 7-1-15. See also section effective 7-1-15.>

(1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his or her eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly has committed a public offense prior to his or her eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that the child has committed a motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him or her as an adult. A child taken into custody upon the allegation that he or she has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his or her appearance before the District Court, in a facility as defined in KRS 15A.067. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a facility for that period of confinement preceding their eighteenth birthday and an adult detention facility for that period of confinement subsequent to their eighteenth birthday. The term "motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent nor any offense which constitutes a felony;

(2) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county or the family division of the Circuit Court shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his or her eighteenth birthday and who allegedly:

(a) Is beyond the control of the school or beyond the control of parents as defined in KRS 600.020;

(b) Is an habitual truant from school;

(c) Is an habitual runaway from his or her parent or other person exercising custodial control or supervision of the child;

(d) Is dependent, neglected, or abused;

(e) Has committed an alcohol offense in violation of KRS 244.085;

(f) Has committed a tobacco offense as provided in KRS 438.305 to 438.340; or

(g) Is mentally ill.

(3) Actions brought under subsection (1) of this section shall be considered to be public offense actions.

(4) Actions brought under subsection (2)(a), (b), (c), (e) and (f) of this section shall be considered to be status offense actions.

(5) Actions brought under subsection (2)(d) of this section shall be considered to be nonoffender actions.

(6) Actions brought under subsection (2)(g) of this section shall be considered to be mental health actions.

(7) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights.

(8) The court shall have no jurisdiction to make permanent awards of custody of a child except as provided by KRS 620.027.

(9) If the court finds an emergency to exist affecting the welfare of a child, or if the child is eligible for kinship care as established in KRS 605.120, it may make temporary orders for the child's custody; however, if the case involves allegations of dependency, neglect, or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.

(10) The court of each county wherein a public offense, as defined in subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of the case, or in its discretion may make an order transferring the case to the court of the county of the child's residence or the county wherein the offense was committed, as the case may be.

(11) Nothing in this chapter shall prevent the court from holding a child in contempt of court to enforce valid court orders previously issued by the court, subject to the requirements contained in KRS 610.265 and 630.080.

(12) Except as provided in KRS 630.120(5), 635.060(3), or 635.090, nothing in this chapter shall confer upon the District Court or the family division of the Circuit Court, as appropriate, jurisdiction over the actions of the Department of Juvenile Justice or the cabinet in the placement, care, or treatment of a child committed to the Department of Juvenile Justice or committed to or in the custody of the cabinet; or to require the department or the cabinet to perform, or to refrain from performing, any specific act in the placement, care, or treatment of any child committed to the department or committed to or in the custody of the cabinet.

(13) Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

(14) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct permanency hearings under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home to his or her parents with all the court imposed conditions terminated, or reaches the age of eighteen (18) years.

KY. REV. STAT. ANN. § 610.010 (2014). District Court jurisdiction of juvenile matters

<Note: Section effective 7-1-15. See also section effective until 7-1-15.>

(1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his or her eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly has committed a public offense prior to his or her eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that the child has committed a motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him or her as an adult. A child taken into custody upon the allegation that he or she has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his or her appearance before the District Court, in a facility as defined in KRS 15A.067. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a facility for that period of confinement preceding their eighteenth birthday and an adult detention facility for that period of confinement subsequent to their eighteenth birthday. The term “motor vehicle offense” shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent nor any offense which constitutes a felony;

(2) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county or the family division of the Circuit Court shall have

exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his or her eighteenth birthday and who allegedly:

(a) Is beyond the control of the school or beyond the control of parents as defined in KRS 600.020;

(b) Is an habitual truant from school;

(c) Is an habitual runaway from his or her parent or other person exercising custodial control or supervision of the child;

(d) Is dependent, neglected, or abused;

(e) Has committed an alcohol offense in violation of KRS 244.085;

(f) Has committed a tobacco offense as provided in KRS 438.305 to 438.340; or

(g) Is mentally ill.

(3) Actions brought under subsection (1) of this section shall be considered to be public offense actions.

(4) Actions brought under subsection (2)(a), (b), (c), (e), and (f) of this section shall be considered to be status offense actions.

(5) Actions brought under subsection (2)(d) of this section shall be considered to be nonoffender actions.

(6) Actions brought under subsection (2)(g) of this section shall be considered to be mental health actions.

(7) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights.

(8) The court shall have no jurisdiction to make permanent awards of custody of a child except as provided by KRS 620.027.

(9) If the court finds an emergency to exist affecting the welfare of a child, or if the child is eligible for kinship care as established in KRS 605.120, it may make temporary orders for the child's custody; however, if the case involves allegations of dependency, neglect, or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without

prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.

(10) The court of each county wherein a public offense, as defined in subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of the case, or in its discretion may make an order transferring the case to the court of the county of the child's residence or the county wherein the offense was committed, as the case may be.

(11) Nothing in this chapter shall prevent the court from holding a child in contempt of court to enforce valid court orders previously issued by the court, subject to the requirements contained in KRS 610.265 and 630.080.

(12) Except as provided in KRS 635.060(4), 630.120(5), or 635.090, nothing in this chapter shall confer upon the District Court or the family division of the Circuit Court, as appropriate, jurisdiction over the actions of the Department of Juvenile Justice or the cabinet in the placement, care, or treatment of a child committed to the Department of Juvenile Justice or committed to or in the custody of the cabinet; or to require the department or the cabinet to perform, or to refrain from performing, any specific act in the placement, care, or treatment of any child committed to the department or committed to or in the custody of the cabinet.

(13) Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

(14) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct permanency hearings under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home to his or her parents with all the court imposed conditions terminated, completes a disposition pursuant to KRS 635.060, or reaches the age of eighteen (18) years.

KY. REV. STAT. ANN. § 635.020 (2014). Criteria for determining how child is to be tried

(1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed a felony other than those described in subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially proceed in accordance with the provisions of this chapter.

(2) If a child charged with a capital offense, Class A felony, or Class B felony, had attained age fourteen (14) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(3) If a child charged with a Class C or Class D felony has on one (1) prior separate occasion been adjudicated a public offender for a felony offense and had attained the age of sixteen (16) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(4) Any other provision of KRS Chapters 610 to 645 to the contrary notwithstanding, if a child charged with a felony in which a firearm, whether functional or not, was used in the commission of the offense had attained the age of fourteen (14) years at the time of the commission of the alleged offense, he shall be transferred to the Circuit Court for trial as an adult if, following a preliminary hearing, the District Court finds probable cause to believe that the child committed a felony, that a firearm was used in the commission of that felony, and that the child was fourteen (14) years of age or older at the time of the commission of the alleged felony. If convicted in the Circuit Court, he shall be subject to the same penalties as an adult offender, except that until he reaches the age of eighteen (18) years, he shall be confined in a facility or program for juveniles or for youthful offenders, unless the provisions of KRS 635.025 apply or unless he is released pursuant to expiration of sentence or parole, and at age eighteen (18) he shall be returned to the sentencing Circuit Court for proceedings consistent with KRS 640.030(2).

(5) If a child previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with a felony allegedly committed prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(6) A child who is charged as is provided in subsection (2) of this section and is also charged with a Class C or D felony, a misdemeanor, or a violation arising from the same course of conduct shall have all charges included in the same proceedings; and the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(7) If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the

Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(8) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, whether the charges are adjudicated under this chapter or under KRS Chapter 640 and transferred to Circuit Court.

KY. REV. STAT. ANN. § 640.010 (2014). Preliminary hearing; proof required to try child as youthful offender in Circuit Court

(1) For children who are alleged to be youthful offenders by falling in the purview of KRS 635.020(2), (3), (5), (6), (7), or (8), the court shall at arraignment assure that the child's rights as specified in KRS 610.060 have been explained and followed.

(2) In the case of a child alleged to be a youthful offender by falling within the purview of KRS 635.020(2), (3), (5), (6), (7), or (8), the District Court shall, upon motion by the county attorney to proceed under this chapter, and after the county attorney has consulted with the Commonwealth's attorney, conduct a preliminary hearing to determine if the child should be transferred to Circuit Court as a youthful offender. The preliminary hearing shall be conducted in accordance with the Rules of Criminal Procedure.

(a) At the preliminary hearing, the court shall determine if there is probable cause to believe that an offense was committed, that the child committed the offense, and that the child is of sufficient age and has the requisite number of prior adjudications, if any, necessary to fall within the purview of KRS 635.020.

(b) If the District Court determines probable cause exists, the court shall consider the following factors before determining whether the child's case shall be transferred to the Circuit Court:

1. The seriousness of the alleged offense;
2. Whether the offense was against persons or property, with greater weight being given to offenses against persons;
3. The maturity of the child as determined by his environment;
4. The child's prior record;
5. The best interest of the child and community;
6. The prospects of adequate protection of the public;
7. The likelihood of reasonable rehabilitation of the child by the use of procedures, services, and facilities currently available to the juvenile justice system; and

8. Evidence of a child's participation in a gang.

(c) If, following the completion of the preliminary hearing, the District Court finds, after considering the factors enumerated in paragraph (b) of this subsection, that two (2) or more of the factors specified in paragraph (b) of this subsection are determined to favor transfer, the child may be transferred to Circuit Court, and if the child is transferred the District Court shall issue an order transferring the child as a youthful offender and shall state on the record the reasons for the transfer. The child shall then be proceeded against in the Circuit Court as an adult, except as otherwise provided in this chapter.

(d) If, following completion of the preliminary hearing, the District Court is of the opinion, after considering the factors enumerated in paragraph (b) of this subsection, that the child shall not be transferred to the Circuit Court, the case shall be dealt with as provided in KRS Chapter 635.

(3) If the child is transferred to Circuit Court under this section and the grand jury does not find that there is probable cause to indict the child as a youthful offender, as defined in KRS 635.020(2), (3), (5), (6), (7), and (8), but does find that there is probable cause to indict the child for another criminal offense, the child shall not be tried as a youthful offender in Circuit Court but shall be returned to District Court to be dealt with as provided in KRS Chapter 635.

LOUISIANA

LA. CHILD. CODE. art. 305 (2014). Divestiture of juvenile court jurisdiction; original criminal court jurisdiction over children; when acquired

A. (1) When a child is fifteen years of age or older at the time of the commission of first degree murder, second degree murder, aggravated rape, or aggravated kidnapping, he is subject to the exclusive jurisdiction of the juvenile court until either:

(a) An indictment charging one of these offenses is returned.

(b) The juvenile court holds a continued custody hearing pursuant to Articles 819 and 820 and finds probable cause that he committed one of these offenses, whichever occurs first. During this hearing, when the child is charged with aggravated rape, the court shall inform him that if convicted he shall register as a sex offender for life, pursuant to Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

(2) Thereafter, the child is subject to the exclusive jurisdiction of the appropriate court exercising criminal jurisdiction for all subsequent procedures, including the review of bail applications, and the child shall be transferred forthwith to the appropriate adult facility for detention prior to his trial as an adult.

B. (1) When a child is fifteen years of age or older at the time of the commission of any of the offenses listed in Subparagraph (2) of this Paragraph, he is subject to the exclusive jurisdiction of the juvenile court until whichever of the following occurs first:

(a) An indictment charging one of the offenses listed in Subparagraph (2) of this Paragraph is returned.

(b) The juvenile court holds a continued custody hearing and finds probable cause that the child has committed any of the offenses listed in Subparagraph (2) of this Paragraph and a bill of information charging any of the offenses listed in Subparagraph (2) of this Paragraph is filed. During this hearing, when the child is charged with forcible rape or second degree kidnapping, the court shall inform him that if convicted he shall register as a sex offender for life, pursuant to Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

(2)(a) Attempted first degree murder.

(b) Attempted second degree murder.

(c) Manslaughter.

(d) Armed robbery.

(e) Aggravated burglary.

(f) Forcible rape.

(g) Simple rape.

(h) Second degree kidnapping.

(i) Repealed by Acts 2001, No. 301, § 2.

(j) Aggravated battery committed with a firearm.

(k) A second or subsequent aggravated battery.

(l) A second or subsequent aggravated burglary.

(m) A second or subsequent offense of burglary of an inhabited dwelling.

(n) A second or subsequent felony-grade violation of Part X or X-B of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950 involving the manufacture, distribution, or possession with intent to distribute controlled dangerous substances.

(3) The district attorney shall have the discretion to file a petition alleging any of the offenses listed in Subparagraph (2) of this Paragraph in the juvenile court or, alternatively, to obtain an indictment or file a bill of information. If the child is being held in detention, the district attorney shall make his election and file the indictment, bill of information, or petition in the appropriate court within thirty calendar days after the child's arrest, unless the child waives this right.

(4) If an indictment is returned or a bill of information is filed, the child is subject to the exclusive jurisdiction of the appropriate court exercising criminal jurisdiction for all subsequent procedures, including the review of bail applications, and the district court may order that the child be transferred to the appropriate adult facility for detention prior to his trial as an adult.

C. Except when a juvenile is held in an adult jail or lockup, the time limitations for the conduct of a continued custody hearing are those provided by Article 819.

D. The court exercising criminal jurisdiction shall retain jurisdiction over the child's case, even though he pleads guilty to or is convicted of a lesser included offense. A plea to or conviction of a lesser included offense shall not revert jurisdiction in the court exercising juvenile jurisdiction over such a child.

E. (1) If a competency or sanity examination is ordered, except for the filing of a delinquency petition, the return of an indictment, or the filing of a bill of information, no further steps to prosecute the child shall occur until the court exercising criminal jurisdiction appoints counsel for the child and provides notification in accordance with Article 809 and determines the child's mental capacity to proceed.

(2) When an indictment has been returned or a bill of information has been filed pursuant to this Subsection, the district court exercising criminal jurisdiction shall be the proper court to determine the child's mental capacity to proceed. In all other instances, the juvenile court shall be the proper court to make this determination.

LA. CHILD. CODE. art. 804 (2014). Definitions

As used in this Title:

(1) "Child" means any person under the age of twenty-one, including an emancipated minor, who commits a delinquent act before attaining seventeen years of age.

(2) "Child care institution" means a nonprofit, licensed private or public institution which accommodates no more than twenty-five children and which is not a detention facility, a forestry camp, a training school, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(3) "Delinquent act" means an act committed by a child of ten years of age or older which if committed by an adult is designated an offense under the statutes or ordinances of this state, or of another state if the offense occurred there, or under federal law, except

traffic violations. It includes an act constituting an offense under R.S. 14:95.8, an act constituting an offense under R.S. 14:81.1.1(A)(2), and a direct contempt of court committed by a child. "Delinquent act" shall not include a violation of R.S. 14:82, 83.3, 83.4, 89, or 89.2 for a child who, during the time of the alleged commission of the offense, was a victim of trafficking of children for sexual purposes pursuant to R.S. 14:46.3(E).

(4) "Delinquent child" means a child who has committed a delinquent act.

(5) "Felony-grade delinquent act" means an offense that if committed by an adult, may be punished by death or by imprisonment at hard labor. "Felony-grade delinquent act" shall not include a violation of R.S. 14:82, 83.3, 83.4, 89, or 89.2 for a child who, during the time of the alleged commission of the offense, was a victim of trafficking of children for sexual purposes pursuant to R.S. 14:46.3(E).

(6) "Insanity" means a mental disease or mental illness which renders the child incapable of distinguishing between right and wrong with reference to the conduct in question, as a result of which the child is exempt from criminal responsibility.

(7) "Mental incapacity to proceed" means that, as a result of mental illness or developmental disability, a child presently lacks the capacity to understand the nature of the proceedings against him or to assist in his defense.

(8) "Misdemeanor-grade delinquent act" means any offense which if committed by an adult is other than a felony and includes the violation of an ordinance providing a penal sanction.

(9) "Sexually exploited child" means any person under the age of eighteen who has been subject to sexual exploitation because the person:

(a) Is a victim of trafficking of children for sexual purposes under R.S. 14:46.3.

(b) Is a victim of child sex trafficking under 18 U.S.C. 1591.

LA. CHILD. CODE. art. 857 (2014). Transfers for criminal prosecution; authority

A. The court on its own motion or on motion of the district attorney may conduct a hearing to consider whether to transfer a child for prosecution to the appropriate court exercising criminal jurisdiction if a delinquency petition has been filed which alleges that a child who is fourteen years of age or older at the time of the commission of the alleged offense but is not otherwise subject to the original jurisdiction of a court exercising criminal jurisdiction has committed any one or more of the following crimes:

(1) First degree murder.

- (2) Second degree murder.
- (3) Aggravated kidnapping.
- (4) Aggravated rape.
- (5) Aggravated battery when committed by the discharge of a firearm.
- (6) Armed robbery when committed with a firearm.
- (7) Repealed by Acts 2001, No. 301, § 2.
- (8) Forcible rape if the rape is committed upon a child at least two years younger than the rapist.

B. Notwithstanding any other provision of law to the contrary, a fourteen-year-old who is transferred pursuant to this Article and subsequently convicted shall not be confined for such conviction beyond his thirty-first birthday.

C. (1) An adult who is charged with an offense committed at the time he was a child for which the time limitation for the institution of prosecution pursuant to Code of Criminal Procedure Art. 571 has not lapsed and for which he was subject to prosecution as an adult due to his age at the time the offense was committed shall be prosecuted as an adult in the appropriate court exercising criminal jurisdiction. If convicted, he shall be punished as an adult as provided by law.

(2) An adult who is charged with an offense committed at the time he was a child for which the time limitation for the institution of prosecution pursuant to Code of Criminal Procedure Art. 571 has not lapsed and for which he was not subject to prosecution as an adult due to his age at the time the offense was committed shall be prosecuted as an adult in the appropriate court exercising criminal jurisdiction. If convicted, he shall be committed to the custody of the Department of Public Safety and Corrections to be confined in secure placement for a period of time as determined by the court not to exceed the maximum amount of confinement he could have been ordered to serve had he been adjudicated for the offense as a child at the time the offense was committed.

LA. CHILD. CODE. art. 858 (2014). Motion for transfer; notice

A. On motion of the district attorney, the child, or on its own motion, the court may conduct a transfer hearing. Such motion may be filed at any time following the filing of a delinquency petition but shall be heard prior to the adjudication hearing or acceptance of an admission to the delinquency petition.

B. Notice in writing of the time, place, and purpose of the hearing shall be given to the child and his parents and other custodian, if any, at least ten days before the hearing. In addition, if the petition charges the child with second degree kidnapping, aggravated rape, or forcible rape, the court shall inform the child regarding the applicable registration

and duration requirements in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

LA. CHILD. CODE. art. 862 (2014). Transfer hearing; required findings

A. In order for a motion to transfer a child to be granted, the burden shall be upon the state to prove all of the following:

- (1) Probable cause exists that the child meets the requirements of Article 857.
- (2) By clear and convincing proof, there is no substantial opportunity for the child's rehabilitation through facilities available to the court, based upon the following criteria:
 - (a) The age, maturity, both mental and physical, and sophistication of the child.
 - (b) The nature and seriousness of the alleged offense to the community and whether the protection of the community requires transfer.
 - (c) The child's prior acts of delinquency, if any, and their nature and seriousness.
 - (d) Past efforts at rehabilitation and treatment, if any, and the child's response.
 - (e) Whether the child's behavior might be related to physical or mental problems.
 - (f) Techniques, programs, personnel, and facilities available to the juvenile court which might be competent to deal with the child's particular problems.

B. The court shall state for the record its reasons for judgment.

C. (1) The court shall transmit the order rendered after the hearing or a certified copy thereof, without delay, to the clerk of court having jurisdiction of the offense.

(2) Any party may request the court to provide a complete or partial transcript of the testimony of the witnesses; however, neither the record of the hearing nor the reasons for the transfer shall be admissible in evidence in any subsequent criminal proceedings, except for the purpose of impeachment of a witness.

MAINE

ME. REV. STAT. ANN. tit. 15, § 3101 (2014). Jurisdiction

1. District Court as Juvenile Court. The District Court shall exercise the jurisdiction conferred by this Part and, when exercising such jurisdiction, shall be known and referred to as the Juvenile Court.

2. Juvenile Court jurisdiction.

A. The Juvenile Court shall have exclusive original jurisdiction, subject to waiver of jurisdiction as provided in subsection 4, of proceedings in which a juvenile is alleged to have committed a juvenile crime, as defined in section 3103.

B. Repealed.

C. Juvenile Courts shall have jurisdiction over all petitions brought under the Uniform Interstate Compact on Juveniles, Title 34, chapter 9, pertaining to juveniles who have been adjudicated as having committed juvenile crimes in other states, but who are found within the territorial jurisdiction of Maine.

D. Juvenile Courts shall have exclusive original jurisdiction over proceedings in which an adult is alleged to have committed a juvenile crime before attaining his 18th birthday. For purposes of such proceedings such an adult shall be considered a juvenile.

E. Juvenile Courts shall have jurisdiction concurrent with the District Courts over petitions for emancipation brought under section 3506-A.

3. Juveniles mistakenly tried as adults.

A. If, during the pendency of any prosecution for a violation of law, in any court in the State against any person charged as an adult, it is ascertained that the person is a juvenile, or was a juvenile at the time the crime was committed, the court shall forthwith dismiss the case.

B. When a dismissal is ordered pursuant to paragraph A, a petition under chapter 507, alleging the same violation of law for which the juvenile was charged as an adult may be filed in Juvenile Court.

4. Bind-over.

A. When a petition alleges that a juvenile has committed an act which would be murder or a Class A, B or C crime if committed by an adult, the court shall, upon request of the prosecuting attorney, continue the case for further investigation and for a bind-over hearing to determine whether the jurisdiction of the Juvenile Court over the juvenile should be waived. In the event of such a continuance, the court shall advise the juvenile and his parents, guardian or legal custodian of the possible consequences of a bind-over hearing, the right to be represented by counsel, and other constitutional and legal rights in connection therewith.

B. Every bind-over hearing shall precede and shall be conducted separately from any adjudicatory hearing.

The Maine Rules of Evidence shall apply only to the probable cause portion of the bind-over hearing.

For the purpose of making the findings required by paragraph E, subparagraph (2), written reports and other material may be received by the court along with other evidence, but the court, if so requested by the juvenile, the juvenile's parent or guardian or other party, shall require that the person or persons who wrote the report or prepared the material appear as witness and be subject to examination, and the court may require that the persons whose statements appear in the report appear as witnesses and be subject to examination.

C. A verbatim record shall be kept in all bind-over proceedings.

C-1. With respect to the finding of probable cause required by paragraph E, subparagraph (1), the State has the burden of proof.

C-2. With respect to the finding of appropriateness required by paragraph E, subparagraph (2), the State has the burden of proof, except that in a case involving a juvenile who is charged with one or more juvenile crimes that, if the juvenile were an adult, would constitute murder, aggravated attempted murder, attempted murder, felony murder, Class A manslaughter other than the reckless or criminally negligent operation of a motor vehicle, elevated aggravated assault on a pregnant person, elevated aggravated assault, arson that recklessly endangers any person, causing a catastrophe, Class A robbery or Class A gross sexual assault in which the victim submits as a result of compulsion, the juvenile has the burden of proof.

D. The Juvenile Court shall consider the following factors in deciding whether to bind a juvenile over to Superior Court:

- (1) Seriousness of the crime: the nature and seriousness of the offense with greater weight being given to offenses against the person than against property; whether the offense was committed in an aggressive, violent, premeditated or intentional manner;
- (2) Characteristics of the juvenile: the record and previous history of the juvenile; the age of the juvenile; the juvenile's emotional attitude and pattern of living;
- (3) Public safety: whether the protection of the community requires commitment of the juvenile for a period longer than the greatest commitment authorized; whether the protection of the community requires commitment of the juvenile to a facility that is more secure than any dispositional alternative under section 3314; and
- (4) Dispositional alternatives: whether future criminal conduct by the juvenile will be deterred by the dispositional alternatives available; whether the dispositional alternatives would diminish the gravity of the offense.

E. The Juvenile Court shall bind a juvenile over to the Superior Court if it finds:

(1) That there is probable cause to believe that a juvenile crime has been committed that would constitute murder or a Class A, Class B or Class C crime if the juvenile involved were an adult and that the juvenile to be bound over committed it; and

(2) After a consideration of the seriousness of the crime, the characteristics of the juvenile, the public safety and the dispositional alternatives in paragraph D, that:

(a) If the State has the burden of proof, the State has established by a preponderance of the evidence that it is appropriate to prosecute the juvenile as if the juvenile were an adult; or

(b) If the juvenile has the burden of proof, the juvenile has failed to establish by a preponderance of the evidence that it is not appropriate to prosecute the juvenile as if the juvenile were an adult.

E-1. Repealed. Laws 2013, c. 28, § 1, eff. Oct. 9, 2013.

E-2. If the Juvenile Court binds a juvenile over to Superior Court and has directed the detention of the juvenile, if the juvenile attains 18 years of age and is being detained, the juvenile must be detained in an adult section of a jail.

F. The Juvenile Court shall bind over a child by entering an order finding probable cause, waiving jurisdiction and certifying the case for proceedings before the grand jury. The Juvenile Court shall enter written findings supporting its order finding probable cause and waiving jurisdiction. Proceedings concerning a juvenile who has been bound over to the Superior Court shall be conducted in the same manner and with the same powers and duties as if the juvenile were an adult.

G. In all prosecutions for subsequent crimes, any person bound over and convicted as an adult shall be proceeded against as if he were an adult.

MARYLAND

MD. CODE ANN., CTS. & JUD. PROC. § 3-8A-03 (2014). Jurisdiction of court

Exclusive original jurisdiction over delinquent children or children in need of supervision

(a) In addition to the jurisdiction specified in Subtitle 8 of this title, the court has exclusive original jurisdiction over:

(1) A child who is alleged to be delinquent or in need of supervision or who has received a citation for a violation;

(2) Except as provided in subsection (d)(6) of this section, a peace order proceeding in which the respondent is a child; and

(3) Proceedings arising under the Interstate Compact on Juveniles.

Concurrent jurisdiction over proceedings against an adult

(b) The court has concurrent jurisdiction over proceedings against an adult for the violation of § 3-8A-30 of this subtitle. However, the court may waive its jurisdiction under this subsection upon its own motion or upon the motion of any party to the proceeding, if charges against the adult arising from the same incident are pending in the criminal court. Upon motion by either the State's Attorney or the adult charged under § 3-8A-30 of this subtitle, the court shall waive its jurisdiction, and the adult shall be tried in the criminal court according to the usual criminal procedure.

Concurrent jurisdiction relating to compulsory public school attendance laws

(c) The jurisdiction of the court is concurrent with that of the District Court in any criminal case arising under the compulsory public school attendance laws of this State.

Jurisdiction relating to acts punishable by life imprisonment

(d) The court does not have jurisdiction over:

(1) A child at least 14 years old alleged to have done an act which, if committed by an adult, would be a crime punishable by life imprisonment, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article;

(2) A child at least 16 years old alleged to have done an act in violation of any provision of the Transportation Article or other traffic law or ordinance, except an act that prescribes a penalty of incarceration;

(3) A child at least 16 years old alleged to have done an act in violation of any provision of law, rule, or regulation governing the use or operation of a boat, except an act that prescribes a penalty of incarceration;

(4) A child at least 16 years old alleged to have committed any of the following crimes, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article:

(i) Abduction;

(ii) Kidnapping;

(iii) Second degree murder;

- (iv) Manslaughter, except involuntary manslaughter;
 - (v) Second degree rape;
 - (vi) Robbery under § 3-403 of the Criminal Law Article;
 - (vii) Second degree sexual offense under § 3-306(a)(1) of the Criminal Law Article;
 - (viii) Third degree sexual offense under § 3-307(a)(1) of the Criminal Law Article;
 - (ix) A crime in violation of § 5-133, § 5-134, § 5-138, or § 5-203 of the Public Safety Article;
 - (x) Using, wearing, carrying, or transporting a firearm during and in relation to a drug trafficking crime under § 5-621 of the Criminal Law Article;
 - (xi) Use of a firearm under § 5-622 of the Criminal Law Article;
 - (xii) Carjacking or armed carjacking under § 3-405 of the Criminal Law Article;
 - (xiii) Assault in the first degree under § 3-202 of the Criminal Law Article;
 - (xiv) Attempted murder in the second degree under § 2-206 of the Criminal Law Article;
 - (xv) Attempted rape in the second degree under § 3-310 of the Criminal Law Article or attempted sexual offense in the second degree under § 3-312 of the Criminal Law Article;
 - (xvi) Attempted robbery under § 3-403 of the Criminal Law Article; or
 - (xvii) A violation of § 4-203, § 4-204, § 4-404, or § 4-405 of the Criminal Law Article;
- (5) A child who previously has been convicted as an adult of a felony and is subsequently alleged to have committed an act that would be a felony if committed by an adult, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article; or
- (6) A peace order proceeding in which the victim, as defined in § 3-8A-01(cc)(1)(ii) of this subtitle, is a person eligible for relief, as defined in § 4-501 of the Family Law Article.

Exclusive jurisdiction relating to violations of Maryland Vehicle Law by children

(e) If the child is charged with two or more violations of the Maryland Vehicle Law, another traffic law or ordinance, or the State Boat Act, allegedly arising out of the same incident and which would result in the child being brought before both the court and a court exercising criminal jurisdiction, the court has exclusive jurisdiction over all of the charges.

MD. CODE ANN., CTS. & JUD. PROC. § 3-8A-06 (2014). Waiver of exclusive jurisdiction by the court

Children subject to waiver

(a) The court may waive the exclusive jurisdiction conferred by § 3-8A-03 of this subtitle with respect to a petition alleging delinquency by:

- (1) A child who is 15 years old or older; or
- (2) A child who has not reached his 15th birthday, but who is charged with committing an act which if committed by an adult, would be punishable by life imprisonment.

Hearing required to waive jurisdiction

(b) The court may not waive its jurisdiction under this section until after it has conducted a waiver hearing, held prior to an adjudicatory hearing and after notice has been given to all parties as prescribed by the Maryland Rules. The waiver hearing is solely to determine whether the court should waive its jurisdiction.

Notice of waiver hearing

(c)(1) Notice of the waiver hearing shall be given to a victim as provided under § 11-104 of the Criminal Procedure Article.

(2)(i) A victim may submit a victim impact statement to the court as provided in § 11-402 of the Criminal Procedure Article.

(ii) This paragraph does not preclude a victim who has not filed a notification request form under § 11-104 of the Criminal Procedure Article from submitting a victim impact statement to the court.

(iii) The court may consider a victim impact statement in determining whether to waive jurisdiction under this section.

Determination that child unfit for juvenile rehabilitative measures

(d)(1) The court may not waive its jurisdiction under this section unless it determines, from a preponderance of the evidence presented at the hearing, that the child is an unfit subject for juvenile rehabilitative measures.

(2) For purposes of determining whether to waive its jurisdiction under this section, the court shall assume that the child committed the delinquent act alleged.

Criteria for making determination

(e) In making its determination, the court shall consider the following criteria individually and in relation to each other on the record:

- (1) Age of the child;
- (2) Mental and physical condition of the child;
- (3) The child's amenability to treatment in any institution, facility, or program available to delinquents;
- (4) The nature of the offense and the child's alleged participation in it; and
- (5) The public safety.

Order that child be held for trial

(f) If jurisdiction is waived under this section, the court shall order the child held for trial under the regular procedures of the court which would have jurisdiction over the offense if committed by an adult. The petition alleging delinquency shall be considered a charging document for purposes of detaining the child pending a bail hearing.

Order interlocutory

(g) An order waiving jurisdiction is interlocutory.

Waiver of jurisdiction in subsequent proceedings involving child

(h) If the court has once waived its jurisdiction with respect to a child in accordance with this section, and that child is subsequently brought before the court on another charge of delinquency, the court may waive its jurisdiction in the subsequent proceeding after summary review.

MASSACHUSETTS

MASS. ANN. LAWS ch. 119, § 74 (2014). Limitations on criminal proceedings against children

Except as hereinafter provided and as provided in sections fifty-two to eighty-four, inclusive, no criminal proceeding shall be begun against any person who prior to his eighteenth birthday commits an offense against the laws of the commonwealth or who violates any city ordinance or town by-law, provided, however, that a criminal complaint

alleging violation of any city ordinance or town by-law regulating the operation of motor vehicles, which is not capable of being judicially heard and determined as a civil motor vehicle infraction pursuant to the provisions of chapter ninety C may issue against a child between sixteen and 18 years of age without first proceeding against him as a delinquent child.

The juvenile court shall not have jurisdiction over a person who had at the time of the offense attained the age of fourteen but not yet attained the age of 18 who is charged with committing murder in the first or second degree. Complaints and indictments brought against persons for such offenses, and for other criminal offenses properly joined under Massachusetts Rules of Criminal Procedure 9 (a) (1), shall be brought in accordance with the usual course and manner of criminal proceedings.

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MICH. COMP. LAWS ANN. § 600.606 (2014). Circuit courts, jurisdiction to hear specified juvenile violations; specified juvenile violation, defined

(1) The circuit court has jurisdiction to hear and determine a specified juvenile violation if committed by a juvenile 14 years of age or older and less than 17 years of age.

(2) As used in this section, “specified juvenile violation” means any of the following:

(a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531 of the Michigan Compiled Laws.

(b) A violation of section 84 or 110a(2) of Act No. 328 of the Public Acts of 1931, being sections 750.84 and 750.110a of the Michigan Compiled Laws, if the juvenile is armed with a dangerous weapon. As used in this subdivision, “dangerous weapon” means 1 or more of the following:

(i) A loaded or unloaded firearm, whether operable or inoperable.

(ii) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(iii) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(iv) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (i) to (iii).

(c) A violation of section 186a of Act No. 328 of the Public Acts of 1931, being section 750.186a of the Michigan Compiled Laws, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

(i) A high-security or medium-security facility operated by the family independence agency.

(ii) A high-security facility operated by a private agency under contract with the family independence agency.

(d) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 and 333.7403 of the Michigan Compiled Laws.

(e) An attempt to commit a violation described in subdivisions (a) to (d).

(f) Conspiracy to commit a violation described in subdivisions (a) to (d).

(g) Solicitation to commit a violation described in subdivisions (a) to (d).

(h) Any lesser included offense of a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

(i) Any other violation arising out of the same transaction as a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

MICH. COMP. LAWS ANN. § 712A.2 (2014). Family division of circuit court; authority and jurisdiction

<Section effective until Jan. 14, 2015. See, also, section effective Jan. 14, 2015.>

The court has the following authority and jurisdiction:

(a) Exclusive original jurisdiction superior to and regardless of the jurisdiction of another court in proceedings concerning a juvenile under 17 years of age who is found within the county if 1 or more of the following applies:

(1) Except as otherwise provided in this sub-subdivision, the juvenile has violated any municipal ordinance or law of the state or of the United States. If the court enters into an agreement under section 2e of this chapter, the court has jurisdiction over a juvenile who committed a civil infraction as provided in that section. The court has jurisdiction over a juvenile 14 years of age or older who is charged with a specified juvenile violation only if the prosecuting attorney files a petition in the court instead of authorizing a complaint and warrant. As used in this sub-subdivision, “specified

juvenile violation” means 1 or more of the following:

(A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

(B) A violation of section 84 or 110a(2) of the Michigan penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is armed with a dangerous weapon. As used in this paragraph, “dangerous weapon” means 1 or more of the following:

(i) A loaded or unloaded firearm, whether operable or inoperable.

(ii) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(iii) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(iv) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (i) to (iii).

(C) A violation of section 186a of the Michigan penal code, 1931 PA 328, MCL 750.186a, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

(i) A high-security or medium-security facility operated by the family independence agency or a county juvenile agency.

(ii) A high-security facility operated by a private agency under contract with the family independence agency or a county juvenile agency.

(D) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

(E) An attempt to commit a violation described in paragraphs (A) to (D).

(F) Conspiracy to commit a violation described in paragraphs (A) to (D).

(G) Solicitation to commit a violation described in paragraphs (A) to (D).

(H) A lesser included offense of a violation described in paragraphs (A) to (G) if the individual is charged with a violation described in paragraphs (A) to (G).

(I) Another violation arising out of the same transaction as a violation described in paragraphs (A) to (G) if the individual is charged with a violation described in paragraphs (A) to (G).

(2) The juvenile has deserted his or her home without sufficient cause, and the court finds on the record that the juvenile has been placed or refused alternative placement or the juvenile and the juvenile's parent, guardian, or custodian have exhausted or refused family counseling.

(3) The juvenile is repeatedly disobedient to the reasonable and lawful commands of his or her parents, guardian, or custodian, and the court finds on the record by clear and convincing evidence that court-accessed services are necessary.

(4) The juvenile willfully and repeatedly absents himself or herself from school or other learning program intended to meet the juvenile's educational needs, or repeatedly violates rules and regulations of the school or other learning program, and the court finds on the record that the juvenile, the juvenile's parent, guardian, or custodian, and school officials or learning program personnel have met on the juvenile's educational problems and educational counseling and alternative agency help have been sought. As used in this sub-subdivision only, "learning program" means an organized educational program that is appropriate, given the age, intelligence, ability, and psychological limitations of a juvenile, in the subject areas of reading, spelling, mathematics, science, history, civics, writing, and English grammar.

(b) Jurisdiction in proceedings concerning a juvenile under 18 years of age found within the county:

(1) Whose parent or other person legally responsible for the care and maintenance of the juvenile, when able to do so, neglects or refuses to provide proper or necessary support, education, medical, surgical, or other care necessary for his or her health or morals, who is subject to a substantial risk of harm to his or her mental well-being, who is abandoned by his or her parents, guardian, or other custodian, or who is without proper custody or guardianship. As used in this sub-subdivision:

(A) "Education" means learning based on an organized educational program that is appropriate, given the age, intelligence, ability, and psychological limitations of a juvenile, in the subject areas of reading, spelling, mathematics, science, history, civics, writing, and English grammar.

(B) "Without proper custody or guardianship" does not mean a parent has placed the juvenile with another person who is legally responsible for the care and maintenance of the juvenile and who is able to and does provide the juvenile with proper care and maintenance.

(2) Whose home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent adult, or other

custodian, is an unfit place for the juvenile to live in.

(3) Whose parent has substantially failed, without good cause, to comply with a limited guardianship placement plan described in section 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5205, regarding the juvenile.

(4) Whose parent has substantially failed, without good cause, to comply with a court-structured plan described in section 5207 or 5209 of the estates and protected individuals code, 1998 PA 386, MCL 700.5207 and 700.5209, regarding the juvenile.

(5) If the juvenile has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, and the juvenile's parent meets both of the following criteria:

(A) The parent, having the ability to support or assist in supporting the juvenile, has failed or neglected, without good cause, to provide regular and substantial support for the juvenile for 2 years or more before the filing of the petition or, if a support order has been entered, has failed to substantially comply with the order for 2 years or more before the filing of the petition.

(B) The parent, having the ability to visit, contact, or communicate with the juvenile, has regularly and substantially failed or neglected, without good cause, to do so for 2 years or more before the filing of the petition.

If a petition is filed in the court alleging that a juvenile is within the provisions of subdivision (b)(1), (2), (3), (4), or (5) and the custody of that juvenile is subject to the prior or continuing order of another court of record of this state, the manner of notice to the other court of record and the authority of the court to proceed is governed by rule of the supreme court.

(c) Jurisdiction over juveniles under 18 years of age, jurisdiction of whom has been waived to the family division of circuit court by a circuit court under a provision in a temporary order for custody of juveniles based upon a complaint for divorce or upon a motion related to a complaint for divorce by the prosecuting attorney, in a divorce judgment dissolving a marriage between the juvenile's parents, or by an amended judgment relative to the juvenile's custody in a divorce.

(d) If the court finds on the record that voluntary services have been exhausted or refused, concurrent jurisdiction in proceedings concerning a juvenile between the ages of 17 and 18 found within the county who is 1 or more of the following:

(1) Repeatedly addicted to the use of drugs or the intemperate use of alcoholic liquors.

(2) Repeatedly associating with criminal, dissolute, or disorderly persons.

(3) Found of his or her own free will and knowledge in a house of prostitution, assignation, or ill-fame.

(4) Repeatedly associating with thieves, prostitutes, pimps, or procurers.

(5) Willfully disobedient to the reasonable and lawful commands of his or her parents, guardian, or other custodian and in danger of becoming morally depraved.

If a juvenile is brought before the court in a county other than that in which the juvenile resides, before a hearing and with the consent of the judge of the court in the county of residence, the court may enter an order transferring jurisdiction of the matter to the court of the county of residence. Consent to transfer jurisdiction is not required if the county of residence is a county juvenile agency and satisfactory proof of residence is furnished to the court of the county of residence. The order does not constitute a legal settlement in this state that is required for the purpose of section 55 of the social welfare act, 1939 PA 280, MCL 400.55. The order and a certified copy of the proceedings in the transferring court shall be delivered to the court of the county of residence. A case designated as a case in which the juvenile shall be tried in the same manner as an adult under section 2d of this chapter may be transferred for venue or for juvenile disposition, but shall not be transferred on grounds of residency. If the case is not transferred, the court having jurisdiction of the offense shall try the case.

(e) Authority to establish or assist in developing a program or programs within the county to prevent delinquency and provide services to act upon reports submitted to the court related to the behavior of a juvenile who does not require formal court jurisdiction but otherwise falls within subdivision (a). These services shall be used only if the juvenile and his or her parents, guardian, or custodian voluntarily accepts them.

(f) If the court operates a detention home for juveniles within the court's jurisdiction under subdivision (a)(1), authority to place a juvenile within that home pending trial if the juvenile is within the circuit court's jurisdiction under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606, and if the circuit court orders the family division of circuit court in the same county to place the juvenile in that home. The family division of circuit court shall comply with that order.

(g) Authority to place a juvenile in a county jail under section 27a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.27a, if the court designates the case under section 2d of this chapter as a case in which the juvenile is to be tried in the same manner as an adult and the court determines there is probable cause to believe that the offense was committed and probable cause to believe the juvenile committed that offense.

(h) Jurisdiction over a proceeding under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, in which a minor less than 18 years of age is the respondent, or a proceeding to enforce a valid foreign protection order issued against a respondent who is a minor less than 18 years of age. A personal

protection order shall not be issued against a respondent who is a minor less than 10 years of age. Venue for an initial action under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, is proper in the county of residence of either the petitioner or respondent. If the respondent does not live in this state, venue for the initial action is proper in the petitioner's county of residence.

MICH. COMP. LAWS ANN. § 712A.2 (2014). Authority and jurisdiction; family division of circuit court

<Section effective Jan. 14, 2015. See, also, section effective until Jan. 14, 2015.>

The court has the following authority and jurisdiction:

(a) Exclusive original jurisdiction superior to and regardless of the jurisdiction of another court in proceedings concerning a juvenile under 17 years of age who is found within the county if 1 or more of the following applies:

(1) Except as otherwise provided in this sub-subdivision, the juvenile has violated any municipal ordinance or law of the state or of the United States. If the court enters into an agreement under section 2e of this chapter, the court has jurisdiction over a juvenile who committed a civil infraction as provided in that section. The court has jurisdiction over a juvenile 14 years of age or older who is charged with a specified juvenile violation only if the prosecuting attorney files a petition in the court instead of authorizing a complaint and warrant. As used in this sub- subdivision, “specified juvenile violation” means 1 or more of the following:

(A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

(B) A violation of section 84 or 110a(2) of the Michigan penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is armed with a dangerous weapon. As used in this paragraph, “dangerous weapon” means 1 or more of the following:

(i) A loaded or unloaded firearm, whether operable or inoperable.

(ii) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(iii) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(iv) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (i) to (iii).

(C) A violation of section 186a of the Michigan penal code, 1931 PA 328, MCL 750.186a, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

(i) A high-security or medium-security facility operated by the department of human services or a county juvenile agency.

(ii) A high-security facility operated by a private agency under contract with the department of human services or a county juvenile agency.

(D) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

(E) An attempt to commit a violation described in paragraphs (A) to (D).

(F) Conspiracy to commit a violation described in paragraphs (A) to (D).

(G) Solicitation to commit a violation described in paragraphs (A) to (D).

(H) A lesser included offense of a violation described in paragraphs (A) to (G) if the individual is charged with a violation described in paragraphs (A) to (G).

(I) Another violation arising out of the same transaction as a violation described in paragraphs (A) to (G) if the individual is charged with a violation described in paragraphs (A) to (G).

(2) The juvenile has deserted his or her home without sufficient cause, and the court finds on the record that the juvenile has been placed or refused alternative placement or the juvenile and the juvenile's parent, guardian, or custodian have exhausted or refused family counseling.

(3) The juvenile is repeatedly disobedient to the reasonable and lawful commands of his or her parents, guardian, or custodian, and the court finds on the record by clear and convincing evidence that court-accessed services are necessary.

(4) The juvenile willfully and repeatedly absents himself or herself from school or other learning program intended to meet the juvenile's educational needs, or repeatedly violates rules and regulations of the school or other learning program, and the court finds on the record that the juvenile, the juvenile's parent, guardian, or custodian, and school officials or learning program personnel have met on the juvenile's educational problems and educational counseling and alternative agency help have been sought. As used in this sub-subdivision only, "learning program" means an organized educational program that is appropriate, given the age, intelligence, ability, and psychological limitations of a juvenile, in the subject areas of reading, spelling, mathematics, science, history, civics, writing, and English grammar.

(b) Jurisdiction in proceedings concerning a juvenile under 18 years of age found within the county:

(1) Whose parent or other person legally responsible for the care and maintenance of the juvenile, when able to do so, neglects or refuses to provide proper or necessary support, education, medical, surgical, or other care necessary for his or her health or morals, who is subject to a substantial risk of harm to his or her mental well-being, who is abandoned by his or her parents, guardian, or other custodian, or who is without proper custody or guardianship. As used in this sub-subdivision:

(A) "Education" means learning based on an organized educational program that is appropriate, given the age, intelligence, ability, and psychological limitations of a juvenile, in the subject areas of reading, spelling, mathematics, science, history, civics, writing, and English grammar.

(B) "Without proper custody or guardianship" does not mean a parent has placed the juvenile with another person who is legally responsible for the care and maintenance of the juvenile and who is able to and does provide the juvenile with proper care and maintenance.

(2) Whose home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent adult, or other custodian, is an unfit place for the juvenile to live in.

(3) If the juvenile is dependent and is in danger of substantial physical or psychological harm. The juvenile may be found to be dependent when any of the following occurs:

(A) The juvenile is homeless or not domiciled with a parent or other legally responsible person.

(B) The juvenile has repeatedly run away from home and is beyond the control of a parent or other legally responsible person.

(C) The juvenile is alleged to have committed a commercial sexual activity as that term is defined in section 462a of the Michigan penal code, 1931 PA 328, MCL 750.462a or a delinquent act that is the result of force, fraud, coercion, or manipulation exercised by a parent or other adult.

(D) The juvenile's custodial parent or legally responsible person has died or has become permanently incapacitated and no appropriate parent or legally responsible person is willing and able to provide care for the juvenile.

(4) Whose parent has substantially failed, without good cause, to comply with a limited guardianship placement plan described in section 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5205, regarding the juvenile.

(5) Whose parent has substantially failed, without good cause, to comply with a court-structured plan described in section 5207 or 5209 of the estates and protected individuals code, 1998 PA 386, MCL 700.5207 and 700.5209, regarding the juvenile.

(6) If the juvenile has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, and the juvenile's parent meets both of the following criteria:

(A) The parent, having the ability to support or assist in supporting the juvenile, has failed or neglected, without good cause, to provide regular and substantial support for the juvenile for 2 years or more before the filing of the petition or, if a support order has been entered, has failed to substantially comply with the order for 2 years or more before the filing of the petition.

(B) The parent, having the ability to visit, contact, or communicate with the juvenile, has regularly and substantially failed or neglected, without good cause, to do so for 2 years or more before the filing of the petition.

If a petition is filed in the court alleging that a juvenile is within the provisions of subdivision (b)(1), (2), (3), (4), (5), or (6) and the custody of that juvenile is subject to the prior or continuing order of another court of record of this state, the manner of notice to the other court of record and the authority of the court to proceed is governed by rule of the supreme court.

(c) Jurisdiction over juveniles under 18 years of age, jurisdiction of whom has been waived to the family division of circuit court by a circuit court under a provision in a temporary order for custody of juveniles based upon a complaint for divorce or upon a motion related to a complaint for divorce by the prosecuting attorney, in a divorce judgment dissolving a marriage between the juvenile's parents, or by an amended judgment relative to the juvenile's custody in a divorce.

(d) If the court finds on the record that voluntary services have been exhausted or refused, concurrent jurisdiction in proceedings concerning a juvenile between the ages of 17 and 18 found within the county who is 1 or more of the following:

(1) Repeatedly addicted to the use of drugs or the intemperate use of alcoholic liquors.

(2) Repeatedly associating with criminal, dissolute, or disorderly persons.

(3) Found of his or her own free will and knowledge in a house of prostitution, assignation, or ill-fame.

(4) Repeatedly associating with thieves, prostitutes, pimps, or procurers.

(5) Willfully disobedient to the reasonable and lawful commands of his or her parents, guardian, or other custodian and in danger of becoming morally depraved.

If a juvenile is brought before the court in a county other than that in which the juvenile resides, before a hearing and with the consent of the judge of the court in the county of residence, the court may enter an order transferring jurisdiction of the matter to the court of the county of residence. Consent to transfer jurisdiction is not required if the county of residence is a county juvenile agency and satisfactory proof of residence is furnished to the court of the county of residence. The order does not constitute a legal settlement in this state that is required for the purpose of section 55 of the social welfare act, 1939 PA 280, MCL 400.55. The order and a certified copy of the proceedings in the transferring court shall be delivered to the court of the county of residence. A case designated as a case in which the juvenile shall be tried in the same manner as an adult under section 2d of this chapter may be transferred for venue or for juvenile disposition, but shall not be transferred on grounds of residency. If the case is not transferred, the court having jurisdiction of the offense shall try the case.

(e) Authority to establish or assist in developing a program or programs within the county to prevent delinquency and provide services to act upon reports submitted to the court related to the behavior of a juvenile who does not require formal court jurisdiction but otherwise falls within subdivision (a). These services shall be used only if the juvenile and his or her parents, guardian, or custodian voluntarily accepts them.

(f) If the court operates a detention home for juveniles within the court's jurisdiction under subdivision (a)(1), authority to place a juvenile within that home pending trial if the juvenile is within the circuit court's jurisdiction under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606, and if the circuit court orders the family division of circuit court in the same county to place the juvenile in that home. The family division of circuit court shall comply with that order.

(g) Authority to place a juvenile in a county jail under section 27a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.27a, if the court designates the case under section 2d of this chapter as a case in which the juvenile is to be tried in the same manner as an adult and the court determines there is probable cause to believe that the offense was committed and probable cause to believe the juvenile committed that offense.

(h) Jurisdiction over a proceeding under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, in which a minor less than 18 years of age is the respondent, or a proceeding to enforce a valid foreign protection order issued against a respondent who is a minor less than 18 years of age. A personal protection order shall not be issued against a respondent who is a minor less than 10 years of age. Venue for an initial action under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, is proper in the county of residence of either the petitioner or respondent. If the respondent does not live in this state, venue for the initial action is proper in the petitioner's county of residence.

MICH. COMP. LAWS ANN. § 712A.2d (2014). Petitions to try juvenile as adult; best interests of the juvenile and public, factors; trial; probable cause hearing; procedural protections and guarantees; disposition upon conviction; violations

(1) In a petition or amended petition alleging that a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter for a specified juvenile violation, the prosecuting attorney may designate the case as a case in which the juvenile is to be tried in the same manner as an adult. An amended petition making a designation under this subsection shall be filed only by leave of the court.

(2) In a petition alleging that a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter for an offense other than a specified juvenile violation, the prosecuting attorney may request that the court designate the case as a case in which the juvenile is to be tried in the same manner as an adult. The court may designate the case following a hearing if it determines that the best interests of the juvenile and the public would be served by the juvenile being tried in the same manner as an adult. In determining whether the best interests of the juvenile and the public would be served, the court shall consider all of the following factors, giving greater weight to the seriousness of the alleged offense and the juvenile's prior delinquency record than to the other factors:

(a) The seriousness of the alleged offense in terms of community protection, including, but not limited to, the existence of any aggravating factors recognized by the sentencing guidelines, the use of a firearm or other dangerous weapon, and the impact on any victim.

(b) The juvenile's culpability in committing the alleged offense, including, but not limited to, the level of the juvenile's participation in planning and carrying out the offense and the existence of any aggravating or mitigating factors recognized by the sentencing guidelines.

(c) The juvenile's prior record of delinquency including, but not limited to, any record of detention, any police record, any school record, or any other evidence indicating prior delinquent behavior.

(d) The juvenile's programming history, including, but not limited to, the juvenile's past willingness to participate meaningfully in available programming.

(e) The adequacy of the punishment or programming available in the juvenile justice system.

(f) The dispositional options available for the juvenile.

(3) If a case is designated under this section, the case shall be set for trial in the same manner as the trial of an adult in a court of general criminal jurisdiction unless a probable

cause hearing is required under subsection (4).

(4) If the petition in a case designated under this section alleges an offense that if committed by an adult would be a felony or punishable by imprisonment for more than 1 year, the court shall conduct a probable cause hearing not later than 14 days after the case is designated to determine whether there is probable cause to believe the offense was committed and whether there is probable cause to believe the juvenile committed the offense. This hearing may be combined with the designation hearing under subsection (2) for an offense other than a specified juvenile offense. A probable cause hearing under this section is the equivalent of the preliminary examination in a court of general criminal jurisdiction and satisfies the requirement for that hearing. A probable cause hearing shall be conducted by a judge other than the judge who will try the case if the juvenile is tried in the same manner as an adult.

(5) If the court determines there is probable cause to believe the offense alleged in the petition was committed and probable cause to believe the juvenile committed the offense, the case shall be set for trial in the same manner as the trial of an adult in a court of general criminal jurisdiction.

(6) If the court determines that an offense did not occur or there is not probable cause to believe the juvenile committed the offense, the court shall dismiss the petition. If the court determines there is probable cause to believe another offense was committed and there is probable cause to believe the juvenile committed that offense, the court may further determine whether the case should be designated as a case in which the juvenile should be tried in the same manner as an adult as provided in subsection (2). If the court designates the case, the case shall be set for trial in the same manner as the trial of an adult in a court of general criminal jurisdiction.

(7) If a case is designated under this section, the proceedings are criminal proceedings and shall afford all procedural protections and guarantees to which the juvenile would be entitled if being tried for the offense in a court of general criminal jurisdiction. A plea of guilty or nolo contendere or a verdict of guilty shall result in entry of a judgment of conviction. The conviction shall have the same effect and liabilities as if it had been obtained in a court of general criminal jurisdiction.

(8) Following a judgment of conviction, the court shall enter a disposition or impose a sentence authorized under section 18(1)(n) of this chapter.

(9) As used in this section, “specified juvenile violation” means any of the following:

(a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

(b) A violation of section 84 or 110a(2) of the Michigan penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is armed with a dangerous weapon. As used

in this subdivision, “dangerous weapon” means 1 or more of the following:

- (i) A loaded or unloaded firearm, whether operable or inoperable.
 - (ii) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.
 - (iii) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.
 - (iv) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (i) to (iii).
- (c) A violation of section 186a of the Michigan penal code, 1931 PA 328, MCL 750.186a, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the juvenile escaped or attempted to escape was 1 of the following:
- (i) A high-security or medium-security facility operated by the family independence agency or a county juvenile agency.
 - (ii) A high-security facility operated by a private agency under contract with the family independence agency or a county juvenile agency.
- (d) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.
- (e) An attempt to commit a violation described in subdivisions (a) to (d).
- (f) Conspiracy to commit a violation described in subdivisions (a) to (d).
- (g) Solicitation to commit a violation described in subdivisions (a) to (d).
- (h) Any lesser included offense of an offense described in subdivisions (a) to (g) if the juvenile is alleged in the petition to have committed an offense described in subdivisions (a) to (g).
- (i) Any other offense arising out of the same transaction as an offense described in subdivisions (a) to (g) if the juvenile is alleged in the petition to have committed an offense described in subdivisions (a) to (g).

MICH. COMP. LAWS ANN. § 712A.4 (2014). Waiver of jurisdiction

(1) If a juvenile 14 years of age or older is accused of an act that if committed by an adult would be a felony, the judge of the family division of circuit court in the county in which the offense is alleged to have been committed may waive jurisdiction under this section

upon motion of the prosecuting attorney. After waiver, the juvenile may be tried in the court having general criminal jurisdiction of the offense.

(2) Before conducting a hearing on the motion to waive jurisdiction, the court shall give notice of the hearing in the manner provided by supreme court rule to the juvenile and the prosecuting attorney and, if addresses are known, to the juvenile's parents or guardians. The notice shall state clearly that a waiver of jurisdiction to a court of general criminal jurisdiction has been requested and that, if granted, the juvenile can be prosecuted for the alleged offense as though he or she were an adult.

(3) Before the court waives jurisdiction, the court shall determine on the record if there is probable cause to believe that an offense has been committed that if committed by an adult would be a felony and if there is probable cause to believe that the juvenile committed the offense. Before a juvenile may waive a probable cause hearing under this subsection, the court shall inform the juvenile that a waiver of this subsection waives the preliminary examination required by chapter VI of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 766.1 to 766.18 of the Michigan Compiled Laws.

(4) Upon a showing of probable cause under subsection (3), the court shall conduct a hearing to determine if the best interests of the juvenile and the public would be served by granting a waiver of jurisdiction to the court of general criminal jurisdiction. In making its determination, the court shall consider all of the following criteria, giving greater weight to the seriousness of the alleged offense and the juvenile's prior record of delinquency than to the other criteria:

(a) The seriousness of the alleged offense in terms of community protection, including, but not limited to, the existence of any aggravating factors recognized by the sentencing guidelines, the use of a firearm or other dangerous weapon, and the impact on any victim.

(b) The culpability of the juvenile in committing the alleged offense, including, but not limited to, the level of the juvenile's participation in planning and carrying out the offense and the existence of any aggravating or mitigating factors recognized by the sentencing guidelines.

(c) The juvenile's prior record of delinquency including, but not limited to, any record of detention, any police record, any school record, or any other evidence indicating prior delinquent behavior.

(d) The juvenile's programming history, including, but not limited to, the juvenile's past willingness to participate meaningfully in available programming.

(e) The adequacy of the punishment or programming available in the juvenile justice system.

(f) The dispositional options available for the juvenile.

(5) If the court determines that there is probable cause to believe that an offense has been committed that if committed by an adult would be a felony and that the juvenile committed the offense, the court shall waive jurisdiction of the juvenile if the court finds that the juvenile has previously been subject to the jurisdiction of the circuit court under this section or section 606 of the revised judiciary act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.606 of the Michigan Compiled Laws, or the recorder's court of the city of Detroit under this section or section 10a(1)(c) of Act No. 369 of the Public Acts of 1919, being section 725.10a of the Michigan Compiled Laws.

(6) If legal counsel has not been retained or appointed to represent the juvenile, the court shall advise the juvenile and his or her parents, guardian, custodian, or guardian ad litem of the juvenile's right to representation and appoint legal counsel. If the court appoints legal counsel, the judge may assess the cost of providing legal counsel as costs against the juvenile or those responsible for his or her support, or both, if the persons to be assessed are financially able to comply.

(7) Legal counsel shall have access to records or reports provided and received by the judge as a basis for decision in proceedings for waiver of jurisdiction. A continuance shall be granted at legal counsel's request if any report, information, or recommendation not previously available is introduced or developed at the hearing and the interests of justice require a continuance.

(8) The court shall enter a written order either granting or denying the motion to waive jurisdiction and the court shall state on the record or in a written opinion the court's findings of fact and conclusions of law forming the basis for entering the order. If a juvenile is waived, a transcript of the court's findings or a copy of the written opinion shall be sent to the court of general criminal jurisdiction.

(9) If the court does not waive jurisdiction, a transcript of the court's findings or, if a written opinion is prepared, a copy of the written opinion shall be sent to the prosecuting attorney, juvenile, or juvenile's attorney upon request.

(10) If the court waives jurisdiction, the juvenile shall be arraigned on an information filed by the prosecutor in the court of general criminal jurisdiction. The probable cause finding under subsection (3) satisfies the requirements of, and is the equivalent of, the preliminary examination required by chapter VI of Act No. 175 of the Public Acts of 1927.

(11) As used in this section, "felony" means an offense punishable by imprisonment for more than 1 year or an offense designated by law as a felony.

MINNESOTA

MINN. STAT. § 260B.007 (2014). Definitions

Subdivision 1. Scope. As used in this chapter, the terms defined in this section have the same meanings given to them.

Subd. 2. Agency. “Agency” means the local social services agency or a licensed child-placing agency.

Subd. 3. Child. “Child” means an individual under 18 years of age and includes any minor alleged to have been delinquent or a juvenile traffic offender prior to having become 18 years of age.

Subd. 4. Child-placing agency. “Child-placing agency” means anyone licensed under sections 245A.01 to 245A.16 and 252.28, subdivision 2.

Subd. 5. Court. “Court” means juvenile court unless otherwise specified in this section.

Subd. 6. Delinquent child. (a) Except as otherwise provided in paragraphs (b) and (c), “delinquent child” means a child:

(1) who has violated any state or local law, except as provided in section 260B.225, subdivision 1, and except for juvenile offenders as described in subdivisions 16 to 18;

(2) who has violated a federal law or a law of another state and whose case has been referred to the juvenile court if the violation would be an act of delinquency if committed in this state or a crime or offense if committed by an adult;

(3) who has escaped from confinement to a state juvenile correctional facility after being committed to the custody of the commissioner of corrections; or

(4) who has escaped from confinement to a local juvenile correctional facility after being committed to the facility by the court.

(b) The term delinquent child does not include a child alleged to have committed murder in the first degree after becoming 16 years of age, but the term delinquent child does include a child alleged to have committed attempted murder in the first degree.

(c) The term delinquent child does not include a child alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct.

Subd. 7. Foster care. “Foster care” means 24-hour substitute care for children placed away from their parents or guardian and for whom a responsible social services agency has placement and care responsibility. Foster care includes, but is not limited to, placement in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities not excluded in this subdivision, child care institutions, and

preadoptive homes. A child is in foster care under this definition regardless of whether the facility is licensed and payments are made for the cost of care. Nothing in this definition creates any authority to place a child in a home or facility that is required to be licensed which is not licensed. Foster care does not include placement in any of the following facilities: hospitals, inpatient chemical dependency treatment facilities, facilities that are primarily for delinquent children, any corrections facility or program within a particular corrections facility not meeting requirements for title IV-E facilities as determined by the commissioner, facilities to which a child is committed under the provision of chapter 253B, forestry camps, or jails. Foster care is intended to provide for a child's safety or to access treatment. Foster care must not be used as a punishment or consequence for a child's behavior.

Subd. 8. Legal custody. "Legal custody" means the right to the care, custody, and control of a child who has been taken from a parent by the court in accordance with the provisions of sections 260B.198 and 260B.235. The expenses of legal custody are paid in accordance with the provisions of section 260B.331.

Subd. 9. Minor. "Minor" means an individual under 18 years of age.

Subd. 10. Parent. "Parent" means the birth or adoptive parent of a minor. For an Indian child, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in section 260.755, subdivision 14.

Subd. 11. Person. "Person" includes any individual, association, corporation, partnership, and the state or any of its political subdivisions, departments, or agencies.

Subd. 12. Relative. "Relative" means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of the minor. This relationship may be by blood or marriage. For an Indian child, relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903.

Subd. 13. Custodian. "Custodian" means any person who is under a legal obligation to provide care and support for a minor or who is in fact providing care and support for a minor. This subdivision does not impose upon persons who are not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care a duty to provide that care. For an Indian child, custodian means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of the child, as provided in section 260.755, subdivision 11.

Subd. 14. Secure detention facility. "Secure detention facility" means a physically restricting facility, including but not limited to a jail, a hospital, a state institution, a residential treatment center, or a detention home used for the temporary care of a child pending court action.

Subd. 15. Shelter care facility. “Shelter care facility” means a physically unrestricting facility, such as, but not limited to, a hospital, a group home, or a licensed facility for foster care, used for the temporary care of a child pending court action.

Subd. 16. Juvenile petty offender; juvenile petty offense. (a) “Juvenile petty offense” includes a juvenile alcohol offense, a juvenile controlled substance offense, a violation of section 609.685, or a violation of a local ordinance, which by its terms prohibits conduct by a child under the age of 18 years which would be lawful conduct if committed by an adult.

(b) Except as otherwise provided in paragraph (c), “juvenile petty offense” also includes an offense that would be a misdemeanor if committed by an adult.

(c) “Juvenile petty offense” does not include any of the following:

(1) a misdemeanor-level violation of section 518B.01, 588.20, 609.224, 609.2242, 609.324, subdivision 2 or 3, 609.5632, 609.576, 609.66, 609.746, 609.748, 609.79, or 617.23;

(2) a major traffic offense or an adult court traffic offense, as described in section 260B.225;

(3) a misdemeanor-level offense committed by a child whom the juvenile court previously has found to have committed a misdemeanor, gross misdemeanor, or felony offense; or

(4) a misdemeanor-level offense committed by a child whom the juvenile court has found to have committed a misdemeanor-level juvenile petty offense on two or more prior occasions, unless the county attorney designates the child on the petition as a juvenile petty offender notwithstanding this prior record. As used in this clause, “misdemeanor-level juvenile petty offense” includes a misdemeanor-level offense that would have been a juvenile petty offense if it had been committed on or after July 1, 1995.

(d) A child who commits a juvenile petty offense is a “juvenile petty offender.” The term juvenile petty offender does not include a child alleged to have violated any law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct which, if committed by an adult, would be a misdemeanor.

Subd. 17. Juvenile alcohol offense. “Juvenile alcohol offense” means a violation by a child of any provision of section 340A.503 or an equivalent local ordinance.

Subd. 18. Juvenile controlled substance offense. “Juvenile controlled substance offense” means a violation by a child of section 152.027, subdivision 4, with respect to a small amount of marijuana or an equivalent local ordinance.

Subd. 19. Indian. “Indian,” consistent with section 260.755, subdivision 7, means a person who is a member of an Indian tribe or who is an Alaskan native and a member of a regional corporation as defined in section 7 of the Alaska Native Claims Settlement Act, United States Code, title 43, section 1606.

Subd. 20. Indian child. “Indian child,” consistent with section 260.755, subdivision 8, means an unmarried person who is under age 18 and is:

- (1) a member of an Indian tribe; or
- (2) eligible for membership in an Indian tribe.

MINN. STAT. § 260B.125 (2014). Certification

Subdivision 1. Order. When a child is alleged to have committed, after becoming 14 years of age, an offense that would be a felony if committed by an adult, the juvenile court may enter an order certifying the proceeding for action under the laws and court procedures controlling adult criminal violations.

Subd. 2. Order of certification; requirements. Except as provided in subdivision 5 or 6, the juvenile court may order a certification only if:

- (1) a petition has been filed in accordance with the provisions of section 260B.141;
- (2) a motion for certification has been filed by the prosecuting authority;
- (3) notice has been given in accordance with the provisions of sections 260B.151 and 260B.152;
- (4) a hearing has been held in accordance with the provisions of section 260B.163 within 30 days of the filing of the certification motion, unless good cause is shown by the prosecution or the child as to why the hearing should not be held within this period in which case the hearing shall be held within 90 days of the filing of the motion;
- (5) the court finds that there is probable cause, as defined by the Rules of Criminal Procedure promulgated pursuant to section 480.059, to believe the child committed the offense alleged by delinquency petition; and
- (6) the court finds either:
 - (i) that the presumption of certification created by subdivision 3 applies and the child has not rebutted the presumption by clear and convincing evidence demonstrating that retaining the proceeding in the juvenile court serves public safety; or

(ii) that the presumption of certification does not apply and the prosecuting authority has demonstrated by clear and convincing evidence that retaining the proceeding in the juvenile court does not serve public safety. If the court finds that the prosecutor has not demonstrated by clear and convincing evidence that retaining the proceeding in juvenile court does not serve public safety, the court shall retain the proceeding in juvenile court.

Subd. 3. Presumption of certification. It is presumed that a proceeding involving an offense committed by a child will be certified if:

- (1) the child was 16 or 17 years old at the time of the offense; and
- (2) the delinquency petition alleges that the child committed an offense that would result in a presumptive commitment to prison under the Sentencing Guidelines and applicable statutes, or that the child committed any felony offense while using, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm.

If the court determines that probable cause exists to believe the child committed the alleged offense, the burden is on the child to rebut this presumption by demonstrating by clear and convincing evidence that retaining the proceeding in the juvenile court serves public safety. If the court finds that the child has not rebutted the presumption by clear and convincing evidence, the court shall certify the proceeding.

Subd. 4. Public safety. In determining whether the public safety is served by certifying the matter, the court shall consider the following factors:

- (1) the seriousness of the alleged offense in terms of community protection, including the existence of any aggravating factors recognized by the Sentencing Guidelines, the use of a firearm, and the impact on any victim;
- (2) the culpability of the child in committing the alleged offense, including the level of the child's participation in planning and carrying out the offense and the existence of any mitigating factors recognized by the Sentencing Guidelines;
- (3) the child's prior record of delinquency;
- (4) the child's programming history, including the child's past willingness to participate meaningfully in available programming;
- (5) the adequacy of the punishment or programming available in the juvenile justice system; and
- (6) the dispositional options available for the child.

In considering these factors, the court shall give greater weight to the seriousness of the alleged offense and the child's prior record of delinquency than to the other factors listed in this subdivision.

Subd. 5. Prior certification; exception. Notwithstanding the provisions of subdivisions 2, 3, and 4, the court shall order a certification in any felony case if the prosecutor shows that the child has been previously prosecuted on a felony charge by an order of certification issued pursuant to either a hearing held under subdivision 2 or pursuant to the waiver of the right to such a hearing, other than a prior certification in the same case.

This subdivision only applies if the child is convicted of the offense or offenses for which the child was prosecuted pursuant to the order of certification or of a lesser-included offense which is a felony.

This subdivision does not apply to juvenile offenders who are subject to criminal court jurisdiction under section 609.055.

Subd. 6. Adult charged with juvenile offense. The juvenile court has jurisdiction to hold a certification hearing on motion of the prosecuting authority to certify the matter if:

- (1) an adult is alleged to have committed an offense before the adult's 18th birthday; and
- (2) a petition is filed under section 260B.141 before expiration of the time for filing under section 628.26.

The court may not certify the matter under this subdivision if the adult demonstrates that the delay was purposefully caused by the state in order to gain an unfair advantage.

Subd. 7. Effect of order. When the juvenile court enters an order certifying an alleged violation, the prosecuting authority shall proceed with the case as if the jurisdiction of the juvenile court had never attached.

Subd. 8. Written findings; options. (a) The court shall decide whether to order certification within 15 days after the certification hearing was completed, unless additional time is needed, in which case the court may extend the period up to another 15 days. If the juvenile court orders certification, and the presumption described in subdivision 3 does not apply, the order shall contain in writing, findings of fact and conclusions of law as to why public safety is not served by retaining the proceeding in the juvenile court. A child certified under this paragraph may be detained pending the outcome of criminal proceedings in a secure juvenile detention facility.

- (b) If the juvenile court, after a hearing conducted pursuant to subdivision 2, decides not to order certification, the decision shall contain, in writing, findings of fact and conclusions of law as to why certification is not ordered. If the juvenile court decides not to order certification in a case in which the presumption described in subdivision 3

applies, the court shall designate the proceeding an extended jurisdiction juvenile prosecution and include in its decision written findings of fact and conclusions of law as to why the retention of the proceeding in juvenile court serves public safety, with specific reference to the factors listed in subdivision 4. If the court decides not to order certification in a case in which the presumption described in subdivision 3 does not apply, the court may designate the proceeding an extended jurisdiction juvenile prosecution, pursuant to the hearing process described in section 260B.130, subdivision 2.

Subd. 9. First-degree murder. When a motion for certification has been filed in a case in which the petition alleges that the child committed murder in the first degree, the prosecuting authority shall present the case to the grand jury for consideration of indictment under chapter 628 within 14 days after the petition was filed.

Subd. 10. Inapplicability to certain offenders. This section does not apply to a child excluded from the definition of delinquent child under section 260B.007, subdivision 6, paragraph (b).

MINN. STAT. § 260B.130 (2014). Extended jurisdiction juvenile prosecutions

Subdivision 5 has been held unconstitutional by the Supreme Court of Minnesota in *State v. Garcia*, 683 N.W.3d 294 (Minn. 2004), in that it denies credit for time served in a juvenile facility, which makes the punishment more severe than juveniles who are certified as adults from the beginning

Subdivision 1. Designation. A proceeding involving a child alleged to have committed a felony offense is an extended jurisdiction juvenile prosecution if:

- (1) the child was 14 to 17 years old at the time of the alleged offense, a certification hearing was held, and the court designated the proceeding an extended jurisdiction juvenile prosecution;
- (2) the child was 16 or 17 years old at the time of the alleged offense; the child is alleged to have committed an offense for which the Sentencing Guidelines and applicable statutes presume a commitment to prison or to have committed any felony in which the child allegedly used a firearm; and the prosecutor designated in the delinquency petition that the proceeding is an extended jurisdiction juvenile prosecution; or
- (3) the child was 14 to 17 years old at the time of the alleged offense, the prosecutor requested that the proceeding be designated an extended jurisdiction juvenile prosecution, a hearing was held on the issue of designation, and the court designated the proceeding an extended jurisdiction juvenile prosecution.

Subd. 2. Hearing on prosecutor's request. When a prosecutor requests that a proceeding be designated an extended jurisdiction juvenile prosecution, the court shall hold a hearing under section 260B.163 to consider the request. The hearing must be held within 30 days

of the filing of the request for designation, unless good cause is shown by the prosecution or the child as to why the hearing should not be held within this period in which case the hearing shall be held within 90 days of the filing of the request. If the prosecutor shows by clear and convincing evidence that designating the proceeding an extended jurisdiction juvenile prosecution serves public safety, the court shall grant the request for designation. In determining whether public safety is served, the court shall consider the factors specified in section 260B.125, subdivision 4. The court shall decide whether to designate the proceeding an extended jurisdiction juvenile prosecution within 15 days after the designation hearing is completed, unless additional time is needed, in which case the court may extend the period up to another 15 days.

Subd. 3. Proceedings. A child who is the subject of an extended jurisdiction juvenile prosecution has the right to a trial by jury and to the effective assistance of counsel, as described in section 260B.163, subdivision 4.

Subd. 4. Disposition. (a) If an extended jurisdiction juvenile prosecution results in a guilty plea or finding of guilt, the court shall:

- (1) impose one or more juvenile dispositions under section 260B.198; and
- (2) impose an adult criminal sentence, the execution of which shall be stayed on the condition that the offender not violate the provisions of the disposition order and not commit a new offense.

(b) If a child prosecuted as an extended jurisdiction juvenile after designation by the prosecutor in the delinquency petition is convicted of an offense after trial that is not an offense described in subdivision 1, clause (2), the court shall adjudicate the child delinquent and order a disposition under section 260B.198. If the extended jurisdiction juvenile proceeding results in a guilty plea for an offense not described in subdivision 1, clause (2), the court may impose a disposition under paragraph (a) if the child consents.

Subd. 5. Execution of adult sentence. (a) When it appears that a person convicted as an extended jurisdiction juvenile has violated the conditions of the stayed sentence, or is alleged to have committed a new offense, the court may, without notice, revoke the stay and probation and direct that the offender be taken into immediate custody. The court shall notify the offender in writing of the reasons alleged to exist for revocation of the stay of execution of the adult sentence. If the offender challenges the reasons, the court shall hold a summary hearing on the issue at which the offender is entitled to be heard and represented by counsel.

(b) If a person described in paragraph (a) is taken into custody, the person may be detained in a secure juvenile detention facility. If there is no secure juvenile detention facility or existing acceptable detention alternative available for juveniles within the county, the child may be detained up to 24 hours, excluding Saturdays, Sundays, and holidays, or for up to six hours in a standard metropolitan statistical area, in a jail,

lockup, or other facility used for the confinement of adults who have been charged with or convicted of a crime. In this instance, the person must be confined in quarters separate from any adult confined in the facility that allow for complete sight and sound separation for all activities during the period of the detention, and the adult facility must be approved for the detention of juveniles by the commissioner of corrections.

If the person is 18 years of age or older and is to be detained prior to the revocation hearing, the person may be detained in a local adult correctional facility without the need for sight and sound separation.

(c) After the hearing, if the court finds that reasons exist to revoke the stay of execution of sentence, the court shall treat the offender as an adult and order any of the adult sanctions authorized by section 609.14, subdivision 3, except that no credit shall be given for time served in juvenile facility custody prior to a summary hearing. If the offender was convicted of an offense described in subdivision 1, clause (2), and the court finds that reasons exist to revoke the stay, the court must order execution of the previously imposed sentence unless the court makes written findings regarding the mitigating factors that justify continuing the stay.

(d) Upon revocation, the offender's extended jurisdiction status is terminated and juvenile court jurisdiction is terminated. The ongoing jurisdiction for any adult sanction, other than commitment to the commissioner of corrections, is with the adult court.

Subd. 6. Inapplicability to certain offenders. This section does not apply to a child excluded from the definition of delinquent child under section 260B.007, subdivision 6, paragraph (b).

MINN. STAT. § 260B.225 (2014). Juvenile traffic offender; procedures; dispositions

Subdivision 1. Definitions. (a) For purposes of this section, the following terms have the meanings given them.

(b) "Major traffic offense" includes any violation of a state or local traffic law, ordinance, or regulation, or a federal, state, or local water traffic law not included within the provisions of paragraph (c).

(c) "Adult court traffic offense" means:

(1) a petty misdemeanor violation of a state or local traffic law, ordinance, or regulation, or a petty misdemeanor violation of a federal, state, or local water traffic law; or

(2) a violation of section 169A.20 or any other misdemeanor- or gross misdemeanor-level traffic violation committed as part of the same behavioral incident as a violation

of section 169A.20.

Subd. 2. Juvenile highway traffic offender. A child who commits a major traffic offense shall be adjudicated a “juvenile highway traffic offender” or a “juvenile water traffic offender,” as the case may be, and shall not be adjudicated delinquent, unless, as in the case of any other child alleged to be delinquent, a petition is filed in the manner provided in section 260B.141, summons issued, notice given, a hearing held, and the court finds as a further fact that the child is also delinquent within the meaning and purpose of the laws relating to juvenile courts.

Subd. 3. Adult traffic offense. Except as provided in subdivision 4, a child who commits an adult court traffic offense and at the time of the offense was at least 16 years old shall be subject to the laws and court procedures controlling adult traffic violators and shall not be under the jurisdiction of the juvenile court. When a child is alleged to have committed an adult court traffic offense and is at least 16 years old at the time of the offense, the peace officer making the charge shall follow the arrest procedures prescribed in section 169.91 and shall make reasonable effort to notify the child's parent or guardian of the nature of the charge.

Subd. 4. Original jurisdiction; juvenile court. The juvenile court has original jurisdiction over:

(1) all juveniles age 15 and under alleged to have committed any traffic offense; and

(2) 16- and 17-year-olds alleged to have committed any major traffic offense, except that the adult court has original jurisdiction over:

(i) petty traffic misdemeanors not a part of the same behavioral incident of a misdemeanor being handled in juvenile court; and

(ii) violations of section 169A.20 (driving while impaired), and any other misdemeanor or gross misdemeanor level traffic violations committed as part of the same behavioral incident as a violation of section 169A.20.

Subd. 5. Major traffic offense procedures. When a child is alleged to have committed a major traffic offense, the peace officer making the charge shall file a signed copy of the notice to appear, as provided in section 169.91, with the juvenile court of the county in which the violation occurred, and the notice to appear has the effect of a petition and gives the juvenile court jurisdiction. Filing with the court a notice to appear containing the name and address of the child allegedly committing a major traffic offense and specifying the offense charged, the time and place of the alleged violation shall have the effect of a petition and give the juvenile court jurisdiction. Any reputable person having knowledge of a child who commits a major traffic offense may petition the juvenile court in the manner provided in section 260B.141. Whenever a notice to appear or petition is filed alleging that a child is a juvenile highway traffic offender or a juvenile water traffic offender, the court shall summon and notify the persons required to be summoned or

notified as provided in sections 260B.151 and 260B.152. However, it is not necessary to (1) notify more than one parent, or (2) publish any notice, or (3) personally serve outside the state.

Subd. 6. Disposition. Before making a disposition of any child found to be a juvenile major traffic offender or to have violated a misdemeanor- or gross misdemeanor-level traffic law, the court shall obtain from the department of public safety information of any previous traffic violation by this juvenile. In the case of a juvenile water traffic offender, the court shall obtain from the office where the information is now or hereafter may be kept information of any previous water traffic violation by the juvenile.

Subd. 7. Transfer of cases. If after a hearing the court finds that the welfare of a juvenile major traffic offender or a juvenile water traffic offender or the public safety would be better served under the laws controlling adult traffic violators, the court may transfer the case to any court of competent jurisdiction presided over by a salaried judge if there is one in the county. The juvenile court transfers the case by forwarding to the appropriate court the documents in the court's file together with an order to transfer. The court to which the case is transferred shall proceed with the case as if the jurisdiction of the juvenile court had never attached.

Subd. 8. Adult court traffic offender. (a) A juvenile who is charged with an adult court traffic offense in district court shall be treated as an adult before trial, except that the juvenile may be held in secure, pretrial custody only in a secure juvenile detention facility.

(b) A juvenile who is convicted of an adult court traffic offense in district court shall be treated as an adult for sentencing purposes, except that the court may order the juvenile placed out of the home only in a residential treatment facility or in a juvenile correctional facility.

(c) The disposition of an adult court traffic offender remains with the county in which the adjudication occurred.

Subd. 9. Juvenile major highway or water traffic offender. If the juvenile court finds that the child is a juvenile major highway or water traffic offender, it may make any one or more of the following dispositions of the case:

(1) reprimand the child and counsel with the child and the parents;

(2) continue the case for a reasonable period under such conditions governing the child's use and operation of any motor vehicles or boat as the court may set;

(3) require the child to attend a driver improvement school if one is available within the county;

(4) recommend to the Department of Public Safety suspension of the child's driver's license as provided in section 171.16;

(5) if the child is found to have committed two moving highway traffic violations or to have contributed to a highway accident involving death, injury, or physical damage in excess of \$100, the court may recommend to the commissioner of public safety or to the licensing authority of another state the cancellation of the child's license until the child reaches the age of 18 years, and the commissioner of public safety is hereby authorized to cancel the license without hearing. At any time before the termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of public safety, or to the licensing authority of another state, that the child's license be returned, and the commissioner of public safety is authorized to return the license;

(6) place the child under the supervision of a probation officer in the child's own home under conditions prescribed by the court including reasonable rules relating to operation and use of motor vehicles or boats directed to the correction of the child's driving habits;

(7) if the child is found to have violated a state or local law or ordinance and the violation resulted in damage to the person or property of another, the court may order the child to make reasonable restitution for the damage;

(8) require the child to pay a fine of up to \$1,000. The court shall order payment of the fine in accordance with a time payment schedule which shall not impose an undue financial hardship on the child;

(9) if the court finds that the child committed an offense described in section 169A.20, the court shall order that a chemical use assessment be conducted and a report submitted to the court in the manner prescribed in section 169A.70. If the assessment concludes that the child meets the level of care criteria for placement under rules adopted under section 254A.03, subdivision 3, the report must recommend a level of care for the child. The court may require that level of care in its disposition order. In addition, the court may require any child ordered to undergo an assessment to pay a chemical dependency assessment charge of \$75. The court shall forward the assessment charge to the commissioner of management and budget to be credited to the general fund. The state shall reimburse counties for the total cost of the assessment in the manner provided in section 169A.284.

Subd. 10. Records. The juvenile court records of juvenile highway traffic offenders and juvenile water traffic offenders shall be kept separate from delinquency matters.

MISSISSIPPI

MISS. CODE ANN. § 43-21-151 (2014). Exclusive original jurisdiction; exceptions; children under 13

(1) The youth court shall have exclusive original jurisdiction in all proceedings concerning a delinquent child, a child in need of supervision, a neglected child, an abused child or a dependent child except in the following circumstances:

(a) Any act attempted or committed by a child, which if committed by an adult would be punishable under state or federal law by life imprisonment or death, will be in the original jurisdiction of the circuit court;

(b) Any act attempted or committed by a child with the use of a deadly weapon, the carrying of which concealed is prohibited by Section 97-37-1, or a shotgun or a rifle, which would be a felony if committed by an adult, will be in the original jurisdiction of the circuit court; and

(c) When a charge of abuse of a child first arises in the course of a custody action between the parents of the child already pending in the chancery court and no notice of such abuse was provided prior to such chancery proceedings, the chancery court may proceed with the investigation, hearing and determination of such abuse charge as a part of its hearing and determination of the custody issue as between the parents, notwithstanding the other provisions of the Youth Court Law. The proceedings in chancery court on the abuse charge shall be confidential in the same manner as provided in youth court proceedings.

When a child is expelled from the public schools, the youth court shall be notified of the act of expulsion and the act or acts constituting the basis for expulsion.

(2) Jurisdiction of the child in the cause shall attach at the time of the offense and shall continue thereafter for that offense until the child's twentieth birthday, unless sooner terminated by order of the youth court. The youth court shall not have jurisdiction over offenses committed by a child on or after his eighteenth birthday.

(3) No child who has not reached his thirteenth birthday shall be held criminally responsible or criminally prosecuted for a misdemeanor or felony; however, the parent, guardian or custodian of such child may be civilly liable for any criminal acts of such child. No child under the jurisdiction of the youth court shall be held criminally responsible or criminally prosecuted by any court for any act designated as a delinquent act, unless jurisdiction is transferred to another court under Section 43-21-157.

(4) The youth court shall also have jurisdiction of offenses committed by a child which have been transferred to the youth court by an order of a circuit court of this state having original jurisdiction of the offense, as provided by Section 43-21-159.

(5) The youth court shall regulate and approve the use of teen court as provided in Section 43-21-753.

(6) Nothing in this section shall prevent the circuit court from assuming jurisdiction over a youth who has committed an act of delinquency upon a youth court's ruling that a transfer is appropriate pursuant to Section 43-21-157.

MISS. CODE ANN. § 43-21-157 (2014). Transfer to other courts; prospects of rehabilitation

(1) If a child who has reached his thirteenth birthday is charged by petition to be a delinquent child, the youth court, either on motion of the youth court prosecutor or on the youth court's own motion, after a hearing as hereinafter provided, may, in its discretion, transfer jurisdiction of the alleged offense described in the petition or a lesser included offense to the criminal court which would have trial jurisdiction of such offense if committed by an adult. The child shall be represented by counsel in transfer proceedings.

(2) A motion to transfer shall be filed on a day prior to the date set for the adjudicatory hearing but not more than ten (10) days after the filing of the petition. The youth court may order a transfer study at any time after the motion to transfer is filed. The transfer study and any other social record which the youth court will consider at the transfer hearing shall be made available to the child's counsel prior to the hearing. Summons shall be served in the same manner as other summons under this chapter with a copy of the motion to transfer and the petition attached thereto.

(3) The transfer hearing shall be bifurcated. At the transfer hearing, the youth court shall first determine whether probable cause exists to believe that the child committed the alleged offense. For the purpose of the transfer hearing only, the child may, with the assistance of counsel, waive the determination of probable cause.

(4) Upon such a finding of probable cause, the youth court may transfer jurisdiction of the alleged offense and the youth if the youth court finds by clear and convincing evidence that there are no reasonable prospects of rehabilitation within the juvenile justice system.

(5) The factors which shall be considered by the youth court in determining the reasonable prospects of rehabilitation within the juvenile justice system are:

- (a) Whether or not the alleged offense constituted a substantial danger to the public;
- (b) The seriousness of the alleged offense;
- (c) Whether or not the transfer is required to protect the community;
- (d) Whether or not the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
- (e) Whether the alleged offense was against persons or against property, greater weight being given to the offense against persons, especially if personal injury resulted;

- (f) The sophistication, maturity and educational background of the child;
 - (g) The child's home situation, emotional condition and life-style;
 - (h) The history of the child, including experience with the juvenile justice system, other courts, probation, commitments to juvenile institutions or other placements;
 - (i) Whether or not the child can be retained in the juvenile justice system long enough for effective treatment or rehabilitation;
 - (j) The dispositional resources available to the juvenile justice system;
 - (k) Dispositional resources available to the adult correctional system for the child if treated as an adult;
 - (l) Whether the alleged offense was committed on school property, public or private, or at any school-sponsored event, and constituted a substantial danger to other students;
 - (m) Any other factors deemed relevant by the youth court; and
 - (n) Nothing in this subsection shall prohibit the transfer of jurisdiction of an alleged offense and a child if that child, at the time of the transfer hearing, previously has not been placed in a juvenile institution.
- (6) If the youth court transfers jurisdiction of the alleged offense to a criminal court, the youth court shall enter a transfer order containing:
- (a) Facts showing that the youth court had jurisdiction of the cause and of the parties;
 - (b) Facts showing that the child was represented by counsel;
 - (c) Facts showing that the hearing was held in the presence of the child and his counsel;
 - (d) A recital of the findings of probable cause and the facts and reasons underlying the youth court's decision to transfer jurisdiction of the alleged offense;
 - (e) The conditions of custody or release of the child pending criminal court proceedings, including bail or recognizance as the case may justify, as well as a designation of the custodian for the time being; and
 - (f) A designation of the alleged offense transferred and of the court to which the transfer is made and a direction to the clerk to forward for filing in such court a certified copy of the transfer order of the youth court.
- (7) The testimony of the child respondent at a transfer hearing conducted pursuant to this chapter shall not be admissible against the child in any proceeding other than the transfer

hearing.

(8) When jurisdiction of an offense is transferred to the circuit court, or when a youth has committed an act which is in original circuit court jurisdiction pursuant to Section 43-21-151, the jurisdiction of the youth court over the youth for any future offenses is terminated, except that jurisdiction over future offenses is not terminated if the circuit court transfers or remands the transferred case to the youth court or if a child who has been transferred to the circuit court or is in the original jurisdiction of the circuit court is not convicted. However, when jurisdiction of an offense is transferred to the circuit court pursuant to this section or when an offense committed by a youth is in original circuit court jurisdiction pursuant to Section 43-21-151, the circuit court shall thereafter assume and retain jurisdiction of any felony offenses committed by such youth without any additional transfer proceedings. Any misdemeanor offenses committed by youth who are in circuit court jurisdiction pursuant to this section or Section 43-21-151 shall be prosecuted in the court which would have jurisdiction over that offense if committed by an adult without any additional transfer proceedings. The circuit court may review the transfer proceedings on motion of the transferred child. Such review shall be on the record of the hearing in the youth court. The circuit court shall remand the offense to the youth court if there is no substantial evidence to support the order of the youth court. The circuit court may also review the conditions of custody or release pending criminal court proceedings.

(9) When any youth has been the subject of a transfer to circuit court for an offense committed in any county of the state or has committed any act which is in the original jurisdiction of the circuit court pursuant to Section 43-21-151, that transfer or original jurisdiction shall be recognized by all other courts of the state and no subsequent offense committed by such youth in any county of the state shall be in the jurisdiction of the youth court unless transferred to the youth court pursuant to Section 43-21-159(3). Transfers from youth courts of other states shall be recognized by the courts of this state and no youth who has a pending charge or a conviction in the adult court system of any other state shall be in the jurisdiction of the youth courts of this state, but such youths shall be in the jurisdiction of the circuit court for any felony committed in this state or in the jurisdiction of the court of competent jurisdiction for any misdemeanor committed in this state.

MISS. CODE ANN. § 43-21-159 (2014). Transfer of cases

(1) When a person appears before a court other than the youth court, and it is determined that the person is a child under jurisdiction of the youth court, such court shall, unless the jurisdiction of the offense has been transferred to such court as provided in this chapter, or unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult and was convicted, immediately dismiss the proceeding without prejudice and forward all documents pertaining to the cause to the youth court; and all entries in permanent records shall be expunged. The youth court shall have the power to order and supervise the expunction or the destruction of such records in accordance with Section 43-21-265. Upon petition therefor, the youth court shall expunge the record of any case within its jurisdiction in which an arrest was made, the

person arrested was released and the case was dismissed or the charges were dropped or there was no disposition of such case.

In cases where the child is charged with a hunting or fishing violation or a traffic violation, whether it be any state or federal law, a violation of the Mississippi Implied Consent Law, or municipal ordinance or county resolution, or where the child is charged with a violation of Section 67-3-70, the appropriate criminal court shall proceed to dispose of the same in the same manner as for other adult offenders and it shall not be necessary to transfer the case to the youth court of the county. However, unless the cause has been transferred, or unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult and was convicted, the youth court shall have power on its own motion to remove jurisdiction from any criminal court of any offense including a hunting or fishing violation, a traffic violation, a violation of the Mississippi Implied Consent Law, or a violation of Section 67-3-70, committed by a child in a matter under the jurisdiction of the youth court and proceed therewith in accordance with the provisions of this chapter.

(2) After conviction and sentence of any child by any other court having original jurisdiction on a misdemeanor charge, and within the time allowed for an appeal of such conviction and sentence, the youth court of the county shall have the full power to stay the execution of the sentence and to release the child on good behavior or on other order as the youth court may see fit to make unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult and was convicted. When a child is convicted of a misdemeanor and is committed to, incarcerated in or imprisoned in a jail or other place of detention by a criminal court having proper jurisdiction of such charge, such court shall notify the youth court judge or the judge's designee of the conviction and sentence prior to the commencement of such incarceration. The youth court shall have the power to order and supervise the destruction of any records involving children maintained by the criminal court in accordance with Section 43-21-265. However, the youth court shall have the power to set aside a judgment of any other court rendered in any matter over which the youth court has exclusive original jurisdiction, to expunge or destroy the records thereof in accordance with Section 43-21-265, and to order a refund of fines and costs.

(3) Nothing in subsection (1) or (2) shall apply to a youth who has a pending charge or a conviction for any crime over which circuit court has original jurisdiction.

(4) In any case wherein the defendant is a child as defined in this chapter and of which the circuit court has original jurisdiction, the circuit judge, upon a finding that it would be in the best interest of such child and in the interest of justice, may at any stage of the proceedings prior to the attachment of jeopardy transfer such proceedings to the youth court for further proceedings unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult and was convicted or has previously been convicted of a crime which was in original circuit court jurisdiction, and the youth court shall, upon acquiring jurisdiction, proceed as provided in this chapter for the adjudication and disposition of delinquent child proceeding proceedings. If the case is

not transferred to the youth court and the youth is convicted of a crime by any circuit court, the trial judge shall sentence the youth as though such youth was an adult. The circuit court shall not have the authority to commit such child to the custody of the Department of Youth Services for placement in a state-supported training school.

(5) In no event shall a court sentence an offender over the age of eighteen (18) to the custody of the Division of Youth Services for placement in a state-supported training school.

(6) When a child's driver's license is suspended by the youth court for any reason, the clerk of the youth court shall report the suspension, without a court order under Section 43-21-261, to the Commissioner of Public Safety in the same manner as such suspensions are reported in cases involving adults.

(7) No offense involving the use or possession of a firearm by a child who has reached his fifteenth birthday and which, if committed by an adult would be a felony, shall be transferred to the youth court.

MISSOURI

MO. REV. STAT. § 211.021 (2014). Definitions

<Section effective subject to contingency in subsec. 2.>

1. As used in this chapter, unless the context clearly requires otherwise:

(1) “Adult” means a person seventeen years of age or older except for seventeen-year-old children as defined in this section;

(2) “Child” means any person under seventeen years of age and shall mean, in addition, any person over seventeen but not yet eighteen years of age alleged to have committed a status offense;

(3) “Juvenile court” means the juvenile division or divisions of the circuit court of the county, or judges while hearing juvenile cases assigned to them;

(4) “Legal custody” means the right to the care, custody and control of a child and the duty to provide food, clothing, shelter, ordinary medical care, education, treatment and discipline of a child. Legal custody may be taken from a parent only by court action and if the legal custody is taken from a parent without termination of parental rights, the parent's duty to provide support continues even though the person having legal custody may provide the necessities of daily living;

(5) “Parent” means either a natural parent or a parent by adoption and if the child is illegitimate, “parent” means the mother;

(6) "Shelter care" means the temporary care of juveniles in physically unrestricting facilities pending final court disposition. These facilities may include:

(a) "Foster home", the private home of foster parents providing twenty-four-hour care to one to three children unrelated to the foster parents by blood, marriage or adoption;

(b) "Group foster home", the private home of foster parents providing twenty-four-hour care to no more than six children unrelated to the foster parents by blood, marriage or adoption;

(c) "Group home", a child care facility which approximates a family setting, provides access to community activities and resources, and provides care to no more than twelve children;

(7) "Status offense", any offense as described in subdivision (2) of subsection 1 of section 211.031.

2. The amendments to subsection 1 of this section, as provided for in this act, [FN1] shall not take effect until such time as appropriations by the general assembly for additional juvenile officer full-time equivalents and deputy juvenile officer full-time equivalents shall exceed by one million nine hundred thousand dollars the amount spent by the state for such officers in fiscal year 2007 and appropriations by the general assembly to single first class counties for juvenile court personnel costs shall exceed by one million nine hundred thousand dollars the amount spent by the state for such juvenile court personnel costs in fiscal year 2007 and notice of such appropriations has been given to the revisor of statutes.

MO. REV. STAT. § 211.071 (2014). Certification of juvenile for trial as adult--procedure--mandatory hearing, certain offenses--misrepresentation of age, effect

1. If a petition alleges that a child between the ages of twelve and seventeen has committed an offense which would be considered a felony if committed by an adult, the court may, upon its own motion or upon motion by the juvenile officer, the child or the child's custodian, order a hearing and may, in its discretion, dismiss the petition and such child may be transferred to the court of general jurisdiction and prosecuted under the general law; except that if a petition alleges that any child has committed an offense which would be considered first degree murder under section 565.020, second degree murder under section 565.021, first degree assault under section 565.050, forcible rape under section 566.030 as it existed prior to August 28, 2013, rape in the first degree under section 566.030, forcible sodomy under section 566.060 as it existed prior to August 28, 2013, sodomy in the first degree under section 566.060, first degree robbery under section 569.020, or distribution of drugs under section 195.211, or has committed two or more prior unrelated offenses which would be felonies if committed by an adult, the court shall order a hearing, and may in its discretion, dismiss the petition and transfer the child to a court of general jurisdiction for prosecution under the general law.

2. Upon apprehension and arrest, jurisdiction over the criminal offense allegedly committed by any person between seventeen and twenty-one years of age over whom the juvenile court has retained continuing jurisdiction shall automatically terminate and that offense shall be dealt with in the court of general jurisdiction as provided in section 211.041.

3. Knowing and willful age misrepresentation by a juvenile subject shall not affect any action or proceeding which occurs based upon the misrepresentation. Any evidence obtained during the period of time in which a child misrepresents his or her age may be used against the child and will be subject only to rules of evidence applicable in adult proceedings.

4. Written notification of a transfer hearing shall be given to the juvenile and his or her custodian in the same manner as provided in sections 211.101 and 211.111. Notice of the hearing may be waived by the custodian. Notice shall contain a statement that the purpose of the hearing is to determine whether the child is a proper subject to be dealt with under the provisions of this chapter, and that if the court finds that the child is not a proper subject to be dealt with under the provisions of this chapter, the petition will be dismissed to allow for prosecution of the child under the general law.

5. The juvenile officer may consult with the office of prosecuting attorney concerning any offense for which the child could be certified as an adult under this section. The prosecuting or circuit attorney shall have access to police reports, reports of the juvenile or deputy juvenile officer, statements of witnesses and all other records or reports relating to the offense alleged to have been committed by the child. The prosecuting or circuit attorney shall have access to the disposition records of the child when the child has been adjudicated pursuant to subdivision (3) of subsection 1 of section 211.031. The prosecuting attorney shall not divulge any information regarding the child and the offense until the juvenile court at a judicial hearing has determined that the child is not a proper subject to be dealt with under the provisions of this chapter.

6. A written report shall be prepared in accordance with this chapter developing fully all available information relevant to the criteria which shall be considered by the court in determining whether the child is a proper subject to be dealt with under the provisions of this chapter and whether there are reasonable prospects of rehabilitation within the juvenile justice system. These criteria shall include but not be limited to:

- (1) The seriousness of the offense alleged and whether the protection of the community requires transfer to the court of general jurisdiction;
- (2) Whether the offense alleged involved viciousness, force and violence;
- (3) Whether the offense alleged was against persons or property with greater weight being given to the offense against persons, especially if personal injury resulted;

- (4) Whether the offense alleged is a part of a repetitive pattern of offenses which indicates that the child may be beyond rehabilitation under the juvenile code;
- (5) The record and history of the child, including experience with the juvenile justice system, other courts, supervision, commitments to juvenile institutions and other placements;
- (6) The sophistication and maturity of the child as determined by consideration of his home and environmental situation, emotional condition and pattern of living;
- (7) The age of the child;
- (8) The program and facilities available to the juvenile court in considering disposition;
- (9) Whether or not the child can benefit from the treatment or rehabilitative programs available to the juvenile court; and
- (10) Racial disparity in certification.

7. If the court dismisses the petition to permit the child to be prosecuted under the general law, the court shall enter a dismissal order containing:

- (1) Findings showing that the court had jurisdiction of the cause and of the parties;
- (2) Findings showing that the child was represented by counsel;
- (3) Findings showing that the hearing was held in the presence of the child and his counsel; and
- (4) Findings showing the reasons underlying the court's decision to transfer jurisdiction.

8. A copy of the petition and order of the dismissal shall be sent to the prosecuting attorney.

9. When a petition has been dismissed thereby permitting a child to be prosecuted under the general law and the prosecution of the child results in a conviction, the jurisdiction of the juvenile court over that child is forever terminated, except as provided in subsection 10 of this section, for an act that would be a violation of a state law or municipal ordinance.

10. If a petition has been dismissed thereby permitting a child to be prosecuted under the general law and the child is found not guilty by a court of general jurisdiction, the juvenile court shall have jurisdiction over any later offense committed by that child which would be considered a misdemeanor or felony if committed by an adult, subject to the certification provisions of this section.

11. If the court does not dismiss the petition to permit the child to be prosecuted under the general law, it shall set a date for the hearing upon the petition as provided in section 211.171.

MONTANA

MONT. CODE ANN. § 41-5-203 (2013). Jurisdiction of court

(1) Except as provided in subsection (2) and for cases filed in the district court under 41-5-206, the court has exclusive original jurisdiction of all proceedings under the Montana Youth Court Act in which a youth is alleged to be a delinquent youth or a youth in need of intervention or concerning any person under 21 years of age charged with having violated any law of the state or any ordinance of a city or town other than a traffic or fish and game law prior to having become 18 years of age.

(2) Justices', municipal, and city courts have concurrent jurisdiction with the youth court over all alcoholic beverage, tobacco products, and gambling violations alleged to have been committed by a youth.

(3) The court has jurisdiction to:

(a) transfer a youth court case to the district court after notice and hearing;

(b) with respect to extended jurisdiction juvenile cases:

(i) designate a proceeding as an extended jurisdiction juvenile prosecution;

(ii) conduct a hearing, receive admissions, and impose upon a youth who is adjudicated as an extended jurisdiction juvenile a sentence that may extend beyond the youth's age of majority;

(iii) stay that portion of an extended jurisdiction sentence that is extended beyond a youth's majority, subject to the performance of the juvenile portion of the sentence;

(iv) continue, modify, or revoke the stay after notice and hearing;

(v) after revocation, transfer execution of the stayed sentence to the department;

(vi) transfer supervision of any juvenile sentence if, after notice and hearing, the court determines by a preponderance of the evidence that the juvenile has violated or failed to perform the juvenile portion of an extended jurisdiction sentence; and

(vii) transfer a juvenile case to district court after notice and hearing; and

(c) impose criminal sanctions on a juvenile as authorized by the Extended Jurisdiction Prosecution Act, Title 41, chapter 5, part 16.

MONT. CODE ANN. § 41-5-206 (2013). Filing in district court prior to formal proceedings in youth court

(1) The county attorney may, in the county attorney's discretion and in accordance with the procedure provided in 46-11-201, file with the district court a motion for leave to file an information in the district court if:

(a) the youth charged was 12 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act would if it had been committed by an adult constitute:

- (i) sexual intercourse without consent as defined in 45-5-503;
- (ii) deliberate homicide as defined in 45-5-102;
- (iii) mitigated deliberate homicide as defined in 45-5-103;
- (iv) assault on a peace officer or judicial officer as defined in 45-5-210; or
- (v) the attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for either deliberate or mitigated deliberate homicide; or

(b) the youth charged was 16 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act is one or more of the following:

- (i) negligent homicide as defined in 45-5-104;
- (ii) arson as defined in 45-6-103;
- (iii) aggravated assault as defined in 45-5-202;
- (iv) sexual assault as provided in 45-5-502(3);
- (v) assault with a weapon as defined in 45-5-213;
- (vi) robbery as defined in 45-5-401;
- (vii) burglary or aggravated burglary as defined in 45-6-204;
- (viii) aggravated kidnapping as defined in 45-5-303;
- (ix) possession of explosives as defined in 45-8-335;
- (x) criminal distribution of dangerous drugs as defined in 45-9-101;
- (xi) criminal possession of dangerous drugs as defined in 45-9-102(4) through (6);

- (xii) criminal possession with intent to distribute as defined in 45-9-103(1);
- (xiii) criminal production or manufacture of dangerous drugs as defined in 45-9-110;
- (xiv) use of threat to coerce criminal street gang membership or use of violence to coerce criminal street gang membership as defined in 45-8-403;
- (xv) escape as defined in 45-7-306;
- (xvi) attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for any of the acts enumerated in subsections (1)(b)(i) through (1)(b)(xv).

(2) The county attorney shall file with the district court a petition for leave to file an information in district court if the youth was 17 years of age at the time the youth committed an offense listed under subsection (1).

(3) The district court shall grant leave to file the information if it appears from the affidavit or other evidence supplied by the county attorney that there is probable cause to believe that the youth has committed the alleged offense. Within 30 days after leave to file the information is granted, the district court shall conduct a hearing to determine whether the matter must be transferred back to the youth court, unless the hearing is waived by the youth or by the youth's counsel in writing or on the record. The hearing may be continued on request of either party for good cause. The district court may not transfer the case back to the youth court unless the district court finds, by a preponderance of the evidence, that:

- (a) a youth court proceeding and disposition will serve the interests of community protection;
- (b) the nature of the offense does not warrant prosecution in district court; and
- (c) it would be in the best interests of the youth if the matter was prosecuted in youth court.

(4) The filing of an information in district court terminates the jurisdiction of the youth court over the youth with respect to the acts alleged in the information. A youth may not be prosecuted in the district court for a criminal offense originally subject to the jurisdiction of the youth court unless the case has been filed in the district court as provided in this section. A case may be transferred to district court after prosecution as provided in 41-5-208 or 41-5-1605.

(5) An offense not enumerated in subsection (1) that arises during the commission of a crime enumerated in subsection (1) may be:

- (a) tried in youth court;

(b) transferred to district court with an offense enumerated in subsection (1) upon motion of the county attorney and order of the district court. The district court shall hold a hearing before deciding the motion.

(6) If a youth is found guilty in district court of an offense enumerated in subsection (1) and any offense that arose during the commission of a crime enumerated in subsection (1), the court shall sentence the youth pursuant to 41-5-2503 and Titles 45 and 46. If a youth is acquitted in district court of all offenses enumerated in subsection (1), the district court shall sentence the youth pursuant to Title 41 for any remaining offense for which the youth is found guilty. A youth who is sentenced to the department or a state prison must be evaluated and placed by the department in an appropriate juvenile or adult correctional facility. The department shall confine the youth in an institution that it considers proper, including a state youth correctional facility under the procedures of 52-5-111. However, a youth under 16 years of age may not be confined in a state prison facility. During the period of confinement, school-aged youth with disabilities must be provided an education consistent with the requirements of the federal Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.

(7) If a youth's case is filed in the district court and remains in the district court after the transfer hearing, the youth may be detained in a jail or other adult detention facility pending final disposition of the youth's case if the youth is kept in an area that provides physical separation from adults accused or convicted of criminal offenses.

NEBRASKA

NEB. REV. STAT. ANN. § 43-247 (2014). Juvenile court; jurisdiction

<Text effective until Jan. 1, 2015. See, also, text effective Jan. 1, 2015.>

Except as provided in section 43-247.02, the juvenile court shall have exclusive original jurisdiction as to any juvenile defined in subdivision (1) of this section who is under the age of sixteen, as to any juvenile defined in subdivision (3) of this section, and as to the parties and proceedings provided in subdivisions (5), (6), and (7) of this section. As used in this section, all references to the juvenile's age shall be the age at the time the act which occasioned the juvenile court action occurred. The juvenile court shall have concurrent original jurisdiction with the district court as to any juvenile defined in subdivision (2) of this section. The juvenile court shall have concurrent original jurisdiction with the district court and county court as to any juvenile defined in subdivision (1) of this section who is age sixteen or seventeen, any juvenile defined in subdivision (4) of this section, and any proceeding under subdivision (6) or (10) of this section. The juvenile court shall have concurrent original jurisdiction with the county court as to any proceeding under subdivision (8) or (9) of this section. Notwithstanding any disposition entered by the juvenile court under the Nebraska Juvenile Code, the juvenile court's jurisdiction over any individual adjudged to be within the provisions of this section shall continue until the individual reaches the age of majority or the court otherwise discharges the individual from its jurisdiction.

The juvenile court in each county as herein provided shall have jurisdiction of:

- (1) Any juvenile who has committed an act other than a traffic offense which would constitute a misdemeanor or an infraction under the laws of this state, or violation of a city or village ordinance;
- (2) Any juvenile who has committed an act which would constitute a felony under the laws of this state;
- (3) Any juvenile (a) who is homeless or destitute, or without proper support through no fault of his or her parent, guardian, or custodian; who is abandoned by his or her parent, guardian, or custodian; who lacks proper parental care by reason of the fault or habits of his or her parent, guardian, or custodian; whose parent, guardian, or custodian neglects or refuses to provide proper or necessary subsistence, education, or other care necessary for the health, morals, or well-being of such juvenile; whose parent, guardian, or custodian is unable to provide or neglects or refuses to provide special care made necessary by the mental condition of the juvenile; or who is in a situation or engages in an occupation, including prostitution, dangerous to life or limb or injurious to the health or morals of such juvenile, (b) who, by reason of being wayward or habitually disobedient, is uncontrolled by his or her parent, guardian, or custodian; who departs himself or herself so as to injure or endanger seriously the morals or health of himself, herself, or others; or who is habitually truant from home or school, or (c) who is mentally ill and dangerous as defined in section 71-908;
- (4) Any juvenile who has committed an act which would constitute a traffic offense as defined in section 43-245;
- (5) The parent, guardian, or custodian of any juvenile described in this section;
- (6) The proceedings for termination of parental rights;
- (7) Any juvenile who has been voluntarily relinquished, pursuant to section 43-106.01, to the Department of Health and Human Services or any child placement agency licensed by the Department of Health and Human Services;
- (8) Any juvenile who was a ward of the juvenile court at the inception of his or her guardianship and whose guardianship has been disrupted or terminated;
- (9) The adoption or guardianship proceedings for a child over which the juvenile court already has jurisdiction under another provision of the Nebraska Juvenile Code;
- (10) The paternity or custody determination for a child over which the juvenile court already has jurisdiction; and
- (11) The proceedings under the Young Adult Bridge to Independence Act.

Notwithstanding the provisions of the Nebraska Juvenile Code, the determination of jurisdiction over any Indian child as defined in section 43-1503 shall be subject to the Nebraska Indian Child Welfare Act; and the district court shall have exclusive jurisdiction in proceedings brought pursuant to section 71-510.

NEB. REV. STAT. ANN. § 43-247 (2014). Juvenile court; jurisdiction

<Text effective Jan. 1, 2015. See, also, text effective until Jan. 1, 2015.>

The juvenile court in each county shall have jurisdiction of:

- (1) Any juvenile who has committed an act other than a traffic offense which would constitute a misdemeanor or an infraction under the laws of this state, or violation of a city or village ordinance;
- (2) Any juvenile who has committed an act which would constitute a felony under the laws of this state;
- (3) Any juvenile (a) who is homeless or destitute, or without proper support through no fault of his or her parent, guardian, or custodian; who is abandoned by his or her parent, guardian, or custodian; who lacks proper parental care by reason of the fault or habits of his or her parent, guardian, or custodian; whose parent, guardian, or custodian neglects or refuses to provide proper or necessary subsistence, education, or other care necessary for the health, morals, or well-being of such juvenile; whose parent, guardian, or custodian is unable to provide or neglects or refuses to provide special care made necessary by the mental condition of the juvenile; or who is in a situation or engages in an occupation, including prostitution, dangerous to life or limb or injurious to the health or morals of such juvenile, (b) who, by reason of being wayward or habitually disobedient, is uncontrolled by his or her parent, guardian, or custodian; who departs himself or herself so as to injure or endanger seriously the morals or health of himself, herself, or others; or who is habitually truant from home or school, or (c) who is mentally ill and dangerous as defined in section 71-908;
- (4) Any juvenile who has committed an act which would constitute a traffic offense as defined in section 43-245;
- (5) The parent, guardian, or custodian of any juvenile described in this section;
- (6) The proceedings for termination of parental rights;
- (7) Any juvenile who has been voluntarily relinquished, pursuant to section 43-106.01, to the Department of Health and Human Services or any child placement agency licensed by the Department of Health and Human Services;
- (8) Any juvenile who was a ward of the juvenile court at the inception of his or her guardianship and whose guardianship has been disrupted or terminated;

(9) The adoption or guardianship proceedings for a child over which the juvenile court already has jurisdiction under another provision of the Nebraska Juvenile Code;

(10) The paternity or custody determination for a child over which the juvenile court already has jurisdiction; and

(11) The proceedings under the Young Adult Bridge to Independence Act.

Notwithstanding the provisions of the Nebraska Juvenile Code, the determination of jurisdiction over any Indian child as defined in section 43-1503 shall be subject to the Nebraska Indian Child Welfare Act; and the district court shall have exclusive jurisdiction in proceedings brought pursuant to section 71-510.

NEB. REV. STAT. ANN. § 43-276 (2014). County attorney; criminal charge, juvenile court petition, pretrial diversion, or mediation; determination; considerations

<Text effective until Jan. 1, 2015. See, also, text effective Jan. 1, 2015.>

In cases coming within subdivision (1) of section 43-247, when there is concurrent jurisdiction, or subdivision (2) or (4) of section 43-247, when the juvenile is under the age of sixteen years, the county attorney shall, in making the determination whether to file a criminal charge, file a juvenile court petition, offer juvenile pretrial diversion, or offer mediation, consider: (1) The type of treatment such juvenile would most likely be amenable to; (2) whether there is evidence that the alleged offense included violence or was committed in an aggressive and premeditated manner; (3) the motivation for the commission of the offense; (4) the age of the juvenile and the ages and circumstances of any others involved in the offense; (5) the previous history of the juvenile, including whether he or she had been convicted of any previous offenses or adjudicated in juvenile court, and, if so, whether such offenses were crimes against the person or relating to property, and other previous history of antisocial behavior, if any, including any patterns of physical violence; (6) the sophistication and maturity of the juvenile as determined by consideration of his or her home, school activities, emotional attitude and desire to be treated as an adult, pattern of living, and whether he or she has had previous contact with law enforcement agencies and courts and the nature thereof; (7) whether there are facilities particularly available to the juvenile court for treatment and rehabilitation of the juvenile; (8) whether the best interests of the juvenile and the security of the public may require that the juvenile continue in secure detention or under supervision for a period extending beyond his or her minority and, if so, the available alternatives best suited to this purpose; (9) whether the victim agrees to participate in mediation; (10) whether there is a juvenile pretrial diversion program established pursuant to sections 43-260.02 to 43-260.07; (11) whether the juvenile has been convicted of or has acknowledged unauthorized use or possession of a firearm; (12) whether a juvenile court order has been issued for the juvenile pursuant to section 43-2,106.03; (13) whether the juvenile is a criminal street gang member; (14) whether the juvenile has been previously committed to

a youth rehabilitation and treatment center; and (15) such other matters as the county attorney deems relevant to his or her decision.

NEB. REV. STAT. ANN. § 43-276 (2014). County attorney; criminal charge, juvenile court petition, pretrial diversion, or mediation; determination; considerations

<Text effective Jan. 1, 2015. See, also, text effective until Jan. 1, 2015.>

The county attorney or city attorney, in making the determination whether to file a criminal charge, file a juvenile court petition, offer juvenile pretrial diversion or mediation, or transfer a case to or from juvenile court, and the juvenile court, county court, or district court in making the determination whether to transfer a case, shall consider: (1) The type of treatment such juvenile would most likely be amenable to; (2) whether there is evidence that the alleged offense included violence; (3) the motivation for the commission of the offense; (4) the age of the juvenile and the ages and circumstances of any others involved in the offense; (5) the previous history of the juvenile, including whether he or she had been convicted of any previous offenses or adjudicated in juvenile court; (6) the best interests of the juvenile; (7) consideration of public safety; (8) consideration of the juvenile's ability to appreciate the nature and seriousness of his or her conduct; (9) whether the best interests of the juvenile and the security of the public may require that the juvenile continue in secure detention or under supervision for a period extending beyond his or her minority and, if so, the available alternatives best suited to this purpose; (10) whether the victim agrees to participate in mediation; (11) whether there is a juvenile pretrial diversion program established pursuant to sections 43-260.02 to 43-260.07; (12) whether the juvenile has been convicted of or has acknowledged unauthorized use or possession of a firearm; (13) whether a juvenile court order has been issued for the juvenile pursuant to section 43-2,106.03; (14) whether the juvenile is a criminal street gang member; and (15) such other matters as the parties deem relevant to aid in the decision.

NEVADA

NEV. REV. STAT. ANN. § 62B.390 (2014). Certification of child for criminal proceedings as adult

1. Except as otherwise provided in subsection 2 and NRS 62B.400, upon a motion by the district attorney and after a full investigation, the juvenile court may certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:

(a) Except as otherwise provided in paragraph (b), is charged with an offense that would have been a felony if committed by an adult and was 14 years of age or older at the time the child allegedly committed the offense; or

(b) Is charged with murder or attempted murder and was 13 years of age or older when the murder or attempted murder was committed.

2. Except as otherwise provided in subsection 3, upon a motion by the district attorney and after a full investigation, the juvenile court shall certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:

(a) Is charged with:

(1) A sexual assault involving the use or threatened use of force or violence against the victim; or

(2) An offense or attempted offense involving the use or threatened use of a firearm; and

(b) Was 16 years of age or older at the time the child allegedly committed the offense.

3. The juvenile court shall not certify a child for criminal proceedings as an adult pursuant to subsection 2 if the juvenile court specifically finds by clear and convincing evidence that:

(a) The child is developmentally or mentally incompetent to understand the situation and the proceedings of the court or to aid the child's attorney in those proceedings; or

(b) The child has substance abuse or emotional or behavioral problems and the substance abuse or emotional or behavioral problems may be appropriately treated through the jurisdiction of the juvenile court.

4. If a child is certified for criminal proceedings as an adult pursuant to subsection 1 or 2, the juvenile court shall also certify the child for criminal proceedings as an adult for any other related offense arising out of the same facts as the offense for which the child was certified, regardless of the nature of the related offense.

5. If a child has been certified for criminal proceedings as an adult pursuant to subsection 1 or 2 and the child's case has been transferred out of the juvenile court:

(a) The court to which the case has been transferred has original jurisdiction over the child;

(b) The child may petition for transfer of the case back to the juvenile court only upon a showing of exceptional circumstances; and

(c) If the child's case is transferred back to the juvenile court, the juvenile court shall determine whether the exceptional circumstances warrant accepting jurisdiction.

NEV. REV. STAT. ANN. § 62B.400 (2014). Child who escapes or attempts escape from facility for detention of juveniles deemed escaped prisoner; when court may certify such child for criminal proceedings; when deemed delinquent act

1. A child shall be deemed to be a prisoner who has escaped or attempted to escape from lawful custody in violation of NRS 212.090, and proceedings may be brought against the child pursuant to the provisions of this section, if the child:

(a) Is committed to or otherwise is placed in a public or private facility for the detention or correctional care of children, including, but not limited to, all state, regional and local facilities for the detention of children; and

(b) Escapes or attempts to escape from such a facility.

2. Upon a motion by the district attorney and after a full investigation, the juvenile court may certify the child for criminal proceedings as an adult pursuant to subsection 1 of NRS 62B.390 if the child was 14 years of age or older at the time of the escape or attempted escape and:

(a) The child was committed to or placed in the facility from which the child escaped or attempted to escape because the child had been charged with or had been adjudicated delinquent for an unlawful act that would have been a felony if committed by an adult; or

(b) The child or another person aiding the child used a dangerous weapon to facilitate the escape or attempted escape.

3. If the child is certified for criminal proceedings as an adult pursuant to subsection 2, the juvenile court shall also certify the child for criminal proceedings as an adult for any other related offense arising out of the same facts as the escape or attempted escape, regardless of the nature of the related offense.

4. If the child is not certified for criminal proceedings as an adult pursuant to subsection 2 or otherwise is not subject to the provisions of subsection 2, the escape or attempted escape shall be deemed to be a delinquent act, and proceedings may be brought against the child pursuant to the provisions of this title.

NEW HAMPSHIRE

N.H. REV. STAT. ANN. § 169-B:2 (2014). Definitions.

In this chapter:

I. “Adult lock-up or jail” means a locked facility, used primarily to house adults charged with or convicted of violating criminal law. This includes police lock-ups, county

correctional facilities, and any facility used by county sheriffs, state police, or local police to securely detain adult offenders and accused offenders.

II. “Alternative to secure detention” means any local program, approved by the court, police, probation, or the department of health and human services, which offers a less restrictive alternative to secure detention for minors. Such programs include, but are not limited to, youth attender, crisis home placement, group homes which have entered into agreements with the department of health and human services to provide such care, truant and runaway programs, and alcohol and drug detoxification programs.

III. “Court” means the district court, unless otherwise indicated.

III-a. “Custody” means a legal status created by court order wherein the department of health and human services has placement and care responsibility for the minor.

<[Paragraph IV effective until July 1, 2015; see also paragraph IV set out below.]>

IV. “Delinquent” means a person who has committed an offense before reaching the age of 17 years which would be a felony or misdemeanor under the criminal code of this state if committed by an adult, and is expressly found to be in need of counselling, supervision, treatment, or rehabilitation as a consequence thereof.

<[Paragraph IV effective July 1, 2015; see also paragraph IV set out above.]>

IV. “Delinquent” means a person who has committed an offense before reaching the age of 18 years which would be a felony or misdemeanor under the criminal code of this state if committed by an adult, and is expressly found to be in need of counseling, supervision, treatment, or rehabilitation as a consequence thereof.

IV-a. “Diversion” means a decision made by a person with authority which results in specific official action of the legal system not being taken or being postponed in regard to a juvenile and, in lieu of such inaction or postponement, providing an individually designed program for delivery of services for the juvenile by a specific provider or a plan to assist the juvenile in finding a remedy for his or her inappropriate behavior. The goal of diversion is to prevent further involvement of the juvenile in the formal legal system. Diversion of a juvenile may take place either at prefiling as an alternative to the filing of a petition, or at arraignment.

IV-b. “Court approved diversion program” means a program that has been approved by the administrative judge of the judicial branch family division and has been approved to accept court referrals. An approved diversion program is a community based alternative to the formal court process that integrates restorative justice practices, promotes positive youth development, and reduces juvenile crime and recidivism.

IV-c. “Intervention” means a decision made by a person with authority which results in specific official action of the legal system not being taken or being postponed in regard to

a juvenile and, in lieu of such inaction or postponement, providing an individually designed program for delivery of services for the juvenile by a specific provider or a plan to assist the juvenile in finding a remedy for his or her inappropriate behavior. The goal of intervention is to prevent further involvement of the juvenile in the formal legal system. Intervention for a juvenile may take place either at the adjudicatory or dispositional level.

V. "Detention" means the care of a minor in physically restricted facilities and shall not include placement at residential treatment or evaluation facilities, staff-secure shelter facilities, or foster care homes.

V-a. "Home detention" means court-ordered confinement of a minor with the parents or other specified home for 24 hours a day unless otherwise prescribed by written court order, under which the minor is permitted out of the residence only at such hours and in the company of persons specified in the court order establishing the home detention.

<[Paragraph VI effective until July 1, 2015; see also paragraph VI set out below.]>

VI. "Minor" means a person under the age of 17.

<[Paragraph VI effective July 1, 2015; see also paragraph VI set out above.]>

VI. "Minor" means a person under the age of 18.

VII. "Non-secure detention" means the care of a minor in a facility where physical restriction of movement or activity is provided solely through facility staff.

VIII. "Conditional release" means a legal status created by court order following an adjudication that a minor is delinquent and shall be permitted to remain in the community, including the minor's home, subject to:

- (a) The conditions and limitations of the minor's conduct prescribed by the court;
- (b) Such counselling and treatment as deemed necessary, pursuant to methods and conditions prescribed by the court, for the minor and family;
- (c) The supervision of a juvenile probation and parole officer, as authorized by RSA 170-G:16; and
- (d) Return to the court for violation of conditions of the release and change of disposition at any time during the term of conditional release.

IX. "Restitution" means moneys, compensation, work, or service which is reimbursed by the offender to the victim who suffered personal injury or economic loss.

X. “Concurrent plan” means an alternate permanency plan in the event that a child cannot be safely reunified with his or her parents.

XI. “Out-of-home placement” means when a minor, as the result of a delinquent petition, is removed from a biological parent, adoptive parent, or legal guardian of the minor and placed in substitute care with someone other than a biological parent, adoptive parent, or legal guardian. Such substitute care may include placement with a custodian, guardian, relative, friend, group home, crisis home, shelter care, or a foster home.

XII. “Permanency hearing” means a court hearing for a minor in an out-of-home placement to review, modify, and/or implement the permanency plan or adopt the concurrent plan.

XIII. “Permanency plan” means a plan for a minor in an out-of-home placement that is adopted by the court and that provides for timely reunification, termination of parental rights or parental surrender when an adoption is contemplated, guardianship with a fit and willing relative or another appropriate party, or another planned permanent living arrangement.

XIV. “Serious threats to school safety” means acts involving weapons; acts involving the possession, sale, or distribution of controlled substances; acts that cause serious bodily injury to other students or school employees; threats to cause bodily injury to students or school employees, where there is a reasonable probability that such threats will be carried out; acts that constitute felonious sexual assault or aggravated felonious sexual assault under RSA 632-A; arson under RSA 634:1; robbery under RSA 636:1; and criminal mischief under RSA 634:2, II and RSA 634:2, II-a.

XV. “Shelter care facility” means a non-secure or staff-secure facility for the temporary care of children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for children prior to or following adjudication or disposition. A shelter care facility may not be operated in the same building as a facility for architecturally secure confinement of children or adults.

N.H. REV. STAT. ANN. § 169-B:4 (2011). Jurisdiction Over Certain Persons.

<[Paragraph I effective until July 1, 2015; see also paragraph I set out below.]>

I. The court shall have jurisdiction over any minor with respect to whom a petition is filed under this chapter after the minor's seventeenth and before the minor's eighteenth birthday for an alleged delinquency offense committed before the minor's seventeenth birthday.

<[Paragraph I effective July 1, 2015; see also paragraph I set out above.]>

I. The court shall have jurisdiction over any minor with respect to whom a petition is filed under this chapter after the minor's eighteenth and before the minor's nineteenth

birthday for an alleged delinquency offense committed before the minor's eighteenth birthday.

<[Introductory paragraph of paragraph II effective until July 1, 2015; see also introductory paragraph of paragraph II set out below.]>

II. The court may retain jurisdiction over any minor during the period after the minor's seventeenth birthday as justice may require for any minor who, prior to the minor's seventeenth birthday, was adjudicated delinquent and:

<[Introductory paragraph of paragraph II effective July 1, 2015; see also introductory paragraph of paragraph II set out above.]>

II. The court may retain jurisdiction over any minor during the period after the minor's eighteenth birthday as justice may require for any minor who, prior to the minor's eighteenth birthday, was adjudicated delinquent and:

(a) For whom the department has recommended extension of the court's jurisdiction;

<[Paragraph II(b) effective until July 1, 2015; see also paragraph II(b) set out below.]>

(b) Who has, prior to the minor's seventeenth birthday, consented to the court's retention of jurisdiction; and

<[Paragraph II(b) effective July 1, 2015; see also paragraph II(b) set out above.]>

(b) Who has, prior to the minor's eighteenth birthday, consented to the court's retention of jurisdiction; and

(c) Who is attending school for the purpose of obtaining a high school diploma or general equivalency diploma and is considered likely to receive such diploma.

III. At the request of the prosecutor or the department, the court may retain jurisdiction over the minor for a period of up to 2 years following the completion of any appeal if the petition was filed after the minor had attained the age of 16 years. Notwithstanding the provisions of RSA 169-B:19, III, when jurisdiction is retained pursuant to this section, the court may sentence a person to the county correctional facility for a term that may extend beyond the person's eighteenth birthday.

<[Introductory paragraph of paragraph IV effective until July 1, 2015; see also introductory paragraph of paragraph IV set out below.]>

IV. The court shall close the case when the minor reaches age 17 or, if jurisdiction is extended pursuant to paragraph II, when:

<[Introductory paragraph of paragraph IV effective July 1, 2015; see also introductory paragraph of paragraph IV set out above.]>

IV. The court shall close the case when the minor reaches age 18 or, if jurisdiction is extended pursuant to paragraph II, when:

- (a) The minor revokes the minor's consent in writing and such revocation has been approved by the court;
- (b) The minor ceases to be enrolled as a full-time student during sessions of the school;
- (c) The minor graduates from high school or receives a general equivalency diploma;
- (d) The minor attains 21 years of age; or
- (e) The department revokes its consent in writing; whichever event shall first occur. The court shall approve the minor's revocation of consent if it finds that the minor, in seeking to do so, is acting intelligently, knowledgeably, and in acceptance of the legal consequences.

V. Notwithstanding paragraph III, when the court finds by clear and convincing evidence that closing the case would endanger the safety of the minor, any other person, or the community, or the court finds that there is a high probability that continued provision of treatment services is necessary to rehabilitate the minor, the court may retain jurisdiction over any minor:

- (a) Who has been found to have committed a violent crime as defined under RSA 169-B:35-a, I(c);
- (b) Who has been petitioned to the court on 4 or more occasions and adjudicated delinquent in 4 separate adjudicatory hearings which alleged misdemeanor or felony offenses; or
- (c) Who is subject to the jurisdiction of the court prior to the minor's seventeenth birthday and for whom the department has filed a motion with the court requesting that the court retain jurisdiction under this subparagraph; provided that the department's motion is filed within the 90 days prior to the minor's seventeenth birthday and provided further that the court's jurisdiction pursuant to this subparagraph shall continue until the minor's eighteenth birthday.

VI. A minor may be subject to the extended jurisdiction of the court for a period of time no longer than that for which an adult could be committed for a like offense or the minor reaches the age of 21, whichever occurs first. For purposes of this section, the time shall be calculated from the date of the original dispositional order.

<[Paragraph VII effective until July 1, 2015; see also paragraph VII set out below.]>

VII. In any instance in which the statute of limitations has not tolled and no juvenile petition has been filed based upon acts committed before the minor's seventeenth birthday, the state may proceed against the person in the criminal justice system after that person's eighteenth birthday.

<[Paragraph VII effective July 1, 2105; see also paragraph VII set out above.]>

VII. In any instance in which the statute of limitations has not tolled and no juvenile petition has been filed based upon acts committed before the minor's eighteenth birthday, the state may proceed against the person in the criminal justice system after that person's eighteenth birthday.

N.H. REV. STAT. ANN. § 169-B:24 (2014). Transfer to Superior Court.

I. All cases before the court in which the offense complained of constitutes a felony or would amount to a felony in the case of an adult may be transferred to the superior court prior to hearing under RSA 169-B:16 as provided in this section. The court shall conduct a hearing on the question of transfer and shall consider, but not be limited to, the following criteria in determining whether a case should be transferred:

- (a) The seriousness of the alleged offense to the community and whether the protection of the community requires transfer.
- (b) The aggressive, violent, premeditated, or willful nature of the alleged offense.
- (c) Whether the alleged offense was committed against persons or property.
- (d) The prospective merit of the complaint.
- (e) The desirability of trial and disposition of the entire offense in one court if the minor's associates in the alleged offense were adults who will be charged with a crime.
- (f) The sophistication and maturity of the minor.
- (g) The minor's prior record and prior contacts with law enforcement agencies.
- (h) The prospects of adequate protection of the public, and the likelihood of reasonable rehabilitation of the minor through the juvenile court system.

II. The minor shall be entitled to the assistance of counsel. Both the prosecutor and counsel for the minor shall have access to the court records, probation reports, or other agency reports. If the court orders transfer to superior court, it shall provide a written statement of findings and reasons for such transfer to the minor. When persons so certified are accepted by the superior court, the superior court may dispose of all criminal charges arising out of the incident which led to the transfer petition according to the relevant laws of this state without any limitations as to sentence or orders required by this

chapter. All original papers in transferred cases shall remain in the court from which transferred and certified copies of the papers shall be filed with and shall constitute the records of the court to which transfer is made. Pending disposition by the superior court, a juvenile who is transferred and accepted by the superior court may be placed under the supervision of the department of corrections or required to recognize with sufficient sureties, or in default of such sureties, be detained at a county correctional facility to await disposition of the case in the superior court; provided, however, once a minor is certified for trial as an adult and the person is transferred to the superior court, detention at the youth development center is prohibited.

III. Upon the filing of a petition for transfer to the superior court, the court shall conduct a scheduling hearing and establish a scheduling order for all future hearings necessary to the transfer petition, notwithstanding the provisions of RSA 169-B:14, II.

IV. When the felony offense charged is first degree murder, second degree murder, attempted murder, manslaughter, first degree assault, second degree assault (except when the allegation is a violation of RSA 631:2, I(d)), aggravated felonious sexual assault, kidnapping, criminal restraint, robbery punishable as a class A felony, a violation of RSA 318-B:26, I(a) or (b), or negligent homicide under RSA 630:3, II, or when the minor is charged with any felony and, prior to the filing of the felony petition, the minor has been petitioned to the court on 4 or more occasions and adjudicated delinquent in 4 separate adjudicatory hearings which alleged misdemeanor or felony offenses, and the minor commits the act after the minor's fifteenth birthday, there shall be a presumption that the factors listed in RSA 169-B:24, I support transfer to the superior court.

V. [Repealed.]

N.H. REV. STAT. ANN. § 169-B:25 (2014). Petition by County Attorney or Attorney General.

<[RSA 169-B:25 effective until July 1, 2015; see also RSA 169-B:25 effective July 1, 2015.]>

If facts are presented to the county attorney or attorney general establishing that a person under the age of 17 has been guilty of conduct which constitutes a felony or would amount to a felony in the case of an adult and if such person is not within the jurisdiction of this state, the county attorney or attorney general may file a petition with the judge of the municipal or district court which would otherwise have jurisdiction under the provisions of this chapter. The petition shall set forth the nature of the offense with which the person is charged and shall specify the person's whereabouts if known. On receipt of such petition, the court may summarily authorize the county attorney or attorney general to proceed against such person under regular criminal procedures, and without regard to the provisions of this chapter. Pending determination by the superior court as provided in this section and pending final disposition of the matter, such persons shall be bailable with sufficient sureties as in the case of adults and, in default thereof, may be committed to the custody of the juvenile probation and parole officer or detained at a county correctional facility unless detention elsewhere is ordered by the superior court. The

superior court shall determine, after hearing, whether such person shall be treated as a juvenile under the provisions of this section or whether the case shall be disposed of according to regular criminal procedures.

N.H. REV. STAT. ANN. § 169-B:25 (2014). Petition by County Attorney or Attorney General.

<[RSA 169-B:25 effective July 1, 2015; see also RSA 169-B:25 effective until July 1, 2015.]>

If facts are presented to the county attorney or attorney general establishing that a person under the age of 18 has been guilty of conduct which constitutes a felony or would amount to a felony in the case of an adult and if such person is not within the jurisdiction of this state, the county attorney or attorney general may file a petition with the judge of the municipal or district court which would otherwise have jurisdiction under the provisions of this chapter. The petition shall set forth the nature of the offense with which the person is charged and shall specify the person's whereabouts if known. On receipt of such petition, the court may summarily authorize the county attorney or attorney general to proceed against such person under regular criminal procedures, and without regard to the provisions of this chapter. Pending determination by the superior court as provided in this section and pending final disposition of the matter, such persons shall be bailable with sufficient sureties as in the case of adults and, in default thereof, may be committed to the custody of the juvenile probation and parole officer or detained at a county correctional facility unless detention elsewhere is ordered by the superior court. The superior court shall determine, after hearing, whether such person shall be treated as a juvenile under the provisions of this section or whether the case shall be disposed of according to regular criminal procedures.

N.H. REV. STAT. ANN. § 169-B:26 (2014). Petition by Minor.

<[RSA 169-B:26 effective until July 1, 2015; see also RSA 169-B:26 effective July 1, 2015.]>

At any time prior to hearing pursuant to RSA 169-B:16, a minor who is charged with an act of delinquency committed after the minor's sixteenth birthday may petition the court to be tried as an adult and to have such case dealt with in the same manner as any other criminal prosecution.

N.H. REV. STAT. ANN. § 169-B:26 (2014). Petition by Minor.

<[RSA 169-B:26 effective July 1, 2015; see also RSA 169-B:26 effective until July 1, 2015.]>

At any time prior to hearing pursuant to RSA 169-B:16, a minor who is charged with an act of delinquency committed after the minor's seventeenth birthday may petition the court to be tried as an adult and to have such case dealt with in the same manner as any other criminal prosecution.

NEW JERSEY

N.J. STAT. ANN. § 2A:4A-26 (2014). Referral to another court without juvenile's consent

a. On motion of the prosecutor, the court shall, without the consent of the juvenile, waive jurisdiction over a case and refer that case from the Superior Court, Chancery Division, Family Part to the appropriate court and prosecuting authority having jurisdiction if it finds, after hearing, that:

- (1) The juvenile was 14 years of age or older at the time of the charged delinquent act; and
- (2) There is probable cause to believe that the juvenile committed a delinquent act or acts which if committed by an adult would constitute:
 - (a) Criminal homicide other than death by auto, strict liability for drug induced deaths, pursuant to N.J.S.2C:35-9, robbery which would constitute a crime of the first degree, carjacking, aggravated sexual assault, sexual assault, aggravated assault which would constitute a crime of the second degree, kidnapping, aggravated arson, or gang criminality pursuant to section 1 of P.L.2007, c. 341 (C.2C:33-29) where the underlying crime is enumerated in this subparagraph or promotion of organized street crime pursuant to section 2 of P.L.2007, c. 341 (C.2C:33-30) which would constitute a crime of the first or second degree which is enumerated in this subparagraph; or
 - (b) A crime committed at a time when the juvenile had previously been adjudicated delinquent, or convicted, on the basis of any of the offenses enumerated in subsection a.(2)(a); or
 - (c) A crime committed at a time when the juvenile had previously been sentenced and confined in an adult penal institution; or
 - (d) An offense against a person committed in an aggressive, violent and willful manner, other than an offense enumerated in subsection a.(2)(a) of this section, or the unlawful possession of a firearm, destructive device or other prohibited weapon, arson or death by auto if the juvenile was operating the vehicle under the influence of an intoxicating liquor, narcotic, hallucinogenic or habit producing drug; or
 - (e) A violation of N.J.S.2C:35-3, N.J.S.2C:35-4, or N.J.S.2C:35-5; or
 - (f) Crimes which are a part of a continuing criminal activity in concert with two or more persons and the circumstances of the crimes show the juvenile has knowingly devoted himself to criminal activity as a source of livelihood; or

(g) An attempt or conspiracy to commit any of the acts enumerated in paragraph (a), (d) or (e) of this subsection; or

(h) Theft of an automobile pursuant to chapter 20 of Title 2C of the New Jersey Statutes; or

(i) Possession of a firearm with a purpose to use it unlawfully against the person of another under subsection a. of N.J.S.2C:39-4, or the crime of aggravated assault, aggravated criminal sexual contact, burglary or escape if, while in the course of committing or attempting to commit the crime including the immediate flight therefrom, the juvenile possessed a firearm; or

(j) Computer criminal activity which would be a crime of the first or second degree pursuant to section 4 or section 10 of P.L.1984. c.184 (C.2C:20-25 or C.2C:20-31); and

(3) Except with respect to any of the acts enumerated in subparagraph (a), (i) or (j) of paragraph (2) of subsection a. of this section, or with respect to any acts enumerated in subparagraph (e) of paragraph (2) of subsection a. of this section which involve the distribution for pecuniary gain of any controlled dangerous substance or controlled substance analog while on any property used for school purposes which is owned by or leased to any school or school board, or within 1,000 feet of such school property or while on any school bus, or any attempt or conspiracy to commit any of those acts, the State has shown that the nature and circumstances of the charge or the prior record of the juvenile are sufficiently serious that the interests of the public require waiver.

b. (Deleted by amendment, P.L.1999, c. 373).

c. An order referring a case shall incorporate therein not only the alleged act or acts upon which the referral is premised, but also all other delinquent acts arising out of or related to the same transaction.

d. A motion seeking waiver shall be filed by the prosecutor within 30 days of receipt of the complaint. This time limit shall not, except for good cause shown, be extended.

e. If the juvenile can show that the probability of his rehabilitation by the use of the procedures, services and facilities available to the court prior to the juvenile reaching the age of 19 substantially outweighs the reasons for waiver, waiver shall not be granted. This subsection shall not apply with respect to a juvenile 16 years of age or older who is charged with committing any of the acts enumerated in subparagraph (a), (i) or (j) of paragraph (2) of subsection a. of this section or with respect to a violation of N.J.S.2C:35-3, N.J.S.2C:35-4 or section 1 of P.L.1998, c. 26 (C. 2C:39-4.1).

f. The Attorney General shall develop for dissemination to the county prosecutors those guidelines or directives deemed necessary or appropriate to ensure the uniform application of this section throughout the State.

N.J. STAT. ANN. § 2A:4A-27 (2014). Referral to other court at election of juvenile

Any juvenile 14 years of age or older charged with delinquency may elect to have the case transferred to the appropriate court having jurisdiction. Any juvenile under 14 years of age charged with an offense which, if committed by an adult, would constitute murder under N.J.S. 2C:11-3 may elect to have the case transferred to the appropriate court having jurisdiction.

NEW MEXICO

N.M. STAT. ANN. § 32A-2-3 (2014). Definitions

As used in the Delinquency Act:

A. “delinquent act” means an act committed by a child that would be designated as a crime under the law if committed by an adult, including the following offenses:

- (1) any of the following offenses pursuant to municipal traffic codes or the Motor Vehicle Code:
 - (a) driving while under the influence of intoxicating liquor or drugs;
 - (b) failure to stop in the event of an accident causing death, personal injury or damage to property;
 - (c) unlawful taking of a vehicle or motor vehicle;
 - (d) receiving or transferring of a stolen vehicle or motor vehicle;
 - (e) homicide by vehicle;
 - (f) injuring or tampering with a vehicle;
 - (g) altering or changing of an engine number or other vehicle identification numbers;
 - (h) altering or forging of a driver's license or permit or any making of a fictitious license or permit;
 - (i) reckless driving;
 - (j) driving with a suspended or revoked license; or
 - (k) an offense punishable as a felony;

(2) buying, attempting to buy, receiving, possessing or being served any alcoholic liquor or being present in a licensed liquor establishment, other than a restaurant or a licensed retail liquor establishment, except in the presence of the child's parent, guardian, custodian or adult spouse. As used in this paragraph, "restaurant" means an establishment where meals are prepared and served primarily for on-premises consumption and that has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals. "Restaurant" does not include an establishment, as defined in regulations promulgated by the director of the special investigations division of the department of public safety, that serves only hamburgers, sandwiches, salads and other fast foods;

(3) a violation of Section 30-29-2 NMSA 1978, regarding the illegal use of a glue, aerosol spray product or other chemical substance;

(4) a violation of the Controlled Substances Act;

(5) escape from the custody of a law enforcement officer or a juvenile probation or parole officer or from any placement made by the department by a child who has been adjudicated a delinquent child;

(6) a violation of Section 30-15-1.1 NMSA 1978 regarding unauthorized graffiti on personal or real property; or

(7) a violation of an order of protection issued pursuant to the provisions of the Family Violence Protection Act;

B. "delinquent child" means a child who has committed a delinquent act;

C. "delinquent offender" means a delinquent child who is subject to juvenile sanctions only and who is not a youthful offender or a serious youthful offender;

D. "detention facility" means a place where a child may be detained under the Children's Code pending court hearing and does not include a facility for the care and rehabilitation of an adjudicated delinquent child;

E. "felony" means an act that would be a felony if committed by an adult;

F. "misdemeanor" means an act that would be a misdemeanor or petty misdemeanor if committed by an adult;

G. "restitution" means financial reimbursement by the child to the victim or community service imposed by the court and is limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical, psychiatric and psychological treatment for injury to a person and lost wages resulting from physical injury, which are a direct and proximate result of a delinquent act. "Restitution" does not include reimbursement for damages for mental anguish, pain and suffering or other intangible

losses. As used in this subsection, “victim” means a person who is injured or suffers damage of any kind by an act that is the subject of a complaint or referral to law enforcement officers or juvenile probation authorities. Nothing contained in this definition limits or replaces the provisions of Subsections A and B of Section 32A-2-27 NMSA 1978;

H. “serious youthful offender” means an individual fifteen to eighteen years of age who is charged with and indicted or bound over for trial for first degree murder. A “serious youthful offender” is not a delinquent child as defined pursuant to the provisions of this section;

I. “supervised release” means the release of a juvenile, whose term of commitment has not expired, from a facility for the care and rehabilitation of adjudicated delinquent children, with specified conditions to protect public safety and promote successful transition and reintegration into the community. A juvenile on supervised release is subject to monitoring by the department until the term of commitment has expired, and may be returned to custody for violating conditions of release; and

J. “youthful offender” means a delinquent child subject to adult or juvenile sanctions who is:

(1) fourteen to eighteen years of age at the time of the offense and who is adjudicated for at least one of the following offenses:

(a) second degree murder, as provided in Section 30-2-1 NMSA 1978;

(b) assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978;

(c) kidnapping, as provided in Section 30-4-1 NMSA 1978;

(d) aggravated battery, as provided in Subsection C of Section 30-3-5 NMSA 1978;

(e) aggravated battery against a household member, as provided in Subsection C of Section 30-3-16 NMSA 1978;

(f) aggravated battery upon a peace officer, as provided in Subsection C of Section 30-22-25 NMSA 1978;

(g) shooting at a dwelling or occupied building or shooting at or from a motor vehicle, as provided in Section 30-3-8 NMSA 1978;

(h) dangerous use of explosives, as provided in Section 30-7-5 NMSA 1978;

(i) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978;

- (j) robbery, as provided in Section 30-16-2 NMSA 1978;
 - (k) aggravated burglary, as provided in Section 30-16-4 NMSA 1978;
 - (l) aggravated arson, as provided in Section 30-17-6 NMSA 1978; or
 - (m) abuse of a child that results in great bodily harm or death to the child, as provided in Section 30-6-1 NMSA 1978;
- (2) fourteen to eighteen years of age at the time of the offense, who is adjudicated for any felony offense and who has had three prior, separate felony adjudications within a three-year time period immediately preceding the instant offense. The felony adjudications relied upon as prior adjudications shall not have arisen out of the same transaction or occurrence or series of events related in time and location. Successful completion of consent decrees are not considered a prior adjudication for the purposes of this paragraph; or
- (3) fourteen years of age and who is adjudicated for first degree murder, as provided in Section 30-2-1 NMSA 1978.

NEW YORK

N.Y. CRIM. PROC. LAW § 1.20 (2014). Definitions of terms of general use in this chapter

Except where different meanings are expressly specified in subsequent provisions of this chapter, the term definitions contained in section 10.00 of the penal law are applicable to this chapter, and, in addition, the following terms have the following meanings:

1. “Accusatory instrument” means an indictment, an indictment ordered reduced pursuant to subdivision one-a of section 210.20 of this chapter, an information, a simplified information, a prosecutor's information, a superior court information, a misdemeanor complaint or a felony complaint. Every accusatory instrument, regardless of the person designated therein as accuser, constitutes an accusation on behalf of the state as plaintiff and must be entitled “the people of the state of New York” against a designated person, known as the defendant.
2. “Local criminal court accusatory instrument” means any accusatory instrument other than an indictment or a superior court information.
3. “Indictment” means a written accusation by a grand jury, more fully defined and described in article two hundred, filed with a superior court, which charges one or more defendants with the commission of one or more offenses, at least one of which is a crime, and which serves as a basis for prosecution thereof.

3-a. "Superior court information" means a written accusation by a district attorney more fully defined and described in articles one hundred ninety-five and two hundred, filed with a superior court pursuant to article one hundred ninety-five, which charges one or more defendants with the commission of one or more offenses, at least one of which is a crime, and which serves as a basis for prosecution thereof.

4. "Information" means a verified written accusation by a person, more fully defined and described in article one hundred, filed with a local criminal court, which charges one or more defendants with the commission of one or more offenses, none of which is a felony, and which may serve both to commence a criminal action and as a basis for prosecution thereof.

5. [See, also, subd. 5 below.] "Simplified traffic information" means a written accusation, more fully defined and described in article one hundred, by a police officer or other public servant authorized by law to issue same, filed with a local criminal court, which, being in a brief or simplified form prescribed by the commissioner of motor vehicles, charges a person with one or more traffic infractions or misdemeanors relating to traffic, and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof.

5. [See, also, subd. 5 above.] (a) "Simplified information" means a simplified traffic information, a simplified parks information, or a simplified environmental conservation information.

(b) "Simplified traffic information" means a written accusation by a police officer, or other public servant authorized by law to issue same, more fully defined and described in article one hundred, filed with a local criminal court, which, being in a brief or simplified form prescribed by the commissioner of motor vehicles, charges a person with one or more traffic infractions or misdemeanors relating to traffic, and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof.

(c) "Simplified parks information" means a written accusation by a police officer, or other public servant authorized by law to issue same, filed with a local criminal court, which, being in a brief or simplified form prescribed by the commissioner of parks and recreation, charges a person with one or more offenses, other than a felony, for which a uniform simplified parks information may be issued pursuant to the parks and recreation law and the navigation law, and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof.

(d) "Simplified environmental conservation information" means a written accusation by a police officer, or other public servant authorized by law to issue same, filed with a local criminal court, which being in a brief or simplified form prescribed by the commissioner of environmental conservation, charges a person with one or more offenses, other than a felony, for which a uniform simplified environmental conservation simplified [FN1] information may be issued pursuant to the environmental

conservation law, and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof.

6. "Prosecutor's information" means a written accusation by a district attorney, more fully defined and described in article one hundred, filed with a local criminal court, which charges one or more defendants with the commission of one or more offenses, none of which is a felony, and which serves as a basis for prosecution thereof.

7. "Misdemeanor complaint" means a verified written accusation by a person, more fully defined and described in article one hundred, filed with a local criminal court, which charges one or more defendants with the commission of one or more offenses, at least one of which is a misdemeanor and none of which is a felony, and which serves to commence a criminal action but which may not, except upon the defendant's consent, serve as a basis for prosecution of the offenses charged therein.

8. "Felony complaint" means a verified written accusation by a person, more fully defined and described in article one hundred, filed with a local criminal court, which charges one or more defendants with the commission of one or more felonies and which serves to commence a criminal action but not as a basis for prosecution thereof.

9. "Arraignment" means the occasion upon which a defendant against whom an accusatory instrument has been filed appears before the court in which the criminal action is pending for the purpose of having such court acquire and exercise control over his person with respect to such accusatory instrument and of setting the course of further proceedings in the action.

10. "Plea," in addition to its ordinary meaning as prescribed in sections 220.10 and 340.20, means, where appropriate, the occasion upon which a defendant enters such a plea to an accusatory instrument.

11. "Trial." A jury trial commences with the selection of the jury and includes all further proceedings through the rendition of a verdict. A non-jury trial commences with the first opening address, if there be any, and, if not, when the first witness is sworn, and includes all further proceedings through the rendition of a verdict.

12. "Verdict" means the announcement by a jury in the case of a jury trial, or by the court in the case of a non-jury trial, of its decision upon the defendant's guilt or innocence of the charges submitted to or considered by it.

13. "Conviction" means the entry of a plea of guilty to, or a verdict of guilty upon, an accusatory instrument other than a felony complaint, or to one or more counts of such instrument.

14. "Sentence" means the imposition and entry of sentence upon a conviction.

15. “Judgment.” A judgment is comprised of a conviction and the sentence imposed thereon and is completed by imposition and entry of the sentence.

16. “Criminal action.” A criminal action (a) commences with the filing of an accusatory instrument against a defendant in a criminal court, as specified in subdivision seventeen; (b) includes the filing of all further accusatory instruments directly derived from the initial one, and all proceedings, orders and motions conducted or made by a criminal court in the course of disposing of any such accusatory instrument, or which, regardless of the court in which they occurred or were made, could properly be considered as a part of the record of the case by an appellate court upon an appeal from a judgment of conviction; and (c) terminates with the imposition of sentence or some other final disposition in a criminal court of the last accusatory instrument filed in the case.

17. “Commencement of criminal action.” A criminal action is commenced by the filing of an accusatory instrument against a defendant in a criminal court, and, if more than one accusatory instrument is filed in the course of the action, it commences when the first of such instruments is filed.

18. “Criminal proceeding” means any proceeding which (a) constitutes a part of a criminal action or (b) occurs in a criminal court and is related to a prospective, pending or completed criminal action, either of this state or of any other jurisdiction, or involves a criminal investigation.

19. “Criminal court” means any court defined as such by section 10.10.

20. “Superior court” means any court defined as such by subdivision two of section 10.10.

21. “Local criminal court” means any court defined as such by subdivision three of section 10.10.

22. “Intermediate appellate court” means any court possessing appellate jurisdiction, other than the court of appeals.

23. “Judge” means any judicial officer who is a member of or constitutes a court, whether referred to in another provision of law as a justice or by any other title.

24. “Trial jurisdiction.” A criminal court has “trial jurisdiction” of an offense when an indictment or an information charging such offense may properly be filed with such court, and when such court has authority to accept a plea to, try or otherwise finally dispose of such accusatory instrument.

25. “Preliminary jurisdiction.” A criminal court has “preliminary jurisdiction” of an offense when, regardless of whether it has trial jurisdiction thereof, a criminal action for such offense may be commenced therein, and when such court may conduct proceedings

with respect thereto which lead or may lead to prosecution and final disposition of the action in a court having trial jurisdiction thereof.

26. “Appearance ticket” means a written notice issued by a public servant, more fully defined in section 150.10, requiring a person to appear before a local criminal court in connection with an accusatory instrument to be filed against him therein.

27. “Summons” means a process of a local criminal court or superior court, more fully defined in section 130.10, requiring a defendant to appear before such court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against him has been commenced.

28. “Warrant of arrest” means a process of a local criminal court, more fully defined in section 120.10, directing a police officer to arrest a defendant and to bring him before such court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against him has been commenced.

29. “Superior court warrant of arrest” means a process of a superior court directing a police officer to arrest a defendant and to bring him before such court for the purpose of arraignment upon an indictment filed therewith by which a criminal action against him has been commenced.

30. “Bench warrant” means a process of a criminal court in which a criminal action is pending, directing a police officer, or a uniformed court officer, pursuant to paragraph b of subdivision two of section 530.70 of this chapter, to take into custody a defendant in such action who has previously been arraigned upon the accusatory instrument by which the action was commenced, and to bring him before such court. The function of a bench warrant is to achieve the court appearance of a defendant in a pending criminal action for some purpose other than his initial arraignment in the action.

31. “Prosecutor” means a district attorney or any other public servant who represents the people in a criminal action.

32. “District attorney” means a district attorney, an assistant district attorney or a special district attorney, and, where appropriate, the attorney general, an assistant attorney general, a deputy attorney general, a special deputy attorney general, or the special prosecutor and inspector general for the protection of people with special needs or his or her assistants when acting pursuant to their duties in matters arising under article twenty of the executive law.

33. “Peace officer” means a person listed in section 2.10 of this chapter.

34. “Police officer.” The following persons are police officers:

- (a) A sworn member of the division of state police;

- (b) Sheriffs, under-sheriffs and deputy sheriffs of counties outside of New York City;
- (c) A sworn officer of an authorized county or county parkway police department;
- (d) A sworn officer of an authorized police department or force of a city, town, village or police district;
- (e) A sworn officer of an authorized police department of an authority or a sworn officer of the state regional park police in the office of parks and recreation;
- (f) A sworn officer of the capital police force of the office of general services;
- (g) An investigator employed in the office of a district attorney;
- (h) An investigator employed by a commission created by an interstate compact who is, to a substantial extent, engaged in the enforcement of the criminal laws of this state;
- (i) The chief and deputy fire marshals, the supervising fire marshals and the fire marshals of the bureau of fire investigation of the New York City fire department;
- (j) A sworn officer of the division of law enforcement in the department of environmental conservation;
- (k) A sworn officer of a police force of a public authority created by an interstate compact;
- (l) Long Island railroad police.
- (m) A special investigator employed in the statewide organized crime task force, while performing his assigned duties pursuant to section seventy-a of the executive law.
- (n) A sworn officer of the Westchester county department of public safety services who, on or prior to June thirtieth, nineteen hundred seventy-nine was appointed as a sworn officer of the division of Westchester county parkway police or who was appointed on or after July first, nineteen hundred seventy-nine to the title of police officer, sergeant, lieutenant, captain or inspector or who, on or prior to January thirty-first, nineteen hundred eighty-three, was appointed as a Westchester county deputy sheriff.
- (o) A sworn officer of the water-supply police employed by the city of New York, appointed to protect the sources, works, and transmission of water supplied to the city of New York, and to protect persons on or in the vicinity of such water sources, works, and transmission.
- (p) Persons appointed as railroad policemen pursuant to section eighty-eight of the railroad law.

(q) An employee of the department of taxation and finance (i) assigned to enforcement of the taxes imposed under or pursuant to the authority of article twelve-A of the tax law and administered by the commissioner of taxation and finance, taxes imposed under or pursuant to the authority of article eighteen of the tax law and administered by the commissioner, taxes imposed under article twenty of the tax law, or sales or compensating use taxes relating to petroleum products or cigarettes imposed under article twenty-eight or pursuant to the authority of article twenty-nine of the tax law and administered by the commissioner or (ii) designated as a revenue crimes specialist and assigned to the enforcement of the taxes described in paragraph (c) of subdivision four of section 2.10 of this title, for the purpose of applying for and executing search warrants under article six hundred ninety of this chapter, for the purpose of acting as a claiming agent under article thirteen-A of the civil practice law and rules in connection with the enforcement of the taxes referred to above and for the purpose of executing warrants of arrest relating to the respective crimes specified in subdivision four of section 2.10 of this title.

(r) Any employee of the Suffolk county department of parks who is appointed as a Suffolk county park police officer.

(s) A university police officer appointed by the state university pursuant to paragraph 1 of subdivision two of section three hundred fifty-five of the education law.

(t) A sworn officer of the department of public safety of the Buffalo municipal housing authority who has achieved or been granted the status of sworn police officer and has been certified by the division of criminal justice services as successfully completing an approved basic course for police officers.

(u) Persons appointed as Indian police officers pursuant to section one hundred fourteen of the Indian law.

(v) Supervisor of forest ranger services; assistant supervisor of forest ranger services; forest ranger 3; forest ranger 2; forest ranger 1 employed by the state department of environmental conservation or sworn officer of the division of forest protection and fire management in the department of environmental conservation responsible for wild land search and rescue, wild land fire management in the state as prescribed in subdivision eighteen of section 9-0105 and title eleven of article nine of the environmental conservation law, exercising care, custody and control of state lands administered by the department of environmental conservation.

34-a. "Geographical area of employment." The "geographical area of employment" of certain police officers is as follows:

(a) [Eff. until Sept. 1, 2015, pursuant to L.1999, c. 428, § 3. See, also, par. (a) below.] Except as provided in paragraph (d) of this subdivision, New York state constitutes the "geographical area of employment" of any police officer employed as such by an

agency of the state or by an authority which functions throughout the state, or a police officer designated by the superintendent of state police pursuant to section two hundred twenty-three of the executive law;

(a) [Eff. Sept. 1, 2015. See, also, par. (a) above.] Except as provided in paragraph (d), New York state constitutes the “geographical area of employment” of any police officer employed as such by an agency of the state or by an authority which functions throughout the state;

(b) A county, city, town or village, as the case may be, constitutes the “geographical area of employment” of any police officer employed as such by an agency of such political subdivision or by an authority which functions only in such political subdivision; and

(c) Where an authority functions in more than one county, the “geographical area of employment” of a police officer employed thereby extends through all of such counties.

(d) The geographical area of employment of a police officer appointed by the state university is the campuses and other property of the state university, including any portion of a public highway which crosses or abuts such property.

35. “Commitment to the custody of the sheriff,” when referring to an order of a court located in a county or city which has established a department of correction, means commitment to the commissioner of correction of such county or city.

36. “County” ordinarily means (a) any county outside of New York City or (b) New York City in its entirety. Unless the context requires a different construction, New York City, despite its five counties, is deemed a single county within the meaning of the provisions of this chapter in which that term appears.

37. “Lesser included offense.” When it is impossible to commit a particular crime without concomitantly committing, by the same conduct, another offense of lesser grade or degree, the latter is, with respect to the former, a “lesser included offense.” In any case in which it is legally possible to attempt to commit a crime, an attempt to commit such crime constitutes a lesser included offense with respect thereto.

38. “Oath” includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated.

39. “Petty offense” means a violation or a traffic infraction.

40. “Evidence in chief” means evidence, received at a trial or other criminal proceeding in which a defendant's guilt or innocence of an offense is in issue, which may be considered as a part of the quantum of substantive proof establishing or tending to establish the commission of such offense or an element thereof or the defendant's connection therewith.

41. “Armed felony” means any violent felony offense defined in section 70.02 of the penal law that includes as an element either:

(a) possession, being armed with or causing serious physical injury by means of a deadly weapon, if the weapon is a loaded weapon from which a shot, readily capable of producing death or other serious physical injury may be discharged; or

(b) display of what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm.

42. “Juvenile offender” means (1) a person, thirteen years old who is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 of the penal law, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; and (2) a person fourteen or fifteen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or defined in the penal law as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law.

43. “Judicial hearing officer” means a person so designated pursuant to provisions of article twenty-two of the judiciary law.

N.Y. FAM. CT. ACT. § 301.2 (2014). Definitions

As used in this article, the following terms shall have the following meanings:

1. “Juvenile delinquent” means a person over seven and less than sixteen years of age, who, having committed an act that would constitute a crime if committed by an adult, (a) is not criminally responsible for such conduct by reason of infancy, or (b) is the defendant in an action ordered removed from a criminal court to the family court pursuant to article seven hundred twenty-five of the criminal procedure law.

2. "Respondent" means the person against whom a juvenile delinquency petition is filed pursuant to section 310.1. Provided, however, that any act of the respondent required or authorized under this article may be performed by his or her attorney unless expressly provided otherwise.

3. "Detention" means the temporary care and maintenance of children away from their own homes, as defined in section five hundred two of the executive law. Detention of a person alleged to be or adjudicated as a juvenile delinquent shall be authorized only in a facility certified by the division for youth as a detention facility pursuant to section five hundred three of the executive law.

4. "Secure detention facility" means a facility characterized by physically restricting construction, hardware and procedures.

5. "Non-secure detention facility" means a facility characterized by the absence of physically restricting construction, hardware and procedures.

6. "Fact-finding hearing" means a hearing to determine whether the respondent or respondents committed the crime or crimes alleged in the petition or petitions.

7. "Dispositional hearing" means a hearing to determine whether the respondent requires supervision, treatment or confinement.

8. "Designated felony act" means an act which, if done by an adult, would be a crime: (i) defined in sections 125.27 (murder in the first degree); 125.25 (murder in the second degree); 135.25 (kidnapping in the first degree); or 150.20 (arson in the first degree) of the penal law committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) defined in sections 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); 130.35 (rape in the first degree); 130.50 (criminal sexual act in the first degree); 130.70 (aggravated sexual abuse in the first degree); 135.20 (kidnapping in the second degree) but only where the abduction involved the use or threat of use of deadly physical force; 150.15 (arson in the second degree) or 160.15 (robbery in the first degree) of the penal law committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iii) defined in the penal law as an attempt to commit murder in the first or second degree or kidnapping in the first degree committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iv) defined in section 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law committed by a person fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law;

(v) defined in section 120.05 (assault in the second degree) or 160.10 (robbery in the second degree) of the penal law committed by a person fourteen or fifteen years of age but only where there has been a prior finding by a court that such person has previously committed an act which, if committed by an adult, would be the crime of assault in the second degree, robbery in the second degree or any designated felony act specified in paragraph (i), (ii), or (iii) of this subdivision regardless of the age of such person at the time of the commission of the prior act; or (vi) other than a misdemeanor committed by a person at least seven but less than sixteen years of age, but only where there has been two prior findings by the court that such person has committed a prior felony.

9. "Designated Class A felony act" means a designated felony act defined in paragraph (i) of subdivision eight.

10. "Secure facility" means a residential facility in which the respondent may be placed under this article, which is characterized by physically restricting construction, hardware and procedures, and is designated as a secure facility by the division for youth.

11. "Restrictive placement" means a placement pursuant to section 353.5.

12. "Presentment agency" means the agency or authority which pursuant to section two hundred fifty-four or two hundred fifty-four-a is responsible for presenting a juvenile delinquency petition.

13. "Incapacitated person" means a respondent who, as a result of mental illness, mental retardation or developmental disability as defined in subdivisions twenty, twenty-one and twenty-two of section 1.03 of the mental hygiene law, lacks capacity to understand the proceedings against him or to assist in his own defense.

14. Any reference in this article to the commission of a crime includes any act which, if done by an adult, would constitute a crime.

15. "Aggravated circumstances" shall have the same meaning as the definition of such term in subdivision (j) of section one thousand twelve of this act.

16. "Permanency hearing" means an initial hearing or subsequent hearing held in accordance with the provisions of this article for the purpose of reviewing the foster care status of the respondent and the appropriateness of the permanency plan developed by the commissioner of social services or the office of children and family services.

17. "Designated educational official" shall mean (a) an employee or representative of a school district who is designated by the school district or (b) an employee or representative of a charter school or private elementary or secondary school who is designated by such school to receive records pursuant to this article and to coordinate the student's participation in programs which may exist in the school district or community, including: non-violent conflict resolution programs, peer mediation programs and youth courts, extended day programs and other school violence prevention and intervention

programs which may exist in the school district or community. Such notification shall be kept separate and apart from such student's school records and shall be accessible only by the designated educational official. Such notification shall not be part of such student's permanent school record and shall not be appended to or included in any documentation regarding such student and shall be destroyed at such time as such student is no longer enrolled in the school district. At no time shall such notification be used for any purpose other than those specified in this subdivision.

NORTH CAROLINA

N.C. GEN. STAT. § 7B-1604 (2014). Limitations on juvenile court jurisdiction

(a) Any juvenile, including a juvenile who is under the jurisdiction of the court, who commits a criminal offense on or after the juvenile's sixteenth birthday is subject to prosecution as an adult. A juvenile who is emancipated shall be prosecuted as an adult for the commission of a criminal offense.

(b) A juvenile who is transferred to and convicted in superior court shall be prosecuted as an adult for any criminal offense the juvenile commits after the superior court conviction.

N.C. GEN. STAT. § 7B-2200 (2014). Transfer of jurisdiction of juvenile to superior court

After notice, hearing, and a finding of probable cause the court may, upon motion of the prosecutor or the juvenile's attorney or upon its own motion, transfer jurisdiction over a juvenile to superior court if the juvenile was 13 years of age or older at the time the juvenile allegedly committed an offense that would be a felony if committed by an adult. If the alleged felony constitutes a Class A felony and the court finds probable cause, the court shall transfer the case to the superior court for trial as in the case of adults.

N.C. GEN. STAT. § 7B-2202 (2014). Probable cause hearing

(a) The court shall conduct a hearing to determine probable cause in all felony cases in which a juvenile was 13 years of age or older when the offense was allegedly committed. The hearing shall be conducted within 15 days of the date of the juvenile's first appearance. The court may continue the hearing for good cause.

(b) At the probable cause hearing:

- (1) A prosecutor shall represent the State;
- (2) The juvenile shall be represented by counsel;
- (3) The juvenile may testify, call, and examine witnesses, and present evidence; and

(4) Each witness shall testify under oath or affirmation and be subject to cross-examination.

(c) The State shall by nonhearsay evidence, or by evidence that satisfies an exception to the hearsay rule, show that there is probable cause to believe that the offense charged has been committed and that there is probable cause to believe that the juvenile committed it, except:

(1) A report or copy of a report made by a physicist, chemist, firearms identification expert, fingerprint technician, or an expert or technician in some other scientific, professional, or medical field, concerning the results of an examination, comparison, or test performed in connection with the case in issue, when stated in a report by that person, is admissible in evidence;

(2) If there is no serious contest, reliable hearsay is admissible to prove value, ownership of property, possession of property in a person other than the juvenile, lack of consent of the owner, possessor, or custodian of property to the breaking or entering of premises, chain of custody, and authenticity of signatures.

(d) Counsel for the juvenile may waive in writing the right to the hearing and stipulate to a finding of probable cause.

(e) If probable cause is found and transfer to superior court is not required by G.S. 7B-2200, upon motion of the prosecutor or the juvenile's attorney or upon its own motion, the court shall either proceed to a transfer hearing or set a date for that hearing. If the juvenile has not received notice of the intention to seek transfer at least five days prior to the probable cause hearing, the court, at the request of the juvenile, shall continue the transfer hearing.

(f) If the court does not find probable cause for a felony offense, the court shall:

(1) Dismiss the proceeding, or

(2) If the court finds probable cause to believe that the juvenile committed a lesser included offense that would constitute a misdemeanor if committed by an adult, either proceed to an adjudicatory hearing or set a date for that hearing.

N.C. GEN. STAT. § 7B-2203 (2014). Transfer hearing

(a) At the transfer hearing, the prosecutor and the juvenile may be heard and may offer evidence, and the juvenile's attorney may examine any court or probation records, or other records the court may consider in determining whether to transfer the case.

(b) In the transfer hearing, the court shall determine whether the protection of the public and the needs of the juvenile will be served by transfer of the case to superior court and shall consider the following factors:

- (1) The age of the juvenile;
 - (2) The maturity of the juvenile;
 - (3) The intellectual functioning of the juvenile;
 - (4) The prior record of the juvenile;
 - (5) Prior attempts to rehabilitate the juvenile;
 - (6) Facilities or programs available to the court prior to the expiration of the court's jurisdiction under this Subchapter and the likelihood that the juvenile would benefit from treatment or rehabilitative efforts;
 - (7) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner; and
 - (8) The seriousness of the offense and whether the protection of the public requires that the juvenile be prosecuted as an adult.
- (c) Any order of transfer shall specify the reasons for transfer. When the case is transferred to superior court, the superior court has jurisdiction over that felony, any offense based on the same act or transaction or on a series of acts or transactions connected together or constituting parts of a single scheme or plan of that felony, and any greater or lesser included offense of that felony.
- (d) If the court does not transfer the case to superior court, the court shall either proceed to an adjudicatory hearing or set a date for that hearing.

NORTH DAKOTA

N.D. CENT. CODE § 27-20-34 (2013). Transfer to other courts

1. After a petition has been filed alleging delinquency based on conduct which is designated a crime or public offense under the laws, including local ordinances or resolutions of this state, the court before hearing the petition on its merits shall transfer the offense for prosecution to the appropriate court having jurisdiction of the offense if:
 - a. The child is over sixteen or more years of age and requests the transfer;
 - b. The child was fourteen years of age or more at the time of the alleged conduct and the court determines that there is probable cause to believe the child committed the alleged delinquent act and the delinquent act involves the offense of murder or attempted murder; gross sexual imposition or the attempted gross sexual imposition of a victim by force or by threat of imminent death, serious bodily injury, or kidnapping; or the manufacture, delivery, or possession with intent to manufacture or deliver a

controlled substance in violation of subdivision a or b of subsection 1 of section 19-03.1-23, except for the manufacture, delivery, or possession with intent to manufacture or deliver marijuana in an amount less than one pound [.45 kilogram]; or the gratuitous delivery of a controlled substance not a narcotic drug or methamphetamine which is a singular and isolated event involving an amount of controlled substance sufficient solely for a single personal use; or

c. (1) The child was fourteen or more years of age at the time of the alleged conduct;

(2) A hearing on whether the transfer should be made is held in conformity with sections 27-20-24, 27-20-26, and 27-20-27;

(3) Notice in writing of the time, place, and purpose of the hearing is given to the child and the child's parents, guardian, or other custodian at least three days before the hearing; and

(4) The court finds that there are reasonable grounds to believe that:

(a) The child committed the delinquent act alleged;

(b) The child is not amenable to treatment or rehabilitation as a juvenile through available programs;

(c) The child is not treatable in an institution for individuals who are intellectually disabled or who are mentally ill;

(d) The interests of the community require that the child be placed under legal restraint or discipline; and

(e) If the child is fourteen or fifteen years old, the child committed a delinquent act involving the infliction or threat of serious bodily harm.

2. The burden of proving reasonable grounds to believe that a child is amenable to treatment or rehabilitation as a juvenile through available programs is on the child in those cases in which the alleged delinquent act involves the offense of manslaughter, aggravated assault, robbery, arson involving an inhabited structure, or escape involving the use of a firearm, destructive device, or other dangerous weapon or in cases in which the alleged delinquent act involves an offense which if committed by an adult would be a felony and the child has two or more previous delinquency adjudications for offenses which would be a felony if committed by an adult.

3. In determining a child's amenability to treatment and rehabilitation, the court shall consider and make specific findings on the following factors:

a. Age;

- b. Mental capacity;
 - c. Maturity;
 - d. Degree of criminal sophistication exhibited;
 - e. Previous record;
 - f. Success or failure of previous attempts to rehabilitate;
 - g. Whether the juvenile can be rehabilitated prior to expiration of juvenile court jurisdiction;
 - h. Any psychological, probation, or institutional reports;
 - i. The nature and circumstances of the acts for which the transfer is sought;
 - j. The prospect for adequate protection of the public; and
 - k. Any other relevant factors.
4. Any transfer operates to terminate the juvenile court's jurisdiction over the child with respect to any future offense if the child is ultimately convicted of the offense giving rise to the transfer.
5. No child subject to the jurisdiction of the juvenile court, either before or after reaching eighteen years of age, may be prosecuted for an offense previously committed unless the case has been transferred as provided in this section.
6. Statements made by the child at the hearing under this section are not admissible against the child over objection in the criminal proceedings following the transfer except for impeachment.
7. If the case is not transferred, the judge who conducted the hearing may not over objection of an interested party preside at the hearing on the petition. If the case is transferred to a court of which the judge who conducted the hearing is also a judge, the judge likewise is disqualified over objection from presiding in the prosecution.
8. A person at least twenty years of age who committed an offense while a child and was not adjudicated for the offense in juvenile court may be prosecuted in district court as an adult, unless the state intentionally delayed the prosecution to avoid juvenile court jurisdiction. The district court has original and exclusive jurisdiction for the prosecution under this subsection.

OHIO

OHIO REV. CODE ANN. § 2152.02 (2014). Definitions

As used in this chapter:

(A) “Act charged” means the act that is identified in a complaint, indictment, or information alleging that a child is a delinquent child.

(B) “Admitted to a department of youth services facility” includes admission to a facility operated, or contracted for, by the department and admission to a comparable facility outside this state by another state or the United States.

(C)(1) “Child” means a person who is under eighteen years of age, except as otherwise provided in divisions (C)(2) to (8) of this section.

(2) Subject to division (C)(3) of this section, any person who violates a federal or state law or a municipal ordinance prior to attaining eighteen years of age shall be deemed a “child” irrespective of that person's age at the time the complaint with respect to that violation is filed or the hearing on the complaint is held.

(3) Any person who, while under eighteen years of age, commits an act that would be a felony if committed by an adult and who is not taken into custody or apprehended for that act until after the person attains twenty-one years of age is not a child in relation to that act.

(4) Except as otherwise provided in divisions (C)(5) and (7) of this section, any person whose case is transferred for criminal prosecution pursuant to section 2152.12 of the Revised Code shall be deemed after the transfer not to be a child in the transferred case.

(5) Any person whose case is transferred for criminal prosecution pursuant to section 2152.12 of the Revised Code and who subsequently is convicted of or pleads guilty to a felony in that case, unless a serious youthful offender dispositional sentence is imposed on the child for that offense under division (B)(2) or (3) of section 2152.121 of the Revised Code and the adult portion of that sentence is not invoked pursuant to section 2152.14 of the Revised Code, and any person who is adjudicated a delinquent child for the commission of an act, who has a serious youthful offender dispositional sentence imposed for the act pursuant to section 2152.13 of the Revised Code, and whose adult portion of the dispositional sentence is invoked pursuant to section 2152.14 of the Revised Code, shall be deemed after the conviction, plea, or invocation not to be a child in any case in which a complaint is filed against the person.

(6) The juvenile court has jurisdiction over a person who is adjudicated a delinquent child or juvenile traffic offender prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, except as otherwise provided in this division, a person who is so adjudicated a delinquent child or juvenile traffic offender shall be deemed a “child”

until the person attains twenty-one years of age. If a person is so adjudicated a delinquent child or juvenile traffic offender and the court makes a disposition of the person under this chapter, at any time after the person attains twenty-one years of age, the places at which the person may be held under that disposition are not limited to places authorized under this chapter solely for confinement of children, and the person may be confined under that disposition, in accordance with division (F)(2) of section 2152.26 of the Revised Code, in places other than those authorized under this chapter solely for confinement of children.

(7) The juvenile court has jurisdiction over any person whose case is transferred for criminal prosecution solely for the purpose of detaining the person as authorized in division (F)(1) or (4) of section 2152.26 of the Revised Code unless the person is convicted of or pleads guilty to a felony in the adult court.

(8) Any person who, while eighteen years of age, violates division (A)(1) or (2) of section 2919.27 of the Revised Code by violating a protection order issued or consent agreement approved under section 2151.34 or 3113.31 of the Revised Code shall be considered a child for the purposes of that violation of section 2919.27 of the Revised Code.

(D) "Chronic truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for seven or more consecutive school days, ten or more school days in one school month, or fifteen or more school days in a school year.

(E) "Community corrections facility," "public safety beds," "release authority," and "supervised release" have the same meanings as in section 5139.01 of the Revised Code.

(F) "Delinquent child" includes any of the following:

(1) Any child, except a juvenile traffic offender, who violates any law of this state or the United States, or any ordinance of a political subdivision of the state, that would be an offense if committed by an adult;

(2) Any child who violates any lawful order of the court made under this chapter or under Chapter 2151. of the Revised Code other than an order issued under section 2151.87 of the Revised Code;

(3) Any child who violates division (C) of section 2907.39, division (A) of section 2923.211, or division (C)(1) or (D) of section 2925.55 of the Revised Code;

(4) Any child who is a habitual truant and who previously has been adjudicated an unruly child for being a habitual truant;

(5) Any child who is a chronic truant.

(G) “Discretionary serious youthful offender” means a person who is eligible for a discretionary SYO and who is not transferred to adult court under a mandatory or discretionary transfer.

(H) “Discretionary SYO” means a case in which the juvenile court, in the juvenile court's discretion, may impose a serious youthful offender disposition under section 2152.13 of the Revised Code.

(I) “Discretionary transfer” means that the juvenile court has discretion to transfer a case for criminal prosecution under division (B) of section 2152.12 of the Revised Code.

(J) “Drug abuse offense,” “felony drug abuse offense,” and “minor drug possession offense” have the same meanings as in section 2925.01 of the Revised Code.

(K) “Electronic monitoring” and “electronic monitoring device” have the same meanings as in section 2929.01 of the Revised Code.

(L) “Economic loss” means any economic detriment suffered by a victim of a delinquent act or juvenile traffic offense as a direct and proximate result of the delinquent act or juvenile traffic offense and includes any loss of income due to lost time at work because of any injury caused to the victim and any property loss, medical cost, or funeral expense incurred as a result of the delinquent act or juvenile traffic offense. “Economic loss” does not include non-economic loss or any punitive or exemplary damages.

(M) “Firearm” has the same meaning as in section 2923.11 of the Revised Code.

(N) “Juvenile traffic offender” means any child who violates any traffic law, traffic ordinance, or traffic regulation of this state, the United States, or any political subdivision of this state, other than a resolution, ordinance, or regulation of a political subdivision of this state the violation of which is required to be handled by a parking violations bureau or a joint parking violations bureau pursuant to Chapter 4521. of the Revised Code.

(O) A “legitimate excuse for absence from the public school the child is supposed to attend” has the same meaning as in section 2151.011 of the Revised Code.

(P) “Mandatory serious youthful offender” means a person who is eligible for a mandatory SYO and who is not transferred to adult court under a mandatory or discretionary transfer and also includes, for purposes of imposition of a mandatory serious youthful dispositional sentence under section 2152.13 of the Revised Code, a person upon whom a juvenile court is required to impose such a sentence under division (B)(3) of section 2152.121 of the Revised Code.

(Q) “Mandatory SYO” means a case in which the juvenile court is required to impose a mandatory serious youthful offender disposition under section 2152.13 of the Revised Code.

(R) “Mandatory transfer” means that a case is required to be transferred for criminal prosecution under division (A) of section 2152.12 of the Revised Code.

(S) “Mental illness” has the same meaning as in section 5122.01 of the Revised Code.

(T) “Mentally retarded person” has the same meaning as in section 5123.01 of the Revised Code.

(U) “Monitored time” and “repeat violent offender” have the same meanings as in section 2929.01 of the Revised Code.

(V) “Of compulsory school age” has the same meaning as in section 3321.01 of the Revised Code.

(W) “Public record” has the same meaning as in section 149.43 of the Revised Code.

(X) “Serious youthful offender” means a person who is eligible for a mandatory SYO or discretionary SYO but who is not transferred to adult court under a mandatory or discretionary transfer and also includes, for purposes of imposition of a mandatory serious youthful dispositional sentence under section 2152.13 of the Revised Code, a person upon whom a juvenile court is required to impose such a sentence under division (B)(3) of section 2152.121 of the Revised Code.

(Y) “Sexually oriented offense,” “juvenile offender registrant,” “child-victim oriented offense,” “tier I sex offender/child-victim offender,” “tier II sex offender/child-victim offender,” “tier III sex offender/child-victim offender,” and “public registry-qualified juvenile offender registrant” have the same meanings as in section 2950.01 of the Revised Code.

(Z) “Traditional juvenile” means a case that is not transferred to adult court under a mandatory or discretionary transfer, that is eligible for a disposition under sections 2152.16, 2152.17, 2152.19, and 2152.20 of the Revised Code, and that is not eligible for a disposition under section 2152.13 of the Revised Code.

(AA) “Transfer” means the transfer for criminal prosecution of a case involving the alleged commission by a child of an act that would be an offense if committed by an adult from the juvenile court to the appropriate court that has jurisdiction of the offense.

(BB) “Category one offense” means any of the following:

- (1) A violation of section 2903.01 or 2903.02 of the Revised Code;
- (2) A violation of section 2923.02 of the Revised Code involving an attempt to commit aggravated murder or murder.

(CC) “Category two offense” means any of the following:

(1) A violation of section 2903.03, 2905.01, 2907.02, 2909.02, 2911.01, or 2911.11 of the Revised Code;

(2) A violation of section 2903.04 of the Revised Code that is a felony of the first degree;

(3) A violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.

(DD) "Non-economic loss" means nonpecuniary harm suffered by a victim of a delinquent act or juvenile traffic offense as a result of or related to the delinquent act or juvenile traffic offense, including, but not limited to, pain and suffering; loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education; mental anguish; and any other intangible loss.

OHIO REV. CODE ANN. § 2152.10 (2014). Mandatory transfer; discretionary transfer

(A) A child who is alleged to be a delinquent child is eligible for mandatory transfer and shall be transferred as provided in section 2152.12 of the Revised Code in any of the following circumstances:

(1) The child is charged with a category one offense and either of the following apply:

(a) The child was sixteen years of age or older at the time of the act charged.

(b) The child was fourteen or fifteen years of age at the time of the act charged and previously was adjudicated a delinquent child for committing an act that is a category one or category two offense and was committed to the legal custody of the department of youth services upon the basis of that adjudication.

(2) The child is charged with a category two offense, other than a violation of section 2905.01 of the Revised Code, the child was sixteen years of age or older at the time of the commission of the act charged, and either or both of the following apply:

(a) The child previously was adjudicated a delinquent child for committing an act that is a category one or a category two offense and was committed to the legal custody of the department of youth services on the basis of that adjudication.

(b) The child is alleged to have had a firearm on or about the child's person or under the child's control while committing the act charged and to have displayed the firearm, brandished the firearm, indicated possession of the firearm, or used the firearm to facilitate the commission of the act charged.

(3) Division (A)(2) of section 2152.12 of the Revised Code applies.

(B) Unless the child is subject to mandatory transfer, if a child is fourteen years of age or older at the time of the act charged and if the child is charged with an act that would be a felony if committed by an adult, the child is eligible for discretionary transfer to the appropriate court for criminal prosecution. In determining whether to transfer the child for criminal prosecution, the juvenile court shall follow the procedures in section 2152.12 of the Revised Code. If the court does not transfer the child and if the court adjudicates the child to be a delinquent child for the act charged, the court shall issue an order of disposition in accordance with section 2152.11 of the Revised Code.

OHIO REV. CODE ANN. § 2152.12 (2014). Transfer of cases from juvenile court

(A)(1)(a) After a complaint has been filed alleging that a child is a delinquent child for committing an act that would be aggravated murder, murder, attempted aggravated murder, or attempted murder if committed by an adult, the juvenile court at a hearing shall transfer the case if either of the following applies:

- (i) The child was sixteen or seventeen years of age at the time of the act charged and there is probable cause to believe that the child committed the act charged.
- (ii) The child was fourteen or fifteen years of age at the time of the act charged, section 2152.10 of the Revised Code provides that the child is eligible for mandatory transfer, and there is probable cause to believe that the child committed the act charged.

(b) After a complaint has been filed alleging that a child is a delinquent child by reason of committing a category two offense, the juvenile court at a hearing shall transfer the case if the child was sixteen or seventeen years of age at the time of the act charged and either of the following applies:

- (i) Division (A)(2)(a) of section 2152.10 of the Revised Code requires the mandatory transfer of the case, and there is probable cause to believe that the child committed the act charged.
- (ii) Division (A)(2)(b) of section 2152.10 of the Revised Code requires the mandatory transfer of the case, and there is probable cause to believe that the child committed the act charged.

(2) The juvenile court also shall transfer a case in the circumstances described in division (C)(5) of section 2152.02 of the Revised Code or if either of the following applies:

- (a) A complaint is filed against a child who is eligible for a discretionary transfer under section 2152.10 of the Revised Code and who previously was convicted of or pleaded guilty to a felony in a case that was transferred to a criminal court.

(b) A complaint is filed against a child who is domiciled in another state alleging that the child is a delinquent child for committing an act that would be a felony if committed by an adult, and, if the act charged had been committed in that other state, the child would be subject to criminal prosecution as an adult under the law of that other state without the need for a transfer of jurisdiction from a juvenile, family, or similar noncriminal court to a criminal court.

(3) If a complaint is filed against a child alleging that the child is a delinquent child and the case is transferred pursuant to division (A)(1)(a)(i) or (A)(1)(b)(ii) of this section and if the child subsequently is convicted of or pleads guilty to an offense in that case, the sentence to be imposed or disposition to be made of the child shall be determined in accordance with section 2152.121 of the Revised Code.

(B) Except as provided in division (A) of this section, after a complaint has been filed alleging that a child is a delinquent child for committing an act that would be a felony if committed by an adult, the juvenile court at a hearing may transfer the case if the court finds all of the following:

(1) The child was fourteen years of age or older at the time of the act charged.

(2) There is probable cause to believe that the child committed the act charged.

(3) The child is not amenable to care or rehabilitation within the juvenile system, and the safety of the community may require that the child be subject to adult sanctions. In making its decision under this division, the court shall consider whether the applicable factors under division (D) of this section indicating that the case should be transferred outweigh the applicable factors under division (E) of this section indicating that the case should not be transferred. The record shall indicate the specific factors that were applicable and that the court weighed.

(C) Before considering a transfer under division (B) of this section, the juvenile court shall order an investigation into the child's social history, education, family situation, and any other factor bearing on whether the child is amenable to juvenile rehabilitation, including a mental examination of the child by a public or private agency or a person qualified to make the examination. The investigation shall be completed and a report on the investigation shall be submitted to the court as soon as possible but not more than forty-five calendar days after the court orders the investigation. The court may grant one or more extensions for a reasonable length of time. The child may waive the examination required by this division if the court finds that the waiver is competently and intelligently made. Refusal to submit to a mental examination by the child constitutes a waiver of the examination.

(D) In considering whether to transfer a child under division (B) of this section, the juvenile court shall consider the following relevant factors, and any other relevant factors, in favor of a transfer under that division:

- (1) The victim of the act charged suffered physical or psychological harm, or serious economic harm, as a result of the alleged act.
- (2) The physical or psychological harm suffered by the victim due to the alleged act of the child was exacerbated because of the physical or psychological vulnerability or the age of the victim.
- (3) The child's relationship with the victim facilitated the act charged.
- (4) The child allegedly committed the act charged for hire or as a part of a gang or other organized criminal activity.
- (5) The child had a firearm on or about the child's person or under the child's control at the time of the act charged, the act charged is not a violation of section 2923.12 of the Revised Code, and the child, during the commission of the act charged, allegedly used or displayed the firearm, brandished the firearm, or indicated that the child possessed a firearm.
- (6) At the time of the act charged, the child was awaiting adjudication or disposition as a delinquent child, was under a community control sanction, or was on parole for a prior delinquent child adjudication or conviction.
- (7) The results of any previous juvenile sanctions and programs indicate that rehabilitation of the child will not occur in the juvenile system.
- (8) The child is emotionally, physically, or psychologically mature enough for the transfer.
- (9) There is not sufficient time to rehabilitate the child within the juvenile system.

(E) In considering whether to transfer a child under division (B) of this section, the juvenile court shall consider the following relevant factors, and any other relevant factors, against a transfer under that division:

- (1) The victim induced or facilitated the act charged.
- (2) The child acted under provocation in allegedly committing the act charged.
- (3) The child was not the principal actor in the act charged, or, at the time of the act charged, the child was under the negative influence or coercion of another person.
- (4) The child did not cause physical harm to any person or property, or have reasonable cause to believe that harm of that nature would occur, in allegedly committing the act charged.
- (5) The child previously has not been adjudicated a delinquent child.

(6) The child is not emotionally, physically, or psychologically mature enough for the transfer.

(7) The child has a mental illness or is a mentally retarded person.

(8) There is sufficient time to rehabilitate the child within the juvenile system and the level of security available in the juvenile system provides a reasonable assurance of public safety.

(F) If one or more complaints are filed alleging that a child is a delinquent child for committing two or more acts that would be offenses if committed by an adult, if a motion is made alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred for, and if a motion also is made requesting that the case or cases involving one or more of the acts charged be transferred pursuant to division (B) of this section, the juvenile court, in deciding the motions, shall proceed in the following manner:

(1) Initially, the court shall decide the motion alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred.

(2) If the court determines that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred, the court shall transfer the case or cases in accordance with that division. After the transfer pursuant to division (A) of this section, the court shall decide, in accordance with division (B) of this section, whether to grant the motion requesting that the case or cases involving one or more of the acts charged be transferred pursuant to that division. Notwithstanding division (B) of this section, prior to transferring a case pursuant to division (A) of this section, the court is not required to consider any factor specified in division (D) or (E) of this section or to conduct an investigation under division (C) of this section.

(3) If the court determines that division (A) of this section does not require that the case or cases involving one or more of the acts charged be transferred, the court shall decide in accordance with division (B) of this section whether to grant the motion requesting that the case or cases involving one or more of the acts charged be transferred pursuant to that division.

(4) No report on an investigation conducted pursuant to division (C) of this section shall include details of the alleged offense as reported by the child.

(G) The court shall give notice in writing of the time, place, and purpose of any hearing held pursuant to division (A) or (B) of this section to the child's parents, guardian, or other custodian and to the child's counsel at least three days prior to the hearing.

(H) No person, either before or after reaching eighteen years of age, shall be prosecuted as an adult for an offense committed prior to becoming eighteen years of age, unless the person has been transferred as provided in division (A) or (B) of this section or unless division (J) of this section applies. Any prosecution that is had in a criminal court on the mistaken belief that the person who is the subject of the case was eighteen years of age or older at the time of the commission of the offense shall be deemed a nullity, and the person shall not be considered to have been in jeopardy on the offense.

(I) Upon the transfer of a case under division (A) or (B) of this section, the juvenile court shall state the reasons for the transfer on the record, and shall order the child to enter into a recognizance with good and sufficient surety for the child's appearance before the appropriate court for any disposition that the court is authorized to make for a similar act committed by an adult. The transfer abates the jurisdiction of the juvenile court with respect to the delinquent acts alleged in the complaint, and, upon the transfer, all further proceedings pertaining to the act charged shall be discontinued in the juvenile court, and the case then shall be within the jurisdiction of the court to which it is transferred as described in division (H) of section 2151.23 of the Revised Code.

(J) If a person under eighteen years of age allegedly commits an act that would be a felony if committed by an adult and if the person is not taken into custody or apprehended for that act until after the person attains twenty-one years of age, the juvenile court does not have jurisdiction to hear or determine any portion of the case charging the person with committing that act. In those circumstances, divisions (A) and (B) of this section do not apply regarding the act, and the case charging the person with committing the act shall be a criminal prosecution commenced and heard in the appropriate court having jurisdiction of the offense as if the person had been eighteen years of age or older when the person committed the act. All proceedings pertaining to the act shall be within the jurisdiction of the court having jurisdiction of the offense, and that court has all the authority and duties in the case as it has in other criminal cases in that court.

OKLAHOMA

OKLA. STAT. ANN. tit. 10A § 2-2-403 (2014). Preliminary hearing

A. Except as otherwise provided by law, if a child is charged with a delinquent act as a result of an offense which would be a felony if committed by an adult, the court on its own motion or at the request of the district attorney shall conduct a preliminary hearing to determine whether or not there is prosecutive merit to the complaint. If the court finds that prosecutive merit exists, it shall continue the hearing for a sufficient period of time to conduct an investigation and further hearing to determine if the child should be held accountable for acts of the child as if the child were an adult if the child should be found to have committed the alleged act or omission.

Consideration shall be given to:

1. The seriousness of the alleged offense to the community, and whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
2. Whether the offense was against persons or property, greater weight being given to transferring the accused person to the adult criminal justice system for offenses against persons and, if personal injury resulted, the degree of personal injury;
3. The sophistication and maturity of the juvenile and capability of the juvenile of distinguishing right from wrong as determined by consideration of a psychological evaluation of the juvenile, home, environmental situation, emotional attitude and pattern of living;
4. The record and previous history of the accused person, including previous contacts with community agencies, law enforcement agencies, schools, juvenile or criminal courts and other jurisdictions, prior periods of probation or prior commitments to juvenile institutions;
5. The prospects for adequate protection of the public;
6. The likelihood of reasonable rehabilitation of the juvenile if the juvenile is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court; and
7. Whether the offense occurred while the juvenile was escaping or in an escape status from an institution for delinquent children.

After the investigation and hearing, the court may in its discretion proceed with the juvenile proceeding, or it shall state its reasons in writing and shall certify, based on clear and convincing evidence, that the child shall be held accountable for acts of the child as if the child were an adult and shall be held for proper criminal proceedings for the specific offense charged, by any other division of the court which would have trial jurisdiction of the offense if committed by an adult. The juvenile proceeding shall not be dismissed until the criminal proceeding has commenced and if no criminal proceeding commences within thirty (30) days of the date of the certification, unless stayed pending appeal, the court shall proceed with the juvenile proceeding and the certification shall lapse.

If not included in the original summons, notice of a hearing to consider whether a child should be certified for trial as an adult shall be given to all persons who are required to be served with a summons at the commencement of a juvenile proceeding, but publication in a newspaper when the address of a person is unknown is not required. The purpose of the hearing shall be clearly stated in the notice.

B. Prior to the entry of any order of certification, any child in custody shall have the same right to be released upon bail as would an adult under the same circumstances.

Subsequent to the entry of an order that a child stand trial as an adult, the child shall have all the statutory and constitutional rights and protections of an adult accused of a crime

but shall, while awaiting trial and for the duration of the trial, be detained in a jail cell or ward entirely separate from prisoners who are eighteen (18) years of age or over. Upon conviction, the juvenile may be incarcerated with the adult population. If, prior to the entry of any order of certification, the child becomes eighteen (18) years of age, the child may be detained in a county jail or released on bail. If a child is certified to stand trial as an adult, the court shall make every effort to avoid duplication of the adult preliminary hearing and the prosecutorial hearing in the juvenile certification process. The parties may jointly stipulate to the court that the record for the prosecutorial merit hearing in the juvenile proceeding be used for all or part of the preliminary hearing.

C. Any child who has been certified to stand trial as an adult pursuant to any order entered by any competent court of this state or any other state shall be tried as an adult in all subsequent criminal prosecutions, and shall not be subject to the jurisdiction of the juvenile court or be eligible to be tried as a youthful offender in any further proceedings.

D. An order either certifying a person as a child or an adult pursuant to subsection A of this section or denying such certification shall be a final order, appealable when entered and shall not be modified.

OKLA. STAT. ANN. tit. 10A § 2-5-101 (2014). Juveniles of certain ages to be considered adults for certain offenses committed--Detention--Warrants--Certification as child

A. Any person sixteen (16) or seventeen (17) years of age who is charged with murder, kidnapping, robbery with a dangerous weapon, robbery in the first degree if personal injury results, rape in the first degree, rape by instrumentation, use of firearm or other offensive weapon while committing a felony, arson in the first degree, burglary with explosives, burglary in the first or second degree after three or more adjudications for committing either burglary in the first degree or burglary in the second degree, shooting with intent to kill, discharging a firearm, crossbow or other weapon from a vehicle pursuant to subsection B of Section 652 of Title 21 of the Oklahoma Statutes, intimidating a witness, manslaughter in the first degree, sodomy, trafficking in illegal drugs, manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense a controlled dangerous substance, or assault and battery with a deadly weapon, shall be considered as an adult.

B. Any person thirteen (13), fourteen (14), fifteen (15), sixteen (16), or seventeen (17) years of age who is charged with murder in the first degree shall be considered as an adult.

C. Upon the arrest and detention, such accused person shall have all the statutory and constitutional rights and protections of an adult accused of a crime, but shall be detained in a jail cell or ward entirely separate from prisoners who are eighteen (18) years of age or over.

D. 1. Upon the filing of an information against such accused person, a warrant shall be issued which shall set forth the rights of the accused person, and the rights of the parents,

guardian or next friend of the accused person to be present at the preliminary hearing, to have an attorney present and to make application for certification of such accused person as a child to the juvenile division of the district court. The warrant shall be personally served together with a certified copy of the information on the accused person and on a custodial parent, guardian or next friend of the accused person.

2. When personal service of a custodial parent, guardian or next friend of the accused person cannot be effected, service may be made by certified mail to the last-known address of the person, requesting a return receipt from the addressee only. If delivery is refused, notice may be given by mailing the warrant and a copy of the information on the accused person by regular first class mail to the address where the person to be notified refused delivery of the notice sent by certified mail. Where the address of a custodial parent, guardian or next friend is not known, or if the mailed warrant and copy of the information on the accused person is returned for any reason other than refusal of the addressee to accept delivery, after a distinct and meaningful search of all reasonably available sources to ascertain the whereabouts of a custodial parent, guardian or next friend has been conducted, the court may order that notice of the hearing be given by publication one time in a newspaper of general circulation in the county. In addition, the court may order other means of service of notice that the court deems advisable or in the interests of justice.

3. Before service by publication is ordered, the court shall conduct an inquiry to determine whether a distinct and meaningful search has been made of all reasonably available sources to ascertain the whereabouts of any party for whom notice by publication is sought.

E. The accused person shall file a motion for certification as a child before the start of the criminal preliminary hearing. Upon the filing of such motion, the complete juvenile record of the accused shall be made available to the district attorney and the accused person.

At the conclusion of the state's case at the criminal preliminary hearing, the accused person may offer evidence to support the motion for certification as a child.

The court shall rule on the certification motion of the accused person before ruling on whether to bind the accused over for trial. When ruling on the certification motion of the accused person, the court shall give consideration to the following guidelines, listed in order of importance:

1. Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
2. Whether the offense was against persons or property, greater weight being given for retaining the accused person within the adult criminal system for offenses against persons, especially if personal injury resulted;

3. The record and past history of the accused person, including previous contacts with law enforcement agencies and juvenile or criminal courts, prior periods of probation and commitments to juvenile institutions; and
4. The prospects for adequate protection of the public if the accused person is processed through the juvenile system.

The court, in its decision on the certification motion of the accused person, need not detail responses to each of the above considerations, but shall state that the court has considered each of the guidelines in reaching its decision.

F. Upon completion of the criminal preliminary hearing, if the accused person is certified as a child to the juvenile division of the district court, then all adult court records relative to the accused person and this charge shall be expunged and any mention of the accused person shall be removed from public record.

G. An order certifying a person as a child or denying the request for certification as a child shall be a final order, appealable when entered.

H. The provisions of this section shall apply only to offenses committed before January 1, 1998.

OKLA. STAT. ANN. tit. 10A § 2-5-205 (2014). Certification as youthful offender or juvenile

A. Any person thirteen (13) or fourteen (14) years of age who is charged with murder in the first degree shall be held accountable for the act as if the person were an adult; provided, the person may be certified as a youthful offender or a juvenile as provided by this section, unless the person is subject to the provisions of subsection G of Section 2-5-204 of this title.

B. Any person fifteen (15), sixteen (16) or seventeen (17) years of age who is charged with murder in the first degree at that time shall be held accountable for his or her act as if the person was an adult and shall not be subject to the provisions of the Youthful Offender Act or the provisions of the Juvenile Code for certification as a juvenile. The person shall have all the statutory rights and protections of an adult accused of a crime. All proceedings shall be as for a criminal action and the provisions of Title 22 of the Oklahoma Statutes shall apply. A person having been convicted as an adult pursuant to this paragraph shall be tried as an adult for every subsequent offense.

C. 1. Upon the filing of an adult criminal information against such accused person, a warrant shall be issued which shall set forth the rights of the accused person, and the rights of the parents, guardian or next friend of the accused person to be present at the preliminary hearing, to have an attorney present and to make application for certification of such accused person as a youthful offender to the district court for the purpose of prosecution as a youthful offender.

2. The warrant shall be personally served together with a certified copy of the information on the accused person and on a custodial parent, guardian or next friend of the accused person. The court may inquire of the accused as to the whereabouts of his or her parents, guardian, or next friend in order to avoid unnecessary delay in the proceedings.

3. When personal service of a custodial parent, guardian or next friend of the accused person cannot be effected, service may be made by certified mail to such person's last-known address, requesting a return receipt from the addressee only. If delivery is refused, notice may be given by mailing the warrant and a copy of the information on the accused person by regular first-class mail to the address where the person to be notified refused delivery of the notice sent by certified mail. Where the address of a custodial parent, guardian or next friend is not known, or if the mailed warrant and copy of the information on the accused person is returned for any reason other than refusal of the addressee to accept delivery, after a thorough search of all reasonably available sources to ascertain the whereabouts of a custodial parent, guardian or next friend has been conducted, the court may order that notice of the hearing be given by publication one time in a newspaper of general circulation in the county. In addition, the court may order other means of service of notice that the court deems advisable or in the interests of justice.

4. Before service by publication is ordered, the court shall conduct an inquiry to determine whether a thorough search has been made of all reasonably available sources to ascertain the whereabouts of any party for whom notice by publication is sought.

D. 1. The accused person shall file any motions for certification as a youthful offender or a juvenile before the start of the criminal preliminary hearing. If both a motion for certification as a youthful offender and a motion for certification as a juvenile are filed, they shall both be heard at the same time. No motion for certification as a youthful offender or certification as a juvenile may be filed after the time specified in this subsection. Upon the filing of such motion, the complete juvenile record of the accused shall be made available to the district attorney and the accused person.

2. The court shall commence a preliminary hearing within ninety (90) days of the filing of the information, pursuant to Section 258 of Title 22 of the Oklahoma Statutes, to determine whether the crime was committed and whether there is probable cause to believe the accused person committed a crime. If the preliminary hearing is not commenced within ninety (90) days of the date the accused person is charged, the district court shall hold a hearing to determine the reasons for delay utilizing the procedure set out in Section 812.2 of Title 22 of the Oklahoma Statutes, to ensure the preliminary hearing is expedited. If the whereabouts of the accused are unknown at the time of the filing of the information or if the accused is a fugitive, the State of Oklahoma shall make reasonable efforts to locate the accused in order to commence the proceedings. An accused who flees the jurisdiction of the court or purposely avoids apprehension for the charges, waives the right to have the preliminary hearing commenced within ninety (90) days of the filing of the information. An accused who fails to cooperate with providing information in locating the parents of the accused, guardian, or next friend for purpose of

notice waives the right to have the preliminary hearing commence within ninety (90) days of the filing of the information.

3. At the conclusion of the state's case at the criminal preliminary hearing, the state and the accused person may offer evidence to support or oppose the motions for certification as a youthful offender or an alleged juvenile delinquent.

E. The court shall rule on any motions for certification as a youthful offender or an alleged juvenile delinquent before ruling on whether to bind the accused over for trial. When ruling on a motion for certification as a youthful offender or juvenile, the court shall give consideration to the following guidelines with greatest weight to be given to paragraphs 1, 2 and 3:

1. Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
2. Whether the offense was against persons, and, if personal injury resulted, the degree of personal injury;
3. The record and past history of the accused person, including previous contacts with law enforcement agencies and juvenile or criminal courts, prior periods of probation and commitments to juvenile institutions;
4. The sophistication and maturity of the accused person and the capability of distinguishing right from wrong as determined by consideration of the person's psychological evaluation, home, environmental situation, emotional attitude and pattern of living;
5. The prospects for adequate protection of the public if the accused person is processed through the youthful offender system or the juvenile system;
6. The reasonable likelihood of rehabilitation of the accused person if such person is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court; and
7. Whether the offense occurred while the accused person was escaping or on escape status from an institution for youthful offenders or delinquent children.

The court, in its decision on a motion for certification as a youthful offender or juvenile, shall detail findings of fact and conclusions of law to each of the above considerations, and shall state that the court has considered each of the guidelines in reaching its decision.

F. The order certifying a person as a youthful offender or an alleged juvenile delinquent or denying the request for certification as either a youthful offender or an alleged juvenile

delinquent shall be a final order, appealable to the Court of Criminal Appeals when entered.

G. An order certifying the accused person as a youthful offender or an alleged juvenile delinquent shall not be reviewable by the trial court.

H. If the accused person is prosecuted as an adult and is subsequently convicted of the alleged offense or against whom the imposition of judgment and sentencing has been deferred, the person may be incarcerated with the adult population and shall be prosecuted as an adult in all subsequent criminal proceedings.

OREGON

OR. REV. STAT. § 419C.349 (2014). Grounds for waiver to circuit, justice, or municipal court

The juvenile court, after a hearing except as otherwise provided in ORS 419C.364 or 419C.370, may waive a youth to a circuit, justice or municipal court of competent jurisdiction for prosecution as an adult if:

(1) The youth is 15 years of age or older at the time of the commission of the alleged offense;

(2) The youth, except as otherwise provided in ORS 419C.364 and 419C.370, is alleged to have committed a criminal offense constituting:

(a) Murder under ORS 163.115 or any aggravated form thereof;

(b) A Class A or Class B felony;

(c) Any of the following Class C felonies:

(A) Escape in the second degree under ORS 162.155;

(B) Assault in the third degree under ORS 163.165;

(C) Coercion under ORS 163.275 (1)(a);

(D) Arson in the second degree under ORS 164.315; or

(E) Robbery in the third degree under ORS 164.395;

(d) Any Class C felony in which the youth used or threatened to use a firearm; or

(e) Any other felony or any misdemeanor if the youth and the state stipulate to the waiver;

(3) The youth at the time of the alleged offense was of sufficient sophistication and maturity to appreciate the nature and quality of the conduct involved; and

(4) The juvenile court, after considering the following criteria, determines by a preponderance of the evidence that retaining jurisdiction will not serve the best interests of the youth and of society and therefore is not justified:

(a) The amenability of the youth to treatment and rehabilitation given the techniques, facilities and personnel for rehabilitation available to the juvenile court and to the criminal court which would have jurisdiction after transfer;

(b) The protection required by the community, given the seriousness of the offense alleged;

(c) The aggressive, violent, premeditated or willful manner in which the offense was alleged to have been committed;

(d) The previous history of the youth, including:

(A) Prior treatment efforts and out-of-home placements; and

(B) The physical, emotional and mental health of the youth;

(e) The youth's prior record of acts which would be crimes if committed by an adult;

(f) The gravity of the loss, damage or injury caused or attempted during the offense;

(g) The prosecutive merit of the case against the youth; and

(h) The desirability of disposing of all cases in one trial if there were adult co-offenders.

OR. REV. STAT. § 419C.352 (2014). Grounds for waiver of youth under 15 years for prosecution as adult

The juvenile court, after a hearing, except as provided in ORS 419C.364 or 419C.370, may waive a youth under 15 years of age at the time the act was committed to circuit court for prosecution as an adult if:

(1) The youth is represented by counsel during the waiver proceedings;

(2) The juvenile court makes the findings required under ORS 419C.349 (3) and (4); and

(3) The youth is alleged to have committed an act or acts that if committed by an adult would constitute one or more of the following crimes:

- (a) Murder or any aggravated form thereof under ORS 163.095 or 163.115;
- (b) Rape in the first degree under ORS 163.375 (1)(a);
- (c) Sodomy in the first degree under ORS 163.405 (1)(a); or
- (d) Unlawful sexual penetration in the first degree under ORS 163.411 (1)(a).

OR. REV. STAT. § 419C.355 (2014). Findings of fact

The juvenile court shall make a specific, detailed, written finding of fact to support any determination under ORS 419C.349 (3) and (4).

OR. REV. STAT. § 419C.370 (2014). Waiver of motor vehicle, boating, game, violation and property offense cases; recall for failure to appear; records

(1) The juvenile court may enter an order directing that all cases involving:

- (a) Violation of a law or ordinance relating to the use or operation of a motor vehicle, boating laws or game laws be waived to criminal or municipal court;
- (b) An offense classified as a violation under the laws of this state or a political subdivision of this state be waived to municipal court if the municipal court has agreed to accept jurisdiction; and
- (c) A misdemeanor that entails theft, destruction, tampering with or vandalism of property be waived to municipal court if the municipal court has agreed to accept jurisdiction.

(2) Cases waived under subsection (1) of this section are subject to the following:

- (a) That the criminal or municipal court prior to hearing a case, other than a case involving a parking violation, in which the defendant is or appears to be under 18 years of age notify the juvenile court of that fact; and
- (b) That the juvenile court may direct that any such case be waived to the juvenile court for further proceedings.

(3)(a) When a person who has been waived under subsection (1)(c) of this section is convicted of a property offense, the municipal court may impose any sanction authorized for the offense except for incarceration. The municipal court shall notify the juvenile court of the disposition of the case.

(b) When a person has been waived under subsection (1) of this section and fails to appear as summoned or is placed on probation and is alleged to have violated a condition of the probation, the juvenile court may recall the case to the juvenile court for further proceedings. When a person has been returned to juvenile court under this paragraph, the juvenile court may proceed as though the person had failed to appear as summoned to the juvenile court or had violated a juvenile court probation order under ORS 419C.446.

(4) Records of cases waived under subsection (1)(c) of this section are juvenile records for purposes of expunction under ORS 419A.260.

PENNSYLVANIA

42 PA. CONS. STAT. ANN. § 6302 (2014). Definitions

<Section effective until July 1, 2015. See also, section effective July 1, 2015.>

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

“Aggravated circumstances.” Any of the following circumstances:

(1) The child is in the custody of a county agency and either:

(i) the identity or whereabouts of the parents is unknown and cannot be ascertained and the parent does not claim the child within three months of the date the child was taken into custody; or

(ii) the identity or whereabouts of the parents is known and the parents have failed to maintain substantial and continuing contact with the child for a period of six months.

(2) The child or another child of the parent has been the victim of physical abuse resulting in serious bodily injury, sexual violence or aggravated physical neglect by the parent.

(3) The parent of the child has been convicted of any of the following offenses where the victim was a child:

(i) criminal homicide under 18 Pa.C.S. Ch. 25 (relating to criminal homicide);

(ii) a felony under 18 Pa.C.S. § 2702 (relating to aggravated assault), 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault) or 3125 (relating to aggravated indecent assault).

(iii) A misdemeanor under 18 Pa.C.S. § 3126 (relating to indecent assault).

(iv) An equivalent crime in another jurisdiction.

(4) The attempt, solicitation or conspiracy to commit any of the offenses set forth in paragraph (3).

(5) The parental rights of the parent have been involuntarily terminated with respect to a child of the parent.

“Aggravated physical neglect.” Any omission in the care of a child which results in a life-threatening condition or seriously impairs the child's functioning.

“Assessment.” An individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse or co-occurring mental health and substance abuse disorders and recommendations for treatment. The term includes, but is not limited to, a drug and alcohol, psychological and psychiatric evaluation, records review, clinical interview and the administration of a formal test and instrument.

“Board.” The State Sexual Offenders Assessment Board.

“Child.” An individual who:

(1) is under the age of 18 years;

(2) is under the age of 21 years who committed an act of delinquency before reaching the age of 18 years; or

(3) is under the age of 21 years and was adjudicated dependent before reaching the age of 18 years, who has requested the court to retain jurisdiction and who remains under the jurisdiction of the court as a dependent child because the court has determined that the child is:

(i) completing secondary education or an equivalent credential;

(ii) enrolled in an institution which provides postsecondary or vocational education;

(iii) participating in a program actively designed to promote or remove barriers to employment;

(iv) employed for at least 80 hours per month; or

(v) incapable of doing any of the activities described in subparagraph (i), (ii), (iii) or (iv) due to a medical or behavioral health condition, which is supported by regularly updated information in the permanency plan of the child.

“County agency.” The term as defined in 23 Pa.C.S. § 6303 (relating to definitions).

“Court.” The court of common pleas.

“Court-appointed special advocate” or “CASA.” An individual appointed by the court to participate as an advocate for a child who is dependent or alleged to be dependent.

“Custodian.” A person other than a parent or legal guardian, who stands in loco parentis to the child, or a person to whom legal custody of the child has been given by order of a court.

“Delinquent act.”

(1) The term means an act designated a crime under the law of this Commonwealth, or of another state if the act occurred in that state, or under Federal law, or under local ordinances or an act which constitutes indirect criminal contempt under 23 Pa.C.S. Ch. 61 (relating to protection from abuse).

(2) The term shall not include:

(i) The crime of murder.

(ii) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct and a deadly weapon as defined in 18 Pa.C.S. § 2301 (relating to definitions) was used during the commission of the offense which, if committed by an adult, would be classified as:

(A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

(B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(C) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault).

(D) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery).

(E) Robbery of motor vehicle as defined in 18 Pa.C.S. § 3702 (relating to robbery of motor vehicle).

(F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(G) Kidnapping as defined in 18 Pa.C.S. § 2901 (relating to kidnapping).

(H) Voluntary manslaughter.

(I) An attempt, conspiracy or solicitation to commit murder or any of these crimes as provided in 18 Pa.C.S. §§ 901 (relating to criminal attempt), 902 (relating to criminal solicitation) and 903 (relating to criminal conspiracy).

(iii) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct and has been previously adjudicated delinquent of any of the following prohibited conduct which, if committed by an adult, would be classified as:

(A) Rape as defined in 18 Pa.C.S. § 3121.

(B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123.

(C) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii).

(D) Robbery of motor vehicle as defined in 18 Pa.C.S. § 3702.

(E) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125.

(F) Kidnapping as defined in 18 Pa.C.S. § 2901.

(G) Voluntary manslaughter.

(H) An attempt, conspiracy or solicitation to commit murder or any of these crimes as provided in 18 Pa.C.S. §§ 901, 902 and 903.

(iv) Summary offenses, unless the child fails to comply with a lawful sentence imposed thereunder, in which event notice of such fact shall be certified to the court.

(v) A crime committed by a child who has been found guilty in a criminal proceeding for other than a summary offense.

“Delinquent child.” A child ten years of age or older whom the court has found to have committed a delinquent act and is in need of treatment, supervision or rehabilitation.

“Dependent child.” A child who:

(1) is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals. A determination that there is a lack of proper parental care or control may be based upon evidence of conduct by the parent, guardian or other custodian that places the health, safety or welfare of the child at risk, including evidence of the parent's, guardian's or other custodian's use of alcohol or a controlled substance that places the health, safety or welfare of the child at risk;

- (2) has been placed for care or adoption in violation of law;
- (3) has been abandoned by his parents, guardian, or other custodian;
- (4) is without a parent, guardian, or legal custodian;
- (5) while subject to compulsory school attendance is habitually and without justification truant from school;
- (6) has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of his parent, guardian or other custodian and who is ungovernable and found to be in need of care, treatment or supervision;
- (7) has committed a delinquent act or crime, other than a summary offense, while under the age of ten years;
- (8) has been formerly adjudicated dependent, and is under the jurisdiction of the court, subject to its conditions or placements and who commits an act which is defined as ungovernable in paragraph (6);
- (9) has been referred pursuant to section 6323 (relating to informal adjustment), and who commits an act which is defined as ungovernable in paragraph (6); or
- (10) is born to a parent whose parental rights with regard to another child have been involuntarily terminated under 23 Pa.C.S. § 2511 (relating to grounds for involuntary termination) within three years immediately preceding the date of birth of the child and conduct of the parent poses a risk to the health, safety or welfare of the child.

“Facility designed or operated for the benefit of delinquent children.” A facility that either identifies itself by charter, articles of incorporation or program description as solely for delinquent children.

“Protective supervision.” Supervision ordered by the court of children found to be dependent.

“Screening.” A process, regardless of whether it includes the administration of a formal instrument, that is designed to identify a child who is at increased risk of having mental health, substance abuse or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention or more comprehensive assessment.

“Serious bodily injury.” Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

“Sexual violence.” Rape, indecent contact as defined in 18 Pa.C.S. § 3101 (relating to definitions), incest or using, causing, permitting, persuading or coercing the child to

engage in a prohibited sexual act as defined in 18 Pa.C.S. § 6312(a) (relating to sexual abuse of children) or a simulation of a prohibited sexual act for the purpose of photographing, videotaping, depicting on computer or filming involving the child.

“Shelter care.” Temporary care of a child in physically unrestricted facilities. A facility approved by the Department of Public Welfare to provide shelter care may be located in the same building as a facility approved to provide secure detention services provided that children receiving shelter care services are segregated from the children receiving secure detention services as required by the department.

42 PA. CONS. STAT. ANN. § 6302 (2014). Definitions

<Section effective July 1, 2015. See also section effective until July 1, 2015.>

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

“Aggravated circumstances.” Any of the following circumstances:

(1) The child is in the custody of a county agency and either:

(i) the identity or whereabouts of the parents is unknown and cannot be ascertained and the parent does not claim the child within three months of the date the child was taken into custody; or

(ii) the identity or whereabouts of the parents is known and the parents have failed to maintain substantial and continuing contact with the child for a period of six months.

(2) The child or another child of the parent has been the victim of physical abuse resulting in serious bodily injury, sexual violence or aggravated physical neglect by the parent.

(3) The parent of the child has been convicted of any of the following offenses where the victim was a child:

(i) criminal homicide under 18 Pa.C.S. Ch. 25 (relating to criminal homicide);

(ii) a felony under 18 Pa.C.S. § 2702 (relating to aggravated assault), 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault) or 3125 (relating to aggravated indecent assault).

(iii) A misdemeanor under 18 Pa.C.S. § 3126 (relating to indecent assault).

(iv) An equivalent crime in another jurisdiction.

(4) The attempt, solicitation or conspiracy to commit any of the offenses set forth in paragraph (3).

(5) The parental rights of the parent have been involuntarily terminated with respect to a child of the parent.

“Aggravated physical neglect.” Any omission in the care of a child which results in a life-threatening condition or seriously impairs the child's functioning.

“Assessment.” An individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse or co-occurring mental health and substance abuse disorders and recommendations for treatment. The term includes, but is not limited to, a drug and alcohol, psychological and psychiatric evaluation, records review, clinical interview and the administration of a formal test and instrument.

“Board.” The State Sexual Offenders Assessment Board.

“Child.” An individual who:

(1) is under the age of 18 years;

(2) is under the age of 21 years who committed an act of delinquency before reaching the age of 18 years; or

(3) is under the age of 21 years and was adjudicated dependent before reaching the age of 18 years, who has requested the court to retain jurisdiction and who remains under the jurisdiction of the court as a dependent child because the court has determined that the child is:

(i) completing secondary education or an equivalent credential;

(ii) enrolled in an institution which provides postsecondary or vocational education;

(iii) participating in a program actively designed to promote or remove barriers to employment;

(iv) employed for at least 80 hours per month; or

(v) incapable of doing any of the activities described in subparagraph (i), (ii), (iii) or (iv) due to a medical or behavioral health condition, which is supported by regularly updated information in the permanency plan of the child.

“County agency.” The term as defined in 23 Pa.C.S. § 6303 (relating to definitions).

“Court.” The court of common pleas.

“Court-appointed special advocate” or “CASA.” An individual appointed by the court to participate as an advocate for a child who is dependent or alleged to be dependent.

“Custodian.” A person other than a parent or legal guardian, who stands in loco parentis to the child, or a person to whom legal custody of the child has been given by order of a court.

“Delinquent act.”

(1) The term means an act designated a crime under the law of this Commonwealth, or of another state if the act occurred in that state, or under Federal law, or under local ordinances or an act which constitutes indirect criminal contempt under Chapter 62A (relating to protection of victims of sexual violence or intimidation) with respect to sexual violence or 23 Pa.C.S. Ch. 61 (relating to protection from abuse).

(2) The term shall not include:

(i) The crime of murder.

(ii) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct and a deadly weapon as defined in 18 Pa.C.S. § 2301 (relating to definitions) was used during the commission of the offense which, if committed by an adult, would be classified as:

(A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

(B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(C) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault).

(D) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery).

(E) Robbery of motor vehicle as defined in 18 Pa.C.S. § 3702 (relating to robbery of motor vehicle).

(F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(G) Kidnapping as defined in 18 Pa.C.S. § 2901 (relating to kidnapping).

(H) Voluntary manslaughter.

(I) An attempt, conspiracy or solicitation to commit murder or any of these crimes as provided in 18 Pa.C.S. §§ 901 (relating to criminal attempt), 902 (relating to criminal solicitation) and 903 (relating to criminal conspiracy).

(iii) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct and has been previously adjudicated delinquent of any of the following prohibited conduct which, if committed by an adult, would be classified as:

(A) Rape as defined in 18 Pa.C.S. § 3121.

(B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123.

(C) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii).

(D) Robbery of motor vehicle as defined in 18 Pa.C.S. § 3702.

(E) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125.

(F) Kidnapping as defined in 18 Pa.C.S. § 2901.

(G) Voluntary manslaughter.

(H) An attempt, conspiracy or solicitation to commit murder or any of these crimes as provided in 18 Pa.C.S. §§ 901, 902 and 903.

(iv) Summary offenses, unless the child fails to comply with a lawful sentence imposed thereunder, in which event notice of such fact shall be certified to the court.

(v) A crime committed by a child who has been found guilty in a criminal proceeding for other than a summary offense.

“Delinquent child.” A child ten years of age or older whom the court has found to have committed a delinquent act and is in need of treatment, supervision or rehabilitation.

“Dependent child.” A child who:

(1) is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals. A determination that there is a lack of proper parental care or control may be based upon evidence of conduct by the parent, guardian or other custodian that places the health, safety or welfare of the child at risk, including evidence of the parent's, guardian's or other custodian's use of alcohol or a controlled substance that places the health, safety or welfare of the child at risk;

(2) has been placed for care or adoption in violation of law;

(3) has been abandoned by his parents, guardian, or other custodian;

(4) is without a parent, guardian, or legal custodian;

(5) while subject to compulsory school attendance is habitually and without justification truant from school;

(6) has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of his parent, guardian or other custodian and who is ungovernable and found to be in need of care, treatment or supervision;

(7) has committed a delinquent act or crime, other than a summary offense, while under the age of ten years;

(8) has been formerly adjudicated dependent, and is under the jurisdiction of the court, subject to its conditions or placements and who commits an act which is defined as ungovernable in paragraph (6);

(9) has been referred pursuant to section 6323 (relating to informal adjustment), and who commits an act which is defined as ungovernable in paragraph (6); or

(10) is born to a parent whose parental rights with regard to another child have been involuntarily terminated under 23 Pa.C.S. § 2511 (relating to grounds for involuntary termination) within three years immediately preceding the date of birth of the child and conduct of the parent poses a risk to the health, safety or welfare of the child.

“Facility designed or operated for the benefit of delinquent children.” A facility that either identifies itself by charter, articles of incorporation or program description as solely for delinquent children.

“Protective supervision.” Supervision ordered by the court of children found to be dependent.

“Screening.” A process, regardless of whether it includes the administration of a formal instrument, that is designed to identify a child who is at increased risk of having mental health, substance abuse or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention or more comprehensive assessment.

“Serious bodily injury.” Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

“Sexual violence.” Rape, indecent contact as defined in 18 Pa.C.S. § 3101 (relating to definitions), incest or using, causing, permitting, persuading or coercing the child to engage in a prohibited sexual act as defined in 18 Pa.C.S. § 6312(a) (relating to sexual

abuse of children) or a simulation of a prohibited sexual act for the purpose of photographing, videotaping, depicting on computer or filming involving the child.

“Shelter care.” Temporary care of a child in physically unrestricted facilities. A facility approved by the Department of Public Welfare to provide shelter care may be located in the same building as a facility approved to provide secure detention services provided that children receiving shelter care services are segregated from the children receiving secure detention services as required by the department.

42 PA. CONS. STAT. ANN. § 6355 (2014). Transfer to criminal proceedings

(a) General rule.--After a petition has been filed alleging delinquency based on conduct which is designated a crime or public offense under the laws, including local ordinances, of this Commonwealth, the court before hearing the petition on its merits may rule that this chapter is not applicable and that the offense should be prosecuted, and transfer the offense, where appropriate, to the division or a judge of the court assigned to conduct criminal proceedings, for prosecution of the offense if all of the following exist:

- (1) The child was 14 or more years of age at the time of the alleged conduct.
- (2) A hearing on whether the transfer should be made is held in conformity with this chapter.
- (3) Notice in writing of the time, place, and purpose of the hearing is given to the child and his parents, guardian, or other custodian at least three days before the hearing.
- (4) The court finds:
 - (i) that there is a prima facie case that the child committed the delinquent act alleged;
 - (ii) that the delinquent act would be considered a felony if committed by an adult;
 - (iii) that there are reasonable grounds to believe that the public interest is served by the transfer of the case for criminal prosecution. In determining whether the public interest can be served, the court shall consider the following factors:
 - (A) the impact of the offense on the victim or victims;
 - (B) the impact of the offense on the community;
 - (C) the threat to the safety of the public or any individual posed by the child;
 - (D) the nature and circumstances of the offense allegedly committed by the child;
 - (E) the degree of the child's culpability;

(F) the adequacy and duration of dispositional alternatives available under this chapter and in the adult criminal justice system; and

(G) whether the child is amenable to treatment, supervision or rehabilitation as a juvenile by considering the following factors:

(I) age;

(II) mental capacity;

(III) maturity;

(IV) the degree of criminal sophistication exhibited by the child;

(V) previous records, if any;

(VI) the nature and extent of any prior delinquent history, including the success or failure of any previous attempts by the juvenile court to rehabilitate the child;

(VII) whether the child can be rehabilitated prior to the expiration of the juvenile court jurisdiction;

(VIII) probation or institutional reports, if any;

(IX) any other relevant factors; and

(iv) that there are reasonable grounds to believe that the child is not committable to an institution for the mentally retarded or mentally ill.

(b) Chapter inapplicable following transfer.--The transfer terminates the applicability of this chapter over the child with respect to the delinquent acts alleged in the petition.

(c) Transfer at request of child.--The child may request that the case be transferred for prosecution in which event the court may order this chapter not applicable.

(d) Effect of transfer from criminal proceedings.--No hearing shall be conducted where this chapter becomes applicable because of a previous determination by the court in a criminal proceeding.

(e) Murder and other excluded acts.--Where the petition alleges conduct which if proven would constitute murder, or any of the offenses excluded by paragraph (2)(ii) or (iii) of the definition of "delinquent act" in section 6302 (relating to definitions), the court shall require the offense to be prosecuted under the criminal law and procedures, except where the case has been transferred pursuant to section 6322 (relating to transfer from criminal proceedings) from the division or a judge of the court assigned to conduct criminal

proceedings.

(f) Transfer action interlocutory.--The decision of the court to transfer or not to transfer the case shall be interlocutory.

(g) Burden of proof.--The burden of establishing by a preponderance of evidence that the public interest is served by the transfer of the case to criminal court and that a child is not amenable to treatment, supervision or rehabilitation as a juvenile shall rest with the Commonwealth unless the following apply:

(1)(i) a deadly weapon as defined in 18 Pa.C.S. § 2301 (relating to definitions) was used and the child was 14 years of age at the time of the offense; or

(ii) the child was 15 years of age or older at the time of the offense and was previously adjudicated delinquent of a crime that would be considered a felony if committed by an adult; and

(2) there is a prima facie case that the child committed a delinquent act which, if committed by an adult, would be classified as rape, involuntary deviate sexual intercourse, aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault), robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery), robbery of motor vehicle, aggravated indecent assault, kidnapping, voluntary manslaughter, an attempt, conspiracy or solicitation to commit any of these crimes or an attempt to commit murder as specified in paragraph (2)(ii) of the definition of “delinquent act” in section 6302.

If either of the preceding criteria are met, the burden of establishing by a preponderance of the evidence that retaining the case under this chapter serves the public interest and that the child is amenable to treatment, supervision or rehabilitation as a juvenile shall rest with the child.

RHODE ISLAND

R.I. GEN. LAWS § 14-1-7 (2014). Waiver of jurisdiction or certification hearing

(a) If any child is charged with an offense which would be punishable by life imprisonment if committed by an adult, that child, upon motion of the attorney general, shall be brought before the court and the court shall conduct a waiver hearing pursuant to § 14-1-7.1.

(b) Any child sixteen (16) years of age or older who is charged with an offense which would constitute a felony if committed by an adult shall, upon motion of the attorney general, be brought before the court and the court shall conduct a waiver hearing pursuant to § 14-1-7.1.

(c) Any child who is charged with an offense which would constitute a felony if committed by an adult shall, upon motion of the attorney general, be brought before the court and the court shall conduct a certification hearing pursuant to § 14-1-7.2.

(d) Any motion for waiver or certification shall be filed with the court within thirty (30) days of arraignment.

(e) In any hearing on a motion for waiver pursuant to § 14-1-7.1, the court may consider whether or not the child may be alternatively certified pursuant to § 14-1-7.2.

R.I. GEN. LAWS § 14-1-7.1 (2014). Waiver of jurisdiction--Proof

(a) Upon a motion by the attorney general pursuant to § 14-1-7, the court shall conduct a hearing at which it shall be the duty of the attorney general to produce evidence to enable the court to determine:

(1) That probable cause exists to believe that the offense charged has been committed and that the child charged has committed it, unless the proof has been elicited at a prior hearing on detention of the juvenile and the findings have been made by the same justice of the family court who is conducting the waiver proceeding; and

(2) That the child's past history of offenses, history of treatment, or the heinous or premeditated nature of the offense is such that the court finds that the interests of society or the protection of the public necessitate the waiver of jurisdiction of the court over the child.

(b) If the court finds that subdivisions (a)(1) and (a)(2) of this section have been proven by a preponderance of evidence, it may waive jurisdiction over the child and refer the child to the appropriate adult court to be tried for the offense as an adult.

(c) A waiver of jurisdiction over a child pursuant to this section shall constitute a waiver of jurisdiction over that child for the offense upon which the motion is based as well as for all pending and subsequent offenses of whatever nature, and the child shall be referred to the court which would have had jurisdiction if the offense had been committed by an adult. In the event that the child is acquitted of the offense for which the waiver has been sought, the waiver shall be vacated.

R.I. GEN. LAWS § 14-1-7.2 (2014). Certification--Proof

(a) Upon a motion by the attorney general pursuant to § 14-1-7, the court shall conduct a hearing at which it shall be the duty of the attorney general to produce evidence to enable the court to determine:

(1) Probable cause exists to believe that the offense charged has been committed and that the child charged has committed it;

(2) The child's past history of offenses, history of treatment, or the heinous or premeditated nature of the offense is such that the court finds that the interests of

society or the protection of the public necessitate the certification; and

(3) The jurisdiction of the court but for the exercise of certification is in all likelihood an insufficient period of time in which to accomplish a rehabilitation of the child.

(b) If the court finds that subdivisions (a)(1) -- (a)(3) of this section have been proven by a preponderance of evidence, it shall certify the child pursuant to § 14-1-7.3.

(c) Any person sixteen (16) years of age or older who has been found delinquent for having committed two (2) offenses after the age of sixteen (16), which would render that person subject to an indictment if he or she were an adult, shall be certified pursuant to this section. Any findings for offenses which have occurred prior to April 11, 1990, shall be considered in making a determination of eligibility for certification. Nothing in this section shall be construed to prohibit a waiver of jurisdiction of any child pursuant to § 14-1-7.1.

R.I. GEN. LAWS § 14-1-7.4 (2014). Waiver or certification of juvenile drug offenders

A child sixteen (16) years of age or older who has been found delinquent of having committed one felony offense after the age of sixteen (16) involving the unlawful sale, distribution, manufacture, delivery, or possession with intent to manufacture, sell, distribute, or deliver any controlled substance listed in Schedule I or II of § 21-28-2.08, shall be either certified pursuant to § 14-1-7.2 or waived pursuant to § 14-1-7.1 for all subsequent felony offenses involving the unlawful sale, distribution, manufacture, delivery, or possession with intent to manufacture, sell, distribute, or deliver any controlled substance.

SOUTH CAROLINA

S.C. CODE ANN. § 63-19-20 (2014). Definitions.

When used in this chapter and unless otherwise defined or the specific context indicates otherwise:

(1) “Child” or “juvenile” means a person less than seventeen years of age. “Child” or “juvenile” does not mean a person sixteen years of age or older who is charged with a Class A, B, C, or D felony as defined in Section 16-1-20 or a felony which provides for a maximum term of imprisonment of fifteen years or more. However, a person sixteen years of age who is charged with a Class A, B, C, or D felony as defined in Section 16-1-20 or a felony which provides for a maximum term of imprisonment of fifteen years or more may be remanded to the family court for disposition of the charge at the discretion of the solicitor. An additional or accompanying charge associated with the charges contained in this item must be heard by the court with jurisdiction over the offenses contained in this item.

- (2) "Court" means the family court.
- (3) "Criminal justice purpose" means:
 - (a) the performance of any activity directly involving the detection, apprehension, capture from escape or elopement, detention, pretrial release, post-trial release, prosecution, adjudication, supervision, or rehabilitation of accused or adjudicated persons or criminal offenders; or
 - (b) the collection, storage, and dissemination of child offense history records.
- (4) "Department" means the Department of Juvenile Justice.
- (5) "Guardian" means a person who legally has the care and management of a child.
- (6) "Judge" means the judge of the family court.
- (7) "Parent" means biological parent, adoptive parents, step-parent, or person with legal custody.
- (8) "Parole board" means the Board of Juvenile Parole under the Department of Juvenile Justice.
- (9) "Status offense" means an offense which would not be a misdemeanor or felony if committed by an adult including, but not limited to, incorrigibility or beyond the control of parents, truancy, running away, playing or loitering in a billiard room, playing a pinball machine, or gaining admission to a theater by false identification.

S.C. CODE ANN. § 63-19-1210 (2014). Transfer of jurisdiction.

In accordance with the jurisdiction granted to the family court pursuant to Sections 63-3-510, 63-3-520, and 63-3-530, jurisdiction over a case involving a child must be transferred or retained as follows:

- (1) If, during the pendency of a criminal or quasi-criminal charge against a child in a circuit court of this State, it is ascertained that the child was under the age of seventeen years at the time of committing the alleged offense, it is the duty of the circuit court immediately to transfer the case, together with all the papers, documents, and testimony connected with it, to the family court of competent jurisdiction, except in those cases where the Constitution gives to the circuit court exclusive jurisdiction or in those cases where jurisdiction has properly been transferred to the circuit court by the family court under the provisions of this section. The court making the transfer shall order the child to be taken immediately to the place of detention designated by the court or to that court itself, or shall release the child to the custody of some suitable person to be brought before the court at a time designated. The court then shall proceed as provided in this chapter. The provisions of this section are applicable to all existing offenses and to

offenses created in the future unless the General Assembly specifically directs otherwise.

(2) Whenever a child is brought before a magistrate or city recorder and, in the opinion of the magistrate or city recorder, the child should be brought to the family court of competent jurisdiction under the provisions of this section, the magistrate or city recorder shall transfer the case to the family court and direct that the child involved be taken there.

(3) When an action is brought in a circuit court which, in the opinion of the judge, falls within the jurisdiction of the family court, he may transfer the action upon his own motion or the motion of any party.

(4) If a child sixteen years of age or older is charged with an offense which, if committed by an adult, would be a misdemeanor, a Class E or F felony as defined in Section 16-1-20, or a felony which provides for a maximum term of imprisonment of ten years or less, and if the court, after full investigation, considers it contrary to the best interest of the child or of the public to retain jurisdiction, the court, in its discretion, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offense if committed by an adult.

(5) If a child fourteen or fifteen years of age is charged with an offense which, if committed by an adult, would be a Class A, B, C, or D felony as defined in Section 16-1-20 or a felony which provides for a maximum term of imprisonment of fifteen years or more, the court, after full investigation and hearing, may determine it contrary to the best interest of the child or of the public to retain jurisdiction. The court, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offenses if committed by an adult.

(6) Within thirty days after the filing of a petition in the family court alleging the child has committed the offense of murder or criminal sexual conduct, the person executing the petition may request in writing that the case be transferred to the court of general sessions with a view to proceeding against the child as a criminal rather than as a child coming within the purview of this chapter. The judge of the family court is authorized to determine this request. If the request is denied, the petitioner may appeal within five days to the circuit court. Upon the hearing of the appeal, the judge of the circuit court is vested with the discretion of exercising and asserting the jurisdiction of the court of general sessions or of relinquishing jurisdiction to the family court. If the circuit judge elects to exercise the jurisdiction of the general sessions court for trial of the case, he shall issue an order to that effect, and then the family court has no further jurisdiction in the matter.

(7) Once the family court relinquishes its jurisdiction over the child and the child is bound over to be treated as an adult, Section 63-19-2020 dealing with the confidentiality of identity and fingerprints does not apply.

(8) When jurisdiction is relinquished by the family court in favor of another court, the court shall have full authority and power to grant bail, hold a preliminary hearing and any

other powers as now provided by law for magistrates in such cases.

(9) If a child fourteen years of age or older is charged with a violation of Section 16-23-430(1), Section 16-23-20, assault and battery of a high and aggravated nature, or Section 44-53-445, the court, after full investigation and hearing, if it considers it contrary to the best interest of the child or the public to retain jurisdiction, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offenses if committed by an adult.

(10) If a child fourteen years of age or older is charged with an offense which, if committed by an adult, provides for a term of imprisonment of ten years or more and the child previously has been adjudicated delinquent in family court or convicted in circuit court for two prior offenses which, if committed by an adult, provide for a term of imprisonment of ten years or more, the court acting as committing magistrate shall bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offense if committed by an adult. For the purpose of this item, an adjudication or conviction is considered a second adjudication or conviction only if the date of the commission of the second offense occurred subsequent to the imposition of the sentence for the first offense.

SOUTH DAKOTA

S.D. CODIFIED LAWS § 26-11-3.1 (2014). Request for transfer hearing by delinquent child charged with felony

Any delinquent child sixteen years of age or older against whom Class A, Class B, Class C, Class 1, or Class 2 felony charges have been filed shall be tried in circuit court as an adult. However, the child may request a transfer hearing which shall be conducted pursuant to § 26-11-4 to determine if it is in the best interest of the public that the child be tried in circuit court as an adult. In such a transfer hearing, there is a rebuttable presumption that it is in the best interest of the public that any child, sixteen years of age or older, who is charged with a Class A, Class B, Class C, Class 1, or Class 2 felony, shall be tried as an adult.

S.D. CODIFIED LAWS § 26-11-4 (2014). Criminal proceedings against child charged with a felony permitted by circuit court--Transfer hearing--Factors considered--Order holding child--Retention of jurisdiction by court

Except as provided in § 26-11-3.1, the circuit court may, in any case of a delinquent child against whom criminal felony charges have been filed, after transfer hearing, permit such child to be proceeded against in accordance with the laws that may be in force in this state governing the commission of crimes. In such cases the petition filed under chapter 26-7A shall be dismissed. The hearing shall be conducted as provided by this section.

At the transfer hearing, the court shall consider only whether it is contrary to the best interest of the child and of the public to retain jurisdiction over the child.

The following factors may be considered by the court in determining whether a child should be transferred:

- (1) The seriousness of the alleged felony offense to the community and whether protection of the community requires waiver;
- (2) Whether the alleged felony offense was committed in an aggressive, violent, premeditated, or willful manner;
- (3) Whether the alleged felony offense was against persons or property with greater weight being given to offenses against persons;
- (4) The prosecutive merit of the complaint. The state is not required to establish probable cause to show prosecutive merit;
- (5) The desirability of trial and disposition of the entire felony offense in one proceeding if the child's associates in the alleged felony offense are adults;
- (6) The record and previous history of the juvenile;
- (7) The prospect for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile, if the juvenile is found to have committed the alleged felony offense, by the use of procedures, services, and facilities currently available to the juvenile court.

Written reports and other materials relating to the child's mental, physical, and social history may be considered by the court, if the person who prepared the report and other material appears and is subject to both direct and cross-examination.

If the court finds that a child should be held for criminal proceedings in a court of competent jurisdiction, the court shall enter an order certifying to that effect. The order shall contain findings of fact upon which the court's decision is based. The findings may not be set aside upon review unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses. If an order of certification is made, the jurisdiction of the original court as to the child concerned is terminated. However, the court to which the proceedings are transferred may require the original court to hold the child in detention pending proceedings in that court.

If the court finds that it is in the best interest of the child and of the public for the court to retain jurisdiction, it shall proceed with the adjudicatory hearing. If the court to which any proceeding regarding a delinquent child is transferred finds that it is in the best interest of the child and of the public for the court to retain jurisdiction, the finding is definitive, during the balance of the child's minority, as to the subsequent commission of

any crime, petty offense, or municipal ordinance violation, and the child may no longer be considered a child for the purposes of this chapter. However, the finding is not definitive, if the delinquent child has been found not guilty of the offense for which the original transfer was ordered.

TENNESSEE

TENN. CODE ANN. § 37-1-134 (2014). Transfers to criminal courts

(a) After a petition has been filed alleging delinquency based on conduct that is designated a crime or public offense under the laws, including local ordinances, of this state, the court, before hearing the petition on the merits, may transfer the child to the sheriff of the county to be held according to law and to be dealt with as an adult in the criminal court of competent jurisdiction. The disposition of the child shall be as if the child were an adult if:

(1) The child was sixteen (16) years or more of age at the time of the alleged conduct, or the child was less than sixteen (16) years of age if such child was charged with the offense of first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated rape of a child, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping or especially aggravated kidnapping or an attempt to commit any such offenses. The district attorney general may not seek, nor may any child transferred under the provisions of this section receive, a sentence of death for the offense for which the child was transferred;

(2) A hearing on whether the transfer should be made is held in conformity with §§ 37-1-124, 37-1-126 and 37-1-127;

(3) Reasonable notice in writing of the time, place and purpose of the hearing is given to the child and the child's parents, guardian or other custodian at least three (3) days prior to the hearing; and

(4) The court finds that there are reasonable grounds to believe that:

(A) The child committed the delinquent act as alleged;

(B) The child is not committable to an institution for the developmentally disabled or mentally ill; and

(C) The interests of the community require that the child be put under legal restraint or discipline.

(b) In making the determination required by subsection (a), the court shall consider, among other matters:

(1) The extent and nature of the child's prior delinquency records;

(2) The nature of past treatment efforts and the nature of the child's response thereto;

(3) Whether the offense was against person or property, with greater weight in favor of transfer given to offenses against the person;

(4) Whether the offense was committed in an aggressive and premeditated manner;

(5) The possible rehabilitation of the child by use of procedures, services and facilities currently available to the court in this state; and

(6) Whether the child's conduct would be a criminal gang offense, as defined in § 40-35-121, if committed by an adult.

(c) The transfer pursuant to subsection (a) terminates jurisdiction of the juvenile court with respect to any and all delinquent acts with which the child may then or thereafter be charged, and the child shall thereafter be dealt with as an adult as to all pending and subsequent criminal charges; provided, that if a child transferred pursuant to this section is acquitted in criminal court on the charge or charges resulting in such transfer, or if such charge or charges are dismissed in such court, this subsection (c) shall not apply and the juvenile court shall retain jurisdiction over such child. If a child is in the legal custody of the department at the time of transfer, such custody shall terminate at the transfer hearing, except that if a child is already committed to the department, the court may determine if it is in the best interest of the child to remain in the legal custody of the department until conviction occurs. In any case, legal custody by the department shall terminate upon any conviction in adult criminal court. If there is no conviction and charges so transferred are dismissed or acquittal occurs, the presiding trial judge shall notify the transferring juvenile court judge of such dismissal or acquittal so that the juvenile court may at its discretion set a hearing to ascertain status of the child as to the department's custody.

(d) If a person eighteen (18) years of age or older is to be charged with an offense that was alleged to have been committed prior to such person's eighteenth birthday, the petition shall be brought in the juvenile court that would have had jurisdiction at the time of the offense. The juvenile court shall either adjudicate the case under its continuing jurisdiction authority under § 37-1-102(b)(4)(B) and (C) or undertake transfer proceedings consistent with this section.

(e) No child, either before or after reaching eighteen (18) years of age, shall be prosecuted for an offense previously committed unless the case has been transferred as provided in subsection (a).

(f)(1) Statements made by the child at the juvenile court hearing under this section are not admissible against the child, over objection, in the criminal proceedings following the transfer.

(2) In any county in which, on July 1, 1996, the general sessions court or juvenile court makes audio recordings, the court shall make or cause to be made an audio recording of each transfer hearing conducted pursuant to this section. Such recording shall include all proceedings in open court and such other proceedings as the judge may direct and shall be preserved as a part of the record of the hearing. The juvenile who is the subject of the hearing may, at the juvenile's own expense, transcribe the recording of the hearing and a transcript so prepared may be used for the purpose of an appeal as provided by law. In all other counties, transfer hearings shall be recorded using the procedure provided in title 40, chapter 14, part 3.

(g) If the case is not transferred, the judge who conducted the hearing shall not over objection of an interested party preside at the hearing on the petition. If the case is transferred to a court of which the judge who conducted the hearing is also the judge, the judge likewise is disqualified from presiding in the prosecution.

(h) After a child has been sentenced to an adult institution, the department of correction may file a petition requesting the committing court to allow the department to transfer the defendant to an institution for juvenile delinquents administered by the department of children's services. Upon the approval by such court, the defendant may be transferred by the department of correction to a child-caring institution to be held until the defendant's eighteenth birthday. At the defendant's eighteenth birthday, the defendant may be transferred to an adult institution if there is time remaining on the defendant's term. If the term expires prior to the eighteenth birthday, the defendant shall be released. Any child sentenced by a committing court pursuant to this section shall, for the purpose of parole, be treated as if such child were an adult. The provisions of this section relative to housing of juveniles who have obtained the age of eighteen (18) shall not be affected by subsections (i), (j) and (k).

(i) When a child transferred under this section is detained, the juvenile court may, in its discretion, order confinement in a local juvenile detention facility, or a juvenile detention facility with which it contracts or an adult detention facility separate and removed from adult detainees. The court having adult criminal jurisdiction may thereafter order detention in an adult detention facility separate and removed from adult detainees; provided, however, that during the period while such child is detained separately from adult detainees, such child shall otherwise abide by the same regulations and policies governing conditions of imprisonment that apply to adult detainees who are charged with similar offenses. Similar regulations and policies governing educational opportunities for adults shall be implemented for a child so detained, but such regulations and policies shall in no way affect or alter the manner in which a local education agency is required to provide educational services to a child under the federal Individuals with Disabilities Education Act, compiled in 20 U.S.C. § 1471 et seq.

(j) Any person, who was transferred under this section and who was less than sixteen (16) years of age at the time of the offense and who is subsequently convicted and committed, shall be housed in a juvenile correctional facility until such person reaches sixteen (16) years of age, at which time such person may be transferred upon the order of the

committing court to an adult facility. Any person committed to an adult facility under this section shall be housed separate and removed from adult inmates. In exercising the commissioner's discretion under § 41-1-403 to determine the institutional location of any such person, the commissioner of correction shall take into consideration the proximity of the institution to the person's home. However, during any period while such person is confined separately from adult inmates within such regional facility, such person shall otherwise abide by the same regulations and policies governing conditions of imprisonment that apply to adult inmates who are confined for similar offenses. Similar regulations and policies governing educational opportunities for adults shall be implemented for a child so detained, but such regulations and policies shall in no way affect or alter the manner in which a local education agency is required to provide educational services to a child under the federal Individuals with Disabilities Education Act, compiled in 20 U.S.C. § 1471 et seq.

(k) Any person who is transferred under this section and who was sixteen (16) years of age or older at the time of the offense and is subsequently convicted and committed shall be housed in a juvenile correctional facility unless the committing court orders commitment to an adult facility. Any person committed to an adult facility under this section shall be housed, separate and removed from adult inmates. In exercising the commissioner's discretion under § 41-1-403 to determine the institutional location of any such person, the commissioner of correction shall take into consideration the proximity of the institution to the person's home. However, during any period while such person is confined separately from adult inmates within such regional facility, such person shall otherwise abide by the same regulations and policies governing conditions of imprisonment that apply to adult inmates who are confined for similar offenses. Similar regulations and policies governing educational opportunities for adults shall be implemented for a child so detained, but such regulations and policies shall in no way affect or alter the manner in which a local education agency is required to provide educational services to a child under the federal Individuals with Disabilities Education Act, compiled in 20 U.S.C. §1471 et seq.

TEXAS

TEX. FAM. CODE ANN. § 51.02 (2013). Definitions

In this title:

(1) "Aggravated controlled substance felony" means an offense under Subchapter D, Chapter 481, Health and Safety Code, that is punishable by:

(A) a minimum term of confinement that is longer than the minimum term of confinement for a felony of the first degree; or

(B) a maximum fine that is greater than the maximum fine for a felony of the first degree.

(2) "Child" means a person who is:

(A) ten years of age or older and under 17 years of age; or

(B) seventeen years of age or older and under 18 years of age who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age.

(3) “Custodian” means the adult with whom the child resides.

(4) “Guardian” means the person who, under court order, is the guardian of the person of the child or the public or private agency with whom the child has been placed by a court.

(5) “Judge” or “juvenile court judge” means the judge of a juvenile court.

(6) “Juvenile court” means a court designated under Section 51.04 of this code to exercise jurisdiction over proceedings under this title.

(7) “Law-enforcement officer” means a peace officer as defined by Article 2.12, Code of Criminal Procedure.

(8) “Nonoffender” means a child who:

(A) is subject to jurisdiction of a court under abuse, dependency, or neglect statutes under Title 5 [for reasons other than legally prohibited conduct of the child; or

(B) has been taken into custody and is being held solely for deportation out of the United States.

(8-a) “Nonsecure correctional facility” means a facility described by Section 51.126.

(9) “Parent” means the mother or the father of a child, but does not include a parent whose parental rights have been terminated.

(10) “Party” means the state, a child who is the subject of proceedings under this subtitle, or the child's parent, spouse, guardian, or guardian ad litem.

(11) “Prosecuting attorney” means the county attorney, district attorney, or other attorney who regularly serves in a prosecutory capacity in a juvenile court.

(12) “Referral to juvenile court” means the referral of a child or a child's case to the office or official, including an intake officer or probation officer, designated by the juvenile board to process children within the juvenile justice system.

(13) “Secure correctional facility” means any public or private residential facility, including an alcohol or other drug treatment facility, that:

(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility; and

(B) is used for the placement of any juvenile who has been adjudicated as having committed an offense, any nonoffender, or any other individual convicted of a criminal offense.

(14) “Secure detention facility” means any public or private residential facility that:

(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility; and

(B) is used for the temporary placement of any juvenile who is accused of having committed an offense, any nonoffender, or any other individual accused of having committed a criminal offense.

(15) “Status offender” means a child who is accused, adjudicated, or convicted for conduct that would not, under state law, be a crime if committed by an adult, including:

(A) truancy under Section 51.03(b)(2);

(B) running away from home under Section 51.03(b)(3);

(C) a fineable only offense under Section 51.03(b)(1) transferred to the juvenile court under Section 51.08(b), but only if the conduct constituting the offense would not have been criminal if engaged in by an adult;

(D) failure to attend school under Section 25.094, Education Code;

(E) a violation of standards of student conduct as described by Section 51.03(b)(5);

(F) a violation of a juvenile curfew ordinance or order;

(G) a violation of a provision of the Alcoholic Beverage Code applicable to minors only; or

(H) a violation of any other fineable only offense under Section 8.07(a)(4) or (5), Penal Code, but only if the conduct constituting the offense would not have been criminal if engaged in by an adult.

(16) “Traffic offense” means:

(A) a violation of a penal statute cognizable under Chapter 729, Transportation Code, except for conduct for which the person convicted may be sentenced to imprisonment or confinement in jail; or

(B) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state.

(17) “Valid court order” means a court order entered under Section 54.04 concerning a child adjudicated to have engaged in conduct indicating a need for supervision as a status offender.

TEX. FAM. CODE ANN. § 54.02 (2013). Waiver of Jurisdiction and Discretionary Transfer to Criminal Court

(a) The juvenile court may waive its exclusive original jurisdiction and transfer a child to the appropriate district court or criminal district court for criminal proceedings if:

(1) the child is alleged to have violated a penal law of the grade of felony;

(2) the child was:

(A) 14 years of age or older at the time he is alleged to have committed the offense, if the offense is a capital felony, an aggravated controlled substance felony, or a felony of the first degree, and no adjudication hearing has been conducted concerning that offense; or

(B) 15 years of age or older at the time the child is alleged to have committed the offense, if the offense is a felony of the second or third degree or a state jail felony, and no adjudication hearing has been conducted concerning that offense; and

(3) after a full investigation and a hearing, the juvenile court determines that there is probable cause to believe that the child before the court committed the offense alleged and that because of the seriousness of the offense alleged or the background of the child the welfare of the community requires criminal proceedings.

(b) The petition and notice requirements of Sections 53.04, 53.05, 53.06, and 53.07 of this code must be satisfied, and the summons must state that the hearing is for the purpose of considering discretionary transfer to criminal court.

(c) The juvenile court shall conduct a hearing without a jury to consider transfer of the child for criminal proceedings.

(d) Prior to the hearing, the juvenile court shall order and obtain a complete diagnostic study, social evaluation, and full investigation of the child, his circumstances, and the circumstances of the alleged offense.

(e) At the transfer hearing the court may consider written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of witnesses. At least five days prior to the transfer hearing, the court shall provide the attorney for the child and the prosecuting attorney with access to all written matter to be considered by the court in making the transfer decision. The court may order counsel not

to reveal items to the child or the child's parent, guardian, or guardian ad litem if such disclosure would materially harm the treatment and rehabilitation of the child or would substantially decrease the likelihood of receiving information from the same or similar sources in the future.

(f) In making the determination required by Subsection (a) of this section, the court shall consider, among other matters:

- (1) whether the alleged offense was against person or property, with greater weight in favor of transfer given to offenses against the person;
- (2) the sophistication and maturity of the child;
- (3) the record and previous history of the child; and
- (4) the prospects of adequate protection of the public and the likelihood of the rehabilitation of the child by use of procedures, services, and facilities currently available to the juvenile court.

(g) If the petition alleges multiple offenses that constitute more than one criminal transaction, the juvenile court shall either retain or transfer all offenses relating to a single transaction. Except as provided by Subsection (g-1), a child is not subject to criminal prosecution at any time for any offense arising out of a criminal transaction for which the juvenile court retains jurisdiction.

(g-1) A child may be subject to criminal prosecution for an offense committed under Chapter 19 or Section 49.08, Penal Code, if:

- (1) the offense arises out of a criminal transaction for which the juvenile court retained jurisdiction over other offenses relating to the criminal transaction; and
- (2) on or before the date the juvenile court retained jurisdiction, one or more of the elements of the offense under Chapter 19 or Section 49.08, Penal Code, had not occurred.

(h) If the juvenile court waives jurisdiction, it shall state specifically in the order its reasons for waiver and certify its action, including the written order and findings of the court, and shall transfer the person to the appropriate court for criminal proceedings and cause the results of the diagnostic study of the person ordered under Subsection (d), including psychological information, to be transferred to the appropriate criminal prosecutor. On transfer of the person for criminal proceedings, the person shall be dealt with as an adult and in accordance with the Code of Criminal Procedure, except that if detention in a certified juvenile detention facility is authorized under Section 152.0015, Human Resources Code, the juvenile court may order the person to be detained in the facility pending trial or until the criminal court enters an order under Article 4.19, Code of Criminal Procedure. A transfer of custody made under this subsection is an arrest.

(h-1) If the juvenile court orders a person detained in a certified juvenile detention facility under Subsection (h), the juvenile court shall set or deny bond for the person as required by the Code of Criminal Procedure and other law applicable to the pretrial detention of adults accused of criminal offenses.

(i) A waiver under this section is a waiver of jurisdiction over the child and the criminal court may not remand the child to the jurisdiction of the juvenile court.

(j) The juvenile court may waive its exclusive original jurisdiction and transfer a person to the appropriate district court or criminal district court for criminal proceedings if:

(1) the person is 18 years of age or older;

(2) the person was:

(A) 10 years of age or older and under 17 years of age at the time the person is alleged to have committed a capital felony or an offense under Section 19.02, Penal Code;

(B) 14 years of age or older and under 17 years of age at the time the person is alleged to have committed an aggravated controlled substance felony or a felony of the first degree other than an offense under Section 19.02, Penal Code; or

(C) 15 years of age or older and under 17 years of age at the time the person is alleged to have committed a felony of the second or third degree or a state jail felony;

(3) no adjudication concerning the alleged offense has been made or no adjudication hearing concerning the offense has been conducted;

(4) the juvenile court finds from a preponderance of the evidence that:

(A) for a reason beyond the control of the state it was not practicable to proceed in juvenile court before the 18th birthday of the person; or

(B) after due diligence of the state it was not practicable to proceed in juvenile court before the 18th birthday of the person because:

(i) the state did not have probable cause to proceed in juvenile court and new evidence has been found since the 18th birthday of the person;

(ii) the person could not be found; or

(iii) a previous transfer order was reversed by an appellate court or set aside by a district court; and

(5) the juvenile court determines that there is probable cause to believe that the child before the court committed the offense alleged.

(k) The petition and notice requirements of Sections 53.04, 53.05, 53.06, and 53.07 of this code must be satisfied, and the summons must state that the hearing is for the purpose of considering waiver of jurisdiction under Subsection (j). The person's parent, custodian, guardian, or guardian ad litem is not considered a party to a proceeding under Subsection (j) and it is not necessary to provide the parent, custodian, guardian, or guardian ad litem with notice.

(l) The juvenile court shall conduct a hearing without a jury to consider waiver of jurisdiction under Subsection (j). Except as otherwise provided by this subsection, a waiver of jurisdiction under Subsection (j) may be made without the necessity of conducting the diagnostic study or complying with the requirements of discretionary transfer proceedings under Subsection (d). If requested by the attorney for the person at least 10 days before the transfer hearing, the court shall order that the person be examined pursuant to Section 51.20(a) and that the results of the examination be provided to the attorney for the person and the attorney for the state at least five days before the transfer hearing.

(m) Notwithstanding any other provision of this section, the juvenile court shall waive its exclusive original jurisdiction and transfer a child to the appropriate district court or criminal court for criminal proceedings if:

(1) the child has previously been transferred to a district court or criminal district court for criminal proceedings under this section, unless:

(A) the child was not indicted in the matter transferred by the grand jury;

(B) the child was found not guilty in the matter transferred;

(C) the matter transferred was dismissed with prejudice; or

(D) the child was convicted in the matter transferred, the conviction was reversed on appeal, and the appeal is final; and

(2) the child is alleged to have violated a penal law of the grade of felony.

(n) A mandatory transfer under Subsection (m) may be made without conducting the study required in discretionary transfer proceedings by Subsection (d). The requirements of Subsection (b) that the summons state that the purpose of the hearing is to consider discretionary transfer to criminal court does not apply to a transfer proceeding under Subsection (m). In a proceeding under Subsection (m), it is sufficient that the summons provide fair notice that the purpose of the hearing is to consider mandatory transfer to criminal court.

(o) If a respondent is taken into custody for possible discretionary transfer proceedings under Subsection (j), the juvenile court shall hold a detention hearing in the same manner as provided by Section 54.01, except that the court shall order the respondent released unless it finds that the respondent:

(1) is likely to abscond or be removed from the jurisdiction of the court;

(2) may be dangerous to himself or herself or may threaten the safety of the public if released; or

(3) has previously been found to be a delinquent child or has previously been convicted of a penal offense punishable by a term of jail or prison and is likely to commit an offense if released.

(p) If the juvenile court does not order a respondent released under Subsection (o), the court shall, pending the conclusion of the discretionary transfer hearing, order that the respondent be detained in:

(1) a certified juvenile detention facility as provided by Subsection (q); or

(2) an appropriate county facility for the detention of adults accused of criminal offenses.

(q) The detention of a respondent in a certified juvenile detention facility must comply with the detention requirements under this title, except that, to the extent practicable, the person shall be kept separate from children detained in the same facility.

(r) If the juvenile court orders a respondent detained in a county facility under Subsection (p), the county sheriff shall take custody of the respondent under the juvenile court's order. The juvenile court shall set or deny bond for the respondent as required by the Code of Criminal Procedure and other law applicable to the pretrial detention of adults accused of criminal offenses.

(s) If a child is transferred to criminal court under this section, only the petition for discretionary transfer, the order of transfer, and the order of commitment, if any, are a part of the district clerk's public record.

UTAH

UTAH CODE ANN. § 78A-6-701 (2014). Jurisdiction of district court

(1) The district court has exclusive original jurisdiction over all persons 16 years of age or older charged with:

(a) an offense which would be murder or aggravated murder if committed by an adult; or

(b) an offense which would be a felony if committed by an adult if the minor has been previously committed to a secure facility as defined in Section 62A-7-101. This Subsection (1)(b) shall not apply if the offense is committed in a secure facility.

(2) When the district court has exclusive original jurisdiction over a minor under this section, it also has exclusive original jurisdiction over the minor regarding all offenses joined with the qualifying offense, and any other offenses, including misdemeanors, arising from the same criminal episode. The district court is not divested of jurisdiction by virtue of the fact that the minor is allowed to enter a plea to, or is found guilty of, a lesser or joined offense.

(3)(a) Any felony, misdemeanor, or infraction committed after the offense over which the district court takes jurisdiction under Subsection (1) or (2) shall be tried against the defendant as an adult in the district court or justice court having jurisdiction.

(b) If the qualifying charge under Subsection (1) results in an acquittal, a finding of not guilty, or a dismissal of the charge in the district court, the juvenile court under Section 78A-6-103 and the Division of Juvenile Justice Services regain any jurisdiction and authority previously exercised over the minor.

(4) A minor arrested under this section shall be held in a juvenile detention facility until the district court determines where the minor shall be held until the time of trial, except for defendants who are otherwise subject to the authority of the Board of Pardons and Parole.

(5) The district court shall consider the following when determining where the minor will be held until the time of trial:

(a) the age of the minor;

(b) the nature, seriousness, and circumstances of the alleged offense;

(c) the minor's history of prior criminal acts;

(d) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;

(e) whether the minor's placement in a juvenile detention facility will negatively impact the functioning of the facility by compromising the goals of the facility to maintain a safe, positive, and secure environment for all minors within the facility;

(f) the relative ability of the facility to meet the needs of the minor and protect the public;

(g) whether the minor presents an imminent risk of harm to the minor or others within the facility;

(h) the physical maturity of the minor;

(i) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the court; and

(j) any other factors the court considers relevant.

(6) A minor ordered to a juvenile detention facility under Subsection (5) shall remain in the facility until released by a district court judge, or if convicted, until sentencing.

(7) A minor held in a juvenile detention facility under this section shall have the same right to bail as any other criminal defendant.

(8) If the minor ordered to a juvenile detention facility under Subsection (5) attains the age of 18 years, the minor shall be transferred within 30 days to an adult jail until released by the district court judge, or if convicted, until sentencing.

(9) A minor 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the juvenile detention facility may, by court order that specifies the reasons, be detained in another place of confinement considered appropriate by the court, including jail or other place of pretrial confinement for adults.

UTAH CODE ANN. § 78A-6-702 (2014). Serious youth offender-- Procedure

(1) Any action filed by a county attorney, district attorney, or attorney general charging a minor 16 years of age or older with a felony shall be by criminal information and filed in the juvenile court if the information charges any of the following offenses:

(a) any felony violation of:

(i) Section 76-6-103, aggravated arson;

(ii) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(iii) Section 76-5-302, aggravated kidnapping;

(iv) Section 76-6-203, aggravated burglary;

(v) Section 76-6-302, aggravated robbery;

(vi) Section 76-5-405, aggravated sexual assault;

(vii) Section 76-10-508.1, felony discharge of a firearm;

(viii) Section 76-5-202, attempted aggravated murder; or

(ix) Section 76-5-203, attempted murder; or

(b) an offense other than those listed in Subsection (1)(a) involving the use of a dangerous weapon, which would be a felony if committed by an adult, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, which also would have been a felony if committed by an adult.

(2) All proceedings before the juvenile court related to charges filed under Subsection (1) shall be conducted in conformity with the rules established by the Utah Supreme Court.

(3)(a) If the information alleges the violation of a felony listed in Subsection (1), the state shall have the burden of going forward with its case and the burden of proof to establish probable cause to believe that one of the crimes listed in Subsection (1) has been committed and that the defendant committed it. If proceeding under Subsection (1)(b), the state shall have the additional burden of proving by a preponderance of the evidence that the defendant has previously been adjudicated or convicted of an offense involving the use of a dangerous weapon.

(b) If the juvenile court judge finds the state has met its burden under this Subsection (3), the court shall order that the defendant be bound over and held to answer in the district court in the same manner as an adult unless the juvenile court judge finds that it would be contrary to the best interest of the minor and to the public to bind over the defendant to the jurisdiction of the district court.

(c) In making the bind over determination in Subsection (3)(b), the judge shall consider only the following:

(i) whether the minor has been previously adjudicated delinquent for an offense involving the use of a dangerous weapon which would be a felony if committed by an adult;

(ii) if the offense was committed with one or more other persons, whether the minor appears to have a greater or lesser degree of culpability than the codefendants;

(iii) the extent to which the minor's role in the offense was committed in a violent, aggressive, or premeditated manner;

(iv) the number and nature of the minor's prior adjudications in the juvenile court; and

(v) whether public safety is better served by adjudicating the minor in the juvenile court or in the district court.

(d) Once the state has met its burden under Subsection (3)(a) as to a showing of probable cause, the defendant shall have the burden of going forward and presenting evidence that in light of the considerations listed in Subsection (3)(c), it would be contrary to the best interest of the minor and the best interests of the public to bind the defendant over to the jurisdiction of the district court.

(e) If the juvenile court judge finds by clear and convincing evidence that it would be contrary to the best interest of the minor and the best interests of the public to bind the defendant over to the jurisdiction of the district court, the court shall so state in its findings and order the minor held for trial as a minor and shall proceed upon the information as though it were a juvenile petition.

(4) If the juvenile court judge finds that an offense has been committed, but that the state has not met its burden of proving the other criteria needed to bind the defendant over under Subsection (1), the juvenile court judge shall order the defendant held for trial as a minor and shall proceed upon the information as though it were a juvenile petition.

(5) At the time of a bind over to district court a criminal warrant of arrest shall issue. The defendant shall have the same right to bail as any other criminal defendant and shall be advised of that right by the juvenile court judge. The juvenile court shall set initial bail in accordance with Title 77, Chapter 20, Bail.

(6) At the time the minor is bound over to the district court, the juvenile court shall make the initial determination on where the minor shall be held.

(7) The juvenile court shall consider the following when determining where the minor shall be held until the time of trial:

(a) the age of the minor;

(b) the nature, seriousness, and circumstances of the alleged offense;

(c) the minor's history of prior criminal acts;

(d) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;

(e) whether the minor's placement in a juvenile detention facility will negatively impact the functioning of the facility by compromising the goals of the facility to maintain a safe, positive, and secure environment for all minors within the facility;

(f) the relative ability of the facility to meet the needs of the minor and protect the public;

(g) whether the minor presents an imminent risk of harm to the minor or others within the facility;

(h) the physical maturity of the minor;

(i) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the court; and

(j) any other factors the court considers relevant.

(8) If a minor is ordered to a juvenile detention facility under Subsection (7), the minor shall remain in the facility until released by a district court judge, or if convicted, until sentencing.

(9) A minor held in a juvenile detention facility under this section shall have the same right to bail as any other criminal defendant.

(10) If the minor ordered to a juvenile detention facility under Subsection (7) attains the age of 18 years, the minor shall be transferred within 30 days to an adult jail until released by the district court judge, or if convicted, until sentencing.

(11) A minor 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the juvenile detention facility may, by court order that specifies the reasons, be detained in another place of pretrial confinement considered appropriate by the court, including jail or other place of confinement for adults.

(12) The district court may reconsider the decision on where the minor will be held pursuant to Subsection (6).

(13) If an indictment is returned by a grand jury charging a violation under this section, the preliminary examination held by the juvenile court judge need not include a finding of probable cause that the crime alleged in the indictment was committed and that the defendant committed it, but the juvenile court shall proceed in accordance with this section regarding the additional considerations listed in Subsection (3)(b).

(14) When a defendant is charged with multiple criminal offenses in the same information or indictment and is bound over to answer in the district court for one or more charges under this section, other offenses arising from the same criminal episode and any subsequent misdemeanors or felonies charged against him shall be considered together with those charges, and where the court finds probable cause to believe that those crimes have been committed and that the defendant committed them, the defendant shall also be bound over to the district court to answer for those charges.

(15) When a minor has been bound over to the district court under this section, the jurisdiction of the Division of Juvenile Justice Services and the juvenile court over the minor is terminated regarding that offense, any other offenses arising from the same criminal episode, and any subsequent misdemeanors or felonies charged against the minor, except as provided in Subsection (19).

(16) A minor who is bound over to answer as an adult in the district court under this section or on whom an indictment has been returned by a grand jury is not entitled to a preliminary examination in the district court.

(17) Allegations contained in the indictment or information that the defendant has previously been adjudicated or convicted of an offense involving the use of a dangerous weapon, or is 16 years of age or older, are not elements of the criminal offense and do not need to be proven at trial in the district court.

(18) If a minor enters a plea to, or is found guilty of, any of the charges filed or any other offense arising from the same criminal episode, the district court retains jurisdiction over the minor for all purposes, including sentencing.

(19) The juvenile court under Section 78A-6-103 and the Division of Juvenile Justice Services regain jurisdiction and any authority previously exercised over the minor when there is an acquittal, a finding of not guilty, or dismissal of all charges in the district court.

UTAH CODE ANN. § 78A-6-703 (2014). Certification hearings--Juvenile court to hold preliminary hearing--Factors considered by juvenile court for waiver of jurisdiction to district court

(1) If a criminal information filed in accordance with Subsection 78A-6-602(3) alleges the commission of an act which would constitute a felony if committed by an adult, the juvenile court shall conduct a preliminary hearing.

(2) At the preliminary hearing the state shall have the burden of going forward with its case and the burden of establishing:

(a) probable cause to believe that a crime was committed and that the defendant committed it; and

(b) by a preponderance of the evidence, that it would be contrary to the best interests of the minor or of the public for the juvenile court to retain jurisdiction.

(3) In considering whether or not it would be contrary to the best interests of the minor or of the public for the juvenile court to retain jurisdiction, the juvenile court shall consider, and may base its decision on, the finding of one or more of the following factors:

(a) the seriousness of the offense and whether the protection of the community requires isolation of the minor beyond that afforded by juvenile facilities;

(b) whether the alleged offense was committed by the minor under circumstances which would subject the minor to enhanced penalties under Section 76-3-203.1 if the minor were adult and the offense was committed:

(i) in concert with two or more persons;

(ii) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(iii) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(c) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(d) whether the alleged offense was against persons or property, greater weight being given to offenses against persons, except as provided in Section 76-8-418;

(e) the maturity of the minor as determined by considerations of the minor's home, environment, emotional attitude, and pattern of living;

(f) the record and previous history of the minor;

(g) the likelihood of rehabilitation of the minor by use of facilities available to the juvenile court;

(h) the desirability of trial and disposition of the entire offense in one court when the minor's associates in the alleged offense are adults who will be charged with a crime in the district court;

(i) whether the minor used a firearm in the commission of an offense; and

(j) whether the minor possessed a dangerous weapon on or about school premises as provided in Section 76-10-505.5.

(4) The amount of weight to be given to each of the factors listed in Subsection (3) is discretionary with the court.

(5)(a) Written reports and other materials relating to the minor's mental, physical, educational, and social history may be considered by the court.

(b) If requested by the minor, the minor's parent, guardian, or other interested party, the court shall require the person or agency preparing the report and other material to appear and be subject to both direct and cross-examination.

(6) At the conclusion of the state's case, the minor may testify under oath, call witnesses, cross-examine adverse witnesses, and present evidence on the factors required by Subsection (3).

(7) At the time the minor is bound over to the district court, the juvenile court shall make the initial determination on where the minor shall be held.

(8) The juvenile court shall consider the following when determining where the minor will be held until the time of trial:

- (a) the age of the minor;
- (b) the nature, seriousness, and circumstances of the alleged offense;
- (c) the minor's history of prior criminal acts;
- (d) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;
- (e) whether the minor's placement in a juvenile detention facility will negatively impact the functioning of the facility by compromising the goals of the facility to maintain a safe, positive, and secure environment for all minors within the facility;
- (f) the relative ability of the facility to meet the needs of the minor and protect the public;
- (g) whether the minor presents an imminent risk of harm to the minor or others within the facility;
- (h) the physical maturity of the minor;
- (i) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the court; and
- (j) any other factors the court considers relevant.

(9) If a minor is ordered to a juvenile detention facility under Subsection (8), the minor shall remain in the facility until released by a district court judge, or if convicted, until sentencing.

(10) A minor held in a juvenile detention facility under this section shall have the same right to bail as any other criminal defendant.

(11) If the minor ordered to a juvenile detention facility under Subsection (8) attains the age of 18 years, the minor shall be transferred within 30 days to an adult jail until released by the district court judge, or if convicted, until sentencing.

(12) A minor 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the juvenile detention facility may, by court order that specifies the

reasons, be detained in another place of confinement considered appropriate by the court, including jail or other place of confinement for adults.

(13) The district court may reconsider the decision on where the minor shall be held pursuant to Subsection (7).

(14) If the court finds the state has met its burden under Subsection (2), the court may enter an order:

(a) certifying that finding; and

(b) directing that the minor be held for criminal proceedings in the district court.

(15) If an indictment is returned by a grand jury, the preliminary examination held by the juvenile court need not include a finding of probable cause, but the juvenile court shall proceed in accordance with this section regarding the additional consideration referred to in Subsection (2)(b).

(16) The provisions of Section 78A-6-115, Section 78A-6-1111, and other provisions relating to proceedings in juvenile cases are applicable to the hearing held under this section to the extent they are pertinent.

(17) A minor who has been directed to be held for criminal proceedings in the district court is not entitled to a preliminary examination in the district court.

(18) A minor who has been certified for trial in the district court shall have the same right to bail as any other criminal defendant and shall be advised of that right by the juvenile court judge. The juvenile court shall set initial bail in accordance with Title 77, Chapter 20, Bail.

(19) When a minor has been certified to the district court under this section, the jurisdiction of the Division of Juvenile Justice Services and the jurisdiction of the juvenile court over the minor is terminated regarding that offense, any other offenses arising from the same criminal episode, and any subsequent misdemeanors or felonies charged against the minor, except as provided in Subsection (21).

(20) If a minor enters a plea to, or is found guilty of any of the charges filed or on any other offense arising out of the same criminal episode, the district court retains jurisdiction over the minor for all purposes, including sentencing.

(21) The juvenile court under Section 78A-6-103 and the Division of Juvenile Justice Services regain jurisdiction and any authority previously exercised over the minor when there is an acquittal, a finding of not guilty, or dismissal of all charges in the district court.

VERMONT

Vt. STAT. ANN. tit. 33, § 5102 (2014). Definitions and provisions of general application

As used in the juvenile judicial proceedings chapters, unless the context otherwise requires:

(1) “Care provider” means a person other than a parent, guardian, or custodian who is providing the child with routine daily care but to whom custody rights have not been transferred by a court.

(2) “Child” means any of the following:

(A) An individual who is under the age of 18 and is a child in need of care or supervision as defined in subdivision (3)(A), (B), or (D) of this section (abandoned, abused, without proper parental care, or truant).

(B)(i) An individual who is under the age of 18, is a child in need of care or supervision as defined in subdivision (3)(C) of this section (beyond parental control), and was under the age of 16 at the time the petition was filed; or

(ii) an individual who is between the ages of 16 to 17.5, is a child in need of care or supervision as defined in subdivision (3)(C) of this section (beyond parental control), and who is at high risk of serious harm to himself or herself or others due to problems such as substance abuse, prostitution, or homelessness.

(C) An individual who has been alleged to have committed or has committed an act of delinquency after becoming ten years of age and prior to becoming 18 years of age; provided, however:

(i) that an individual who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining the age of 10 but not the age of 14 may be treated as an adult as provided therein;

(ii) that an individual who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining the age of 14 but not the age of 16 shall be subject to criminal proceedings as in cases commenced against adults, unless transferred to the court in accordance with the juvenile judicial proceedings chapters;

(iii) that an individual who is alleged to have committed an act before attaining the age of 10 which would be murder as defined in section 2301 of Title 13 if committed by an adult may be subject to delinquency proceedings; and

(iv) that an individual may be considered a child for the period of time the court retains jurisdiction under section 5104 of this title.

(3) “Child in need of care or supervision (CHINS)” means a child who:

(A) has been abandoned or abused by the child's parent, guardian, or custodian. A person is considered to have abandoned a child if the person is: unwilling to have physical custody of the child; unable, unwilling, or has failed to make appropriate arrangements for the child's care; unable to have physical custody of the child and has not arranged or cannot arrange for the safe and appropriate care of the child; or has left the child with a care provider and the care provider is unwilling or unable to provide care or support for the child, the whereabouts of the person are unknown, and reasonable efforts to locate the person have been unsuccessful.

(B) is without proper parental care or subsistence, education, medical, or other care necessary for his or her well-being;

(C) is without or beyond the control of his or her parent, guardian, or custodian; or

(D) is habitually and without justification truant from compulsory school attendance.

(4) “Commissioner” means the commissioner of the department for children and families or the commissioner's designee.

(5) “Conditional custody order” means an order issued by the court in a juvenile proceeding conferring legal custody of a child to a parent, guardian, relative, or a person with a significant relationship with the child subject to such conditions and limitations as the court may deem necessary to provide for the safety and welfare of the child. Any conditions and limitations shall apply only to the individual to whom custody is granted.

(6) “Court” means the family division of the superior court.

(7) “Custodial parent” means a parent who, at the time of the commencement of the juvenile proceeding, has the right and responsibility to provide the routine daily care and control of the child. The rights of the custodial parent may be held solely or shared and may be subject to the court-ordered right of the other parent to have contact with the child.

(8) “Custodian” means a person other than a parent or legal guardian to whom legal custody of the child has been given by order of a Vermont superior court or a similar court in another jurisdiction.

(9) “Delinquent act” means an act designated a crime under the laws of this state, or of another state if the act occurred in another state, or under federal law. A delinquent act shall include 7 V.S.A. §§ 656 and 657; however, it shall not include:

(A) Snowmobile offenses in subchapter 1 and motorboat offenses in subchapter 2 of chapter 29 of Title 23, except for violations of sections 3207a, 3207b, 3207c, 3207d,

and 3323.

(B) Motor vehicle offenses committed by an individual who is at least 16 years of age, except for violations of subchapter 13 of chapter 13 and of section 1091 of Title 23.

(10) “Delinquent child” means a child who has been adjudicated to have committed a delinquent act.

(11) “Department” means the department for children and families.

(12) “Guardian” means a person who, at the time of the commencement of the juvenile judicial proceeding, has legally established rights to a child pursuant to an order of a Vermont court or a court in another jurisdiction.

(13) “Judge” means a judge of the family division of the superior court.

(14) “Juvenile judicial proceedings chapters” means this chapter and chapters 52 and 53 of this title.

(15) “Juvenile proceeding” means a proceeding in the family division of the superior court under the authority of the juvenile judicial proceedings chapters.

(16)(A) “Legal custody” means the legal status created by order of the court under the authority of the juvenile judicial proceedings chapters which invests in a party to a juvenile proceeding or another person the following rights and responsibilities:

(i) The right to routine daily care and control of the child and to determine where and with whom the child shall live.

(ii) The authority to consent to major medical, psychiatric, and surgical treatment for a child.

(iii) The responsibility to protect and supervise a child and to provide the child with food, shelter, education, and ordinary medical care.

(iv) The authority to make decisions which concern the child and are of substantial legal significance, including the authority to consent to civil marriage and enlistment in the armed forces of the United States, and the authority to represent the child in legal actions.

(B) If legal custody is transferred to a person other than a parent, the rights, duties, and responsibilities so transferred are subject to the residual parental rights of the parents.

(17) “Listed crime” means the same as defined in 13 V.S.A. § 5301.

(18) "Noncustodial parent" means a parent who is not a custodial parent at the time of the commencement of the juvenile proceeding.

(19) "Officer" means a law enforcement officer, including a state police officer, sheriff, deputy sheriff, municipal police officer, or constable who has been certified by the criminal justice training council pursuant to section 2358 of Title 20.

(20) "Parent" means a child's biological or adoptive parent, including custodial parents, noncustodial parents, parents with legal or physical responsibilities or both and parents whose rights have never been adjudicated.

(21) "Parent-child contact" means the right of a parent to have visitation with the child by court order.

(22) "Party" includes the following persons:

(A) The child with respect to whom the proceedings are brought.

(B) The custodial parent, the guardian, or the custodian of the child in all instances except a hearing on the merits of a delinquency petition.

(C) The noncustodial parent for the purposes of custody, visitation, and such other issues which the court may determine are proper and necessary to the proceedings, provided that the noncustodial parent has entered an appearance.

(D) The state's attorney.

(E) The commissioner.

(F) Such other persons as appear to the court to be proper and necessary to the proceedings.

(23) "Probation" means the legal status created by order of the family division of the superior court in proceedings involving a violation of law whereby a delinquent child is subject to supervision by the department under conditions specified in the court's juvenile probation certificate and subject to return to and change of legal status by the family division of the superior court for violation of conditions of probation at any time during the period of probation.

(24) "Protective supervision" means the authority granted by the court to the department in a juvenile proceeding to take reasonable steps to monitor compliance with the court's conditional custody order, including unannounced visits to the home in which the child currently resides.

(25) "Reasonable efforts" means the exercise of due diligence by the department to use appropriate and available services to prevent unnecessary removal of the child from the

home or to finalize a permanency plan. When making the reasonable efforts determination, the court may find that no services were appropriate or reasonable considering the circumstances. If the court makes written findings that aggravated circumstances are present, the court may make, but shall not be required to make, written findings as to whether reasonable efforts were made to prevent removal of the child from the home. Aggravated circumstances may exist if:

- (A) a court of competent jurisdiction has determined that the parent has subjected a child to abandonment, torture, chronic abuse, or sexual abuse;
- (B) a court of competent jurisdiction has determined that the parent has been convicted of murder or manslaughter of a child;
- (C) a court of competent jurisdiction has determined that the parent has been convicted of a felony crime that results in serious bodily injury to the child or another child of the parent; or
- (D) the parental rights of the parent with respect to a sibling have been involuntarily terminated.

(26) “Residual parental rights and responsibilities” means those rights and responsibilities remaining with the parent after the transfer of legal custody of the child, including the right to reasonable contact with the child, the responsibility for support, and the right to consent to adoption.

(27) “Shelter” means a shelter designated by the commissioner where a child taken into custody pursuant to subdivision 5301(3) of this title may be held for a period not to exceed seven days.

(28) “Youth” shall mean a person who is the subject of a motion for youthful offender status or who has been granted youthful offender status.

VT. STAT. ANN. tit. 33, § 5201 (2014). Commencement of delinquency proceedings

(a) Proceedings under this chapter shall be commenced by:

- (1) transfer to the Court of a proceeding from another court as provided in section 5203 of this title; or
- (2) the filing of a delinquency petition by a state's attorney.

(b) If the proceeding is commenced by transfer from another court, no petition need be filed; however, the state's attorney shall provide to the Court the name and address of the child's custodial parent, guardian, or custodian and the name and address of any noncustodial parent if known.

(c) Consistent with applicable provisions of Title 4, any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining the age of 14, but not the age of 18, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

(d) If the State requests that custody of the child be transferred to the Department, a temporary care hearing shall be held as provided in subchapter 3 of this chapter.

(e) A petition may be withdrawn by the state's attorney at any time prior to the hearing thereon, in which event the child shall be returned to the custodial parent, guardian, or custodian, the proceedings under this chapter terminated, and all files and documents relating thereto sealed under section 5119 of this title.

VT. STAT. ANN. tit. 33, § 5204 (2014). Transfer from juvenile court

(a) After a petition has been filed alleging delinquency, upon motion of the state's attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court, if the child had attained the age of 16 but not the age of 18 at the time the act was alleged to have occurred and the delinquent act set forth in the petition was not one of those specified in subdivisions (1)-(12) of this subsection or if the child had attained the age of 10 but not the age of 14 at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

- (1) arson causing death as defined in 13 V.S.A. § 501;
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. 608(c);
- (4) aggravated assault as defined in 13 V.S.A. § 1024;
- (5) murder as defined in 13 V.S.A. § 2301;
- (6) manslaughter as defined in 13 V.S.A. § 2304;
- (7) kidnapping as defined in 13 V.S.A. § 2405;
- (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;
- (9) maiming as defined in 13 V.S.A. § 2701;
- (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);
- (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or

(12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c).

(b) The state's attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order transferring jurisdiction under subsection (a) of this section at any time prior to adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.

(c) Upon the filing of a motion to transfer jurisdiction under subsection (b) of this section, the Family Division of the Superior court shall conduct a hearing in accordance with procedures specified in subchapter 2 of this chapter to determine whether:

(1) there is probable cause to believe that the child committed an act listed in subsection (a) of this section; and

(2) public safety and the interests of the community would not be served by treatment of the child under the provisions of law relating to Family Division of the Superior Court and delinquent children.

(d) In making its determination as required under subsection (c) of this section, the Court may consider, among other matters:

(1) The maturity of the child as determined by consideration of his or her age, home, environment; emotional, psychological and physical maturity; and relationship with and adjustment to school and the community.

(2) The extent and nature of the child's prior record of delinquency.

(3) The nature of past treatment efforts and the nature of the child's response to them.

(4) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

(5) The nature of any personal injuries resulting from or intended to be caused by the alleged act.

(6) The prospects for rehabilitation of the child by use of procedures, services, and facilities available through juvenile proceedings.

(7) Whether the protection of the community would be better served by transferring jurisdiction from the Family Division to the Criminal Division of the Superior Court.

(e) A transfer under this section shall terminate the jurisdiction of the Family Division of the Superior Court over the child only with respect to those delinquent acts alleged in the petition with respect to which transfer was sought.

(f)(1) The Family Division, following completion of the transfer hearing, shall make findings and, if the Court orders transfer of jurisdiction from the Family Division, shall state the reasons for that order. If the Family Division orders transfer of jurisdiction, the child shall be treated as an adult. The state's attorney shall commence criminal proceedings as in cases commenced against adults.

(2) Notwithstanding subdivision (1) of this subsection, the parties may stipulate to a transfer of jurisdiction from the Family Division at any time after a motion to transfer is made pursuant to subsection (b) of this section. The Court shall not be required to make findings if the parties stipulate to a transfer pursuant to this subdivision. Upon acceptance of the stipulation to transfer jurisdiction, the Court shall transfer the proceedings to the Criminal Division and the child shall be treated as an adult. The state's attorney shall commence criminal proceedings as in cases commenced against adults.

(g) The order granting or denying transfer of jurisdiction shall not constitute a final judgment or order within the meaning of Rules 3 and 4 of the Vermont Rules of Appellate Procedure.

(h) If a person who has not attained the age of 16 at the time of the alleged offense has been prosecuted as an adult and is not convicted of one of the acts listed in subsection (a) of this section but is convicted only of one or more lesser offenses, jurisdiction shall be transferred to the Family Division of the Superior Court for disposition. A conviction under this subsection shall be considered an adjudication of delinquency and not a conviction of crime, and the entire matter shall be treated as if it had remained in the Family Division throughout. In case of an acquittal for a matter specified in this subsection and in case of a transfer to the Family Division under this subsection, the Court shall order the sealing of all applicable files and records of the Court, and such order shall be carried out as provided in subsection 5119(e) of this title.

(i) The record of a hearing conducted under subsection (c) of this section and any related files shall be open to inspection only by persons specified in subsections 5117(b) and (c) of this title in accordance with section 5119 of this title and by the attorney for the child.

VIRGINIA

VA. CODE ANN. § 16.1-269.1 (2014). Trial in circuit court; preliminary hearing; direct indictment; remand

A. Except as provided in subsections B and C, if a juvenile 14 years of age or older at the time of an alleged offense is charged with an offense which would be a felony if committed by an adult, the court shall, on motion of the attorney for the Commonwealth and prior to a hearing on the merits, hold a transfer hearing and may retain jurisdiction or transfer such juvenile for proper criminal proceedings to the appropriate circuit court

having criminal jurisdiction of such offenses if committed by an adult. Any transfer to the appropriate circuit court shall be subject to the following conditions:

1. Notice as prescribed in §§ 16.1-263 and 16.1-264 shall be given to the juvenile and his parent, guardian, legal custodian or other person standing in loco parentis; or attorney;
2. The juvenile court finds that probable cause exists to believe that the juvenile committed the delinquent act as alleged or a lesser included delinquent act which would be a felony if committed by an adult;
3. The juvenile is competent to stand trial. The juvenile is presumed to be competent and the burden is on the party alleging the juvenile is not competent to rebut the presumption by a preponderance of the evidence; and
4. The court finds by a preponderance of the evidence that the juvenile is not a proper person to remain within the jurisdiction of the juvenile court. In determining whether a juvenile is a proper person to remain within the jurisdiction of the juvenile court, the court shall consider, but not be limited to, the following factors:
 - a. The juvenile's age;
 - b. The seriousness and number of alleged offenses, including (i) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner; (ii) whether the alleged offense was against persons or property, with greater weight being given to offenses against persons, especially if death or bodily injury resulted; (iii) whether the maximum punishment for such an offense is greater than 20 years confinement if committed by an adult; (iv) whether the alleged offense involved the use of a firearm or other dangerous weapon by brandishing, threatening, displaying or otherwise employing such weapon; and (v) the nature of the juvenile's participation in the alleged offense;
 - c. Whether the juvenile can be retained in the juvenile justice system long enough for effective treatment and rehabilitation;
 - d. The appropriateness and availability of the services and dispositional alternatives in both the criminal justice and juvenile justice systems for dealing with the juvenile's problems;
 - e. The record and previous history of the juvenile in this or other jurisdictions, including (i) the number and nature of previous contacts with juvenile or circuit courts, (ii) the number and nature of prior periods of probation, (iii) the number and nature of prior commitments to juvenile correctional centers, (iv) the number and nature of previous residential and community-based treatments, (v) whether previous adjudications and commitments were for delinquent acts that involved the infliction

of serious bodily injury, and (vi) whether the alleged offense is part of a repetitive pattern of similar adjudicated offenses;

f. Whether the juvenile has previously absconded from the legal custody of a juvenile correctional entity in this or any other jurisdiction;

g. The extent, if any, of the juvenile's degree of intellectual disability or mental illness;

h. The juvenile's school record and education;

i. The juvenile's mental and emotional maturity; and

j. The juvenile's physical condition and physical maturity.

No transfer decision shall be precluded or reversed on the grounds that the court failed to consider any of the factors specified in subdivision 4.

B. The juvenile court shall conduct a preliminary hearing whenever a juvenile 14 years of age or older is charged with murder in violation of § 18.2-31, 18.2-32 or 18.2-40, or aggravated malicious wounding in violation of § 18.2-51.2.

C. The juvenile court shall conduct a preliminary hearing whenever a juvenile 14 years of age or older is charged with murder in violation of § 18.2-33; felonious injury by mob in violation of § 18.2-41; abduction in violation of § 18.2-48; malicious wounding in violation of § 18.2-51; malicious wounding of a law-enforcement officer in violation of § 18.2-51.1; felonious poisoning in violation of § 18.2-54.1; adulteration of products in violation of § 18.2-54.2; robbery in violation of § 18.2-58 or carjacking in violation of § 18.2-58.1; rape in violation of § 18.2-61; forcible sodomy in violation of § 18.2-67.1; object sexual penetration in violation of § 18.2-67.2; manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance in violation of § 18.2-248 if the juvenile has been previously adjudicated delinquent on two or more occasions of violating § 18.2-248 provided the adjudications occurred after the juvenile was at least 14 years of age; manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute methamphetamine in violation of § 18.2-248.03 if the juvenile has been previously adjudicated delinquent on two or more occasions of violating § 18.2-248.03 provided the adjudications occurred after the juvenile was at least 14 years of age; or felonious manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute anabolic steroids in violation of § 18.2-248.5 if the juvenile has been previously adjudicated delinquent on two or more occasions of violating § 18.2-248.5 provided the adjudications occurred after the juvenile was at least 14 years of age, provided the attorney for the Commonwealth gives written notice of his intent to proceed pursuant to this subsection. The notice shall be filed with the court and mailed or delivered to counsel for the juvenile or, if the juvenile is not then represented by counsel, to the juvenile and a parent, guardian or other person standing in loco

parentis with respect to the juvenile at least seven days prior to the preliminary hearing. If the attorney for the Commonwealth elects not to give such notice, or if he elects to withdraw the notice prior to certification of the charge to the grand jury, he may proceed as provided in subsection A.

D. Upon a finding of probable cause pursuant to a preliminary hearing under subsection B or C, the juvenile court shall certify the charge, and all ancillary charges, to the grand jury. Such certification shall divest the juvenile court of jurisdiction as to the charge and any ancillary charges. Nothing in this subsection shall divest the juvenile court of jurisdiction over any matters unrelated to such charge and ancillary charges which may otherwise be properly within the jurisdiction of the juvenile court.

If the court does not find probable cause to believe that the juvenile has committed the violent juvenile felony as charged in the petition or warrant or if the petition or warrant is terminated by dismissal in the juvenile court, the attorney for the Commonwealth may seek a direct indictment in the circuit court. If the petition or warrant is terminated by nolle prosequi in the juvenile court, the attorney for the Commonwealth may seek an indictment only after a preliminary hearing in juvenile court.

If the court finds that the juvenile was not 14 years of age or older at the time of the alleged commission of the offense or that the conditions specified in subdivision A 1, 2, or 3 have not been met, the case shall proceed as otherwise provided for by law.

E. An indictment in the circuit court cures any error or defect in any proceeding held in the juvenile court except with respect to the juvenile's age. If an indictment is terminated by nolle prosequi, the Commonwealth may reinstate the proceeding by seeking a subsequent indictment.

VA. CODE ANN. § 16.1-270 (2014). Waiver of jurisdiction of juvenile court in certain cases

At any time prior to commencement of the adjudicatory hearing, a juvenile fourteen years of age or older charged with an offense which if committed by an adult could be punishable by confinement in a state correctional facility, with the written consent of his counsel, may elect in writing to waive the jurisdiction of the juvenile court and have his case transferred to the appropriate circuit court, in which event his case shall thereafter be dealt with in the same manner as if he had been transferred pursuant to this article.

WASHINGTON

WASH. REV. CODE ANN. § 13.40.110 (2014). Hearing on question of declining jurisdiction--Held, when--Findings

(1) Discretionary decline hearing--The prosecutor, respondent, or the court on its own motion may, before a hearing on the information on its merits, file a motion requesting the court to transfer the respondent for adult criminal prosecution and the matter shall be

set for a hearing on the question of declining jurisdiction.

(2) Mandatory decline hearing--Unless waived by the court, the parties, and their counsel, a decline hearing shall be held when:

- (a) The respondent is sixteen or seventeen years of age and the information alleges a class A felony or an attempt, solicitation, or conspiracy to commit a class A felony;
- (b) The respondent is seventeen years of age and the information alleges assault in the second degree, extortion in the first degree, indecent liberties, child molestation in the second degree, kidnapping in the second degree, or robbery in the second degree; or
- (c) The information alleges an escape by the respondent and the respondent is serving a minimum juvenile sentence to age twenty-one.

(3) The court after a decline hearing may order the case transferred for adult criminal prosecution upon a finding that the declination would be in the best interest of the juvenile or the public. The court shall consider the relevant reports, facts, opinions, and arguments presented by the parties and their counsel.

(4) When the respondent is transferred for criminal prosecution or retained for prosecution in juvenile court, the court shall set forth in writing its finding which shall be supported by relevant facts and opinions produced at the hearing.

WEST VIRGINIA

W. VA. CODE ANN. § 49-5-10 (2014). Waiver and transfer of jurisdiction

(a) Upon written motion of the prosecuting attorney filed at least eight days prior to the adjudicatory hearing and with reasonable notice to the juvenile, his or her counsel, and his or her parents, guardians or custodians, the court shall conduct a hearing to determine if juvenile jurisdiction should or must be waived and the proceeding transferred to the criminal jurisdiction of the court. Any motion filed in accordance with this section is to state, with particularity, the grounds for the requested transfer, including the grounds relied upon as set forth in subsection (d), (e), (f) or (g) of this section, and the burden is upon the state to establish the grounds by clear and convincing evidence. Any hearing held under the provisions of this section is to be held within seven days of the filing of the motion for transfer unless it is continued for good cause.

(b) No inquiry relative to admission or denial of the allegations of the charge or the demand for jury trial may be made by or before the court until the court has determined whether the proceeding is to be transferred to criminal jurisdiction.

(c) The court shall transfer a juvenile proceeding to criminal jurisdiction if a juvenile who has attained the age of fourteen years makes a demand on the record to be transferred to the criminal jurisdiction of the court. The case may then be referred to magistrate or

circuit court for further proceedings, subject to the court's jurisdiction.

(d) The court shall transfer a juvenile proceeding to criminal jurisdiction if there is probable cause to believe that:

(1) The juvenile is at least fourteen years of age and has committed the crime of treason under section one, article one, chapter sixty-one of this code; the crime of murder under sections one, two and three, article two of said chapter; the crime of robbery involving the use or presenting of firearms or other deadly weapons under section twelve of said article; the crime of kidnapping under section fourteen-a of said article; the crime of first degree arson under section one, article three of said chapter; or the crime of sexual assault in the first degree under section three, article eight-b of said chapter; or

(2) The juvenile is at least fourteen years of age and has committed an offense of violence to the person which would be a felony if the juvenile was an adult: Provided, That the juvenile has been previously adjudged delinquent for the commission of an offense of violence to the person which would be a felony if the juvenile was an adult; or

(3) The juvenile is at least fourteen years of age and has committed an offense which would be a felony if the juvenile was an adult: Provided, That the juvenile has been twice previously adjudged delinquent for the commission of an offense which would be a felony if the juvenile was an adult.

(e) The court may transfer a juvenile proceeding to criminal jurisdiction if there is probable cause to believe that the juvenile would otherwise satisfy the provisions of subdivision (1), subsection (d) of this section, but who is younger than fourteen years of age.

(f) The court may, upon consideration of the juvenile's mental and physical condition, maturity, emotional attitude, home or family environment, school experience and similar personal factors, transfer a juvenile proceeding to criminal jurisdiction if there is probable cause to believe that the juvenile would otherwise satisfy the provisions of subdivision (2) or (3), subsection (d) of this section, but who is younger than fourteen years of age.

(g) The court may, upon consideration of the juvenile's mental and physical condition, maturity, emotional attitude, home or family environment, school experience and similar personal factors, transfer a juvenile proceeding to criminal jurisdiction if there is probable cause to believe that:

(1) The juvenile, who is at least fourteen years of age, has committed an offense of violence to a person which would be a felony if the juvenile was an adult; or

(2) The juvenile, who is at least fourteen years of age, has committed an offense which would be a felony if the juvenile was an adult: Provided, That the juvenile has been previously adjudged delinquent for the commission of a crime which would be a felony

if the juvenile was an adult; or

(3) The juvenile, who is at least fourteen years of age, used or presented a firearm or other deadly weapon during the commission of a felony; or

(4) The juvenile has committed a violation of the provisions of section four hundred one, article four, chapter sixty-a of this code which would be a felony if the juvenile was an adult involving the manufacture, delivery or possession with the intent to deliver a narcotic drug. For purposes of this subdivision, the term “narcotic drug” has the same definition as that set forth in section one hundred one, article one of said chapter; or

(5) The juvenile has committed the crime of second degree arson as defined in section two, article three, chapter sixty-one of this code involving setting fire to or burning a public building or church. For purposes of this subdivision, the term “public building” means a building or structure of any nature owned, leased or occupied by this state, a political subdivision of this state or a county board of education and used at the time of the alleged offense for public purposes. For purposes of this subdivision, the term “church” means a building or structure of any nature owned, leased or occupied by a church, religious sect, society or denomination and used at the time of the alleged offense for religious worship or other religious or benevolent purpose, or as a residence of a minister or other member of clergy.

(h) For purposes of this section, the term “offense of violence” means an offense which involves the use or threatened use of physical force against a person.

(i) If, after a hearing, the court directs the transfer of any juvenile proceeding to criminal jurisdiction, it shall state on the record the findings of fact and conclusions of law upon which its decision is based or shall incorporate findings of fact and conclusions of law in its order directing transfer.

(j) A juvenile who has been transferred to criminal jurisdiction pursuant to the provisions of subsection (e), (f) or (g) of this section, by an order of transfer, has the right to either directly appeal an order of transfer to the supreme court of appeals or to appeal the order of transfer following a conviction of the offense of transfer. If the juvenile exercises the right to a direct appeal from an order of transfer, the notice of intent to appeal and a request for transcript is to be filed within ten days from the date of the entry of any such order of transfer, and the petition for appeal is to be presented to the supreme court of appeals within forty-five days from the entry of the order of transfer. The provisions of article five, chapter fifty-eight of this code pertaining to the appeals of judgments in civil actions applies to appeals under this chapter except as modified in this section. The court may, within forty-five days of the entry of the order of transfer, by appropriate order, extend and reextend the period in which to file the petition for appeal for additional time, not to exceed a total extension of sixty days, as in the court's opinion may be necessary for preparation of the transcript: Provided, That the request for a transcript was made by the party seeking appeal within ten days of entry of the order of transfer. In the event any

notice of intent to appeal and request for transcript be timely filed, proceedings in criminal court are to be stayed upon motion of the defendant pending final action of the supreme court of appeals.

WISCONSIN

WIS. STAT. ANN. § 938.02 (2014). Definitions

In this chapter:

(1) “Adult” means a person who is 18 years of age or older, except that for purposes of investigating or prosecuting a person who is alleged to have violated any state or federal criminal law or any civil law or municipal ordinance, “adult” means a person who has attained 17 years of age.

(1m) “Alcoholism” has the meaning given in s. 51.01(1m).

(1p) “Alcohol or other drug abuse impairment” means a condition of a person which is exhibited by characteristics of habitual lack of self-control in the use of alcohol beverages, controlled substances or controlled substance analogs to the extent that the person's health is substantially affected or endangered or the person's social or economic functioning is substantially disrupted.

(1s) “Approved treatment facility” has the meaning given in s. 51.01(2).

(2d) “Controlled substance” has the meaning given in s. 961.01(4).

(2e) “Controlled substance analog” has the meaning given in s. 961.01(4m).

(2f) “Coordinated services plan of care” has the meaning given in s. 46.56(1)(cm).

(2g) “County department” means a county department under s. 46.215, 46.22 or 46.23, unless the context requires otherwise.

(2m) “Court”, when used without further qualification, means the court assigned to exercise jurisdiction under this chapter and ch. 48 or, when used with reference to a juvenile who is subject to s. 938.183, a court of criminal jurisdiction or, when used with reference to a juvenile who is subject to s. 938.17(2), a municipal court.

(3) “Court intake worker” means any person designated to provide intake services under s. 938.067.

(3m) “Delinquent” means a juvenile who is 10 years of age or older who has violated any state or federal criminal law, except as provided in ss. 938.17, 938.18 and 938.183, or who has committed a contempt of court, as defined in s. 785.01(1), as specified in s. 938.355(6g).

(4) “Department” means the department of corrections.

(5) “Developmental disability” has the meaning given in s. 51.01(5).

(5g) “Drug dependent” has the meaning given in s. 51.01(8).

(6) “Foster home” means any facility that is operated by a person required to be licensed by s. 48.62(1) and that provides care and maintenance for no more than 4 juveniles or, if necessary to enable a sibling group to remain together, for no more than 6 juveniles or, if the department of children and families promulgates rules permitting a different number of juveniles, for the number of juveniles permitted under those rules.

(6m) “Governing body of a private school” has the meaning given in s. 115.001(3d).

(7) “Group home” means any facility operated by a person required to be licensed by the department of children and families under s. 48.625 for the care and maintenance of 5 to 8 juveniles.

(8) “Guardian” means the person named by the court having the duty and authority of guardianship.

(8b) “Habitual truant” has the meaning given in s. 118.16(1)(a).

(8d) “Indian” means any person who is a member of an Indian tribe or who is an Alaska native and a member of a regional corporation, as defined in 43 USC 1606.

(8e) “Indian custodian” means an Indian person who has legal custody under tribal law or custom or under state law of an Indian juvenile who is the subject of an Indian juvenile custody proceeding, as defined in s. 938.028(2)(b), or of an Indian juvenile in need of protection or services under s. 938.13(4), (6), (6m), or (7) who is the subject of a temporary physical custody proceeding under ss. 938.19 to 938.21 or to whom temporary physical care, custody, and control has been transferred by the parent of that juvenile.

(8g) “Indian juvenile” means an unmarried person who is under 18 years of age and who is affiliated with an Indian tribe in any of the following ways:

(a) As a member of the Indian tribe.

(b) As a person who is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(8m) “Indian juvenile's tribe” means one of the following:

(a) The Indian tribe in which an Indian juvenile is a member or eligible for membership.

(b) In the case of an Indian juvenile who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian juvenile has the more significant contacts.

(8r) “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the services provided to Indians by the U.S. secretary of the interior because of Indian status, including any Alaska native village, as defined in 43 USC 1602(c).

(10) “Judge”, if used without further qualification, means the judge of the court assigned to exercise jurisdiction under this chapter and ch. 48 or, if used with reference to a juvenile who is subject to s. 938.183, the judge of the court of criminal jurisdiction or, when used with reference to a juvenile who is subject to s. 938.17(2), the judge of the municipal court.

(10m) “Juvenile”, when used without further qualification, means a person who is less than 18 years of age, except that for purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, “juvenile” does not include a person who has attained 17 years of age.

(10p) “Juvenile correctional facility” means a correctional institution operated or contracted for by the department of corrections or operated by the department of health services for holding in secure custody persons adjudged delinquent. “Juvenile correctional facility” includes the Mendota juvenile treatment center under s. 46.057 and a facility authorized under s. 938.533(3)(b), 938.538(4)(b), or 938.539(5).

(10r) “Juvenile detention facility” means a locked facility approved by the department under s. 301.36 for the secure, temporary holding in custody of juveniles.

(11) “Legal custodian” means a person, other than a parent or guardian, or an agency to whom legal custody of a juvenile has been transferred by a court, but does not include a person who has only physical custody of the juvenile.

(12) “Legal custody” means a legal status created by the order of a court, which confers the right and duty to protect, train and discipline a juvenile, and to provide food, shelter, legal services, education and ordinary medical and dental care, subject to the rights, duties and responsibilities of the guardian of the juvenile and subject to any residual parental rights and responsibilities and the provisions of any court order.

(12m) “Off-reservation trust land” means land in this state that is held in trust by the federal government for the benefit of an Indian tribe or individual and that is located outside the boundaries of an Indian tribe's reservation.

(13) “Parent” means a biological parent, a husband who has consented to the artificial insemination of his wife under s.891.40, or a parent by adoption. If the juvenile is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, “parent” includes a person acknowledged under s. 767.805 or a substantially similar law of another state or adjudicated to be the biological father. “Parent” does not include any person whose parental rights have been terminated. For purposes of the application of s. 938.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, “parent” means a biological parent, an Indian husband who has consented to the artificial insemination of his wife under s. 891.40, or an Indian person who has lawfully adopted an Indian juvenile, including an adoption under tribal law or custom, and includes, in the case of a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, a person acknowledged under s. 767.805, a substantially similar law of another state, or tribal law or custom to be the biological father or a person adjudicated to be the biological father, but does not include any person whose parental rights have been terminated.

(14) “Physical custody” means actual custody of the person in the absence of a court order granting legal custody to the physical custodian.

(15) “Relative” means a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce. For purposes of the application of s. 938.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, “relative” includes an extended family member, as defined in s. 938.028(2)(a), whether by blood, marriage, or adoption, including adoption under tribal law or custom.

(15c) “Reservation,” except as otherwise provided in s. 938.028(2)(e), means land in this state within the boundaries of the reservation of a tribe.

(15d) “Residential care center for children and youth” means a facility operated by a child welfare agency licensed under s. 48.60 for the care, maintenance, and treatment of persons residing in that facility.

(15g) “Secured residential care center for children and youth” means a residential care center for children and youth operated by a child welfare agency that is licensed under s. 48.66(1)(b) to hold in secure custody persons adjudged delinquent.

(17) “Shelter care facility” means a nonsecure place of temporary care and physical custody for juveniles, including a holdover room, licensed by the department of children and families under s. 48.66(1)(a).

(17m) “Special treatment or care” means professional services which need to be provided to a juvenile or his or her family to protect the well-being of the juvenile, prevent

placement of the juvenile outside the home or meet the special needs of the juvenile. This term includes medical, psychological or psychiatric treatment, alcohol or other drug abuse treatment or other services which the court finds to be necessary and appropriate.

(18) “Trial” means a fact-finding hearing to determine jurisdiction.

(18j) “Tribal court” means a court that has jurisdiction over juvenile custody proceedings, and that is either a court of Indian offenses or a court established and operated under the code or custom of an Indian tribe, or any other administrative body of an Indian tribe that is vested with authority over Indian juvenile custody proceedings.

(18k) “Tribal school” has the meaning given in s. 115.001(15m).

(18m) “Truancy” has the meaning given in s. 118.16(1)(c).

(19) “Type 1 juvenile correctional facility” means a juvenile correctional facility, but excludes any correctional institution that meets the criteria under sub. (10p) solely because of its status under s. 938.533(3)(b), 938.538(4)(b), or 938.539(5).

(19r) “Type 2 residential care center for children and youth” means a residential care center for children and youth that is designated by the department to provide care and maintenance for juveniles who have been placed in the residential care center for children and youth under the supervision of a county department under s. 938.34(4d).

(20) “Type 2 juvenile correctional facility” means a juvenile correctional facility that meets the criteria under sub. (10p) solely because of its status under s. 938.533(3)(b), 938.538(4)(b), or 938.539(5).

(20m)(a) “Victim” means any of the following:

1. A person against whom a delinquent act has been committed.
2. If the person specified in subd. 1. is a child, a parent, guardian or legal custodian of the child.
3. If a person specified in subd. 1. is physically or emotionally unable to exercise the rights granted under this chapter, s. 950.04 or article I, section 9m, of the Wisconsin constitution, a person designated by the person specified in subd. 1. or a family member, as defined in s. 950.02 (3), of the person specified in subd. 1.
4. If a person specified in subd. 1. is deceased, any of the following:
 - a. A family member, as defined in s. 950.02 (3), of the person who is deceased.
 - b. A person who resided with the person who is deceased.

5. If a person specified in subd. 1. has been adjudicated incompetent in this state, the guardian of the person appointed for him or her.

(b) "Victim" does not include a juvenile alleged to have committed the delinquent act.

(21) "Victim-witness coordinator" means a person employed or contracted by the county board of supervisors under s. 950.06 to provide services for the victims and witnesses of crimes or a person employed or contracted by the department of justice to provide the services specified in s. 950.08.

WIS. STAT. ANN. § 938.18 (2014). Jurisdiction for criminal proceedings for juveniles 14 or older; waiver hearing

(1) Waiver of juvenile court jurisdiction; conditions for. Subject to s. 938.183, a petition requesting the court to waive its jurisdiction under this chapter may be filed if the juvenile meets any of the following conditions:

(a) The juvenile is alleged to have violated s. 940.03, 940.06, 940.225(1) or (2), 940.305, 940.31, 943.10(2), 943.32(2), 943.87 or 961.41(1) on or after the juvenile's 14th birthday.

(b) The juvenile is alleged to have committed a violation on or after the juvenile's 14th birthday at the request of or for the benefit of a criminal gang, as defined in s. 939.22(9), that would constitute a felony under chs. 939 to 948 or 961 if committed by an adult.

(c) The juvenile is alleged to have violated any state criminal law on or after the juvenile's 15th birthday.

(2) Petition. The petition for waiver of jurisdiction may be filed by the district attorney or the juvenile or may be initiated by the court and shall contain a brief statement of the facts supporting the request for waiver. The petition for waiver of jurisdiction shall be accompanied by or filed after the filing of a petition alleging delinquency and shall be filed prior to the plea hearing, except that if the juvenile denies the facts of the petition and becomes 17 years of age before an adjudication, the petition for waiver of jurisdiction may be filed at any time prior to the adjudication. If the court initiates the petition for waiver of jurisdiction, the judge shall disqualify himself or herself from any future proceedings on the case.

(2m) Agency report. The court may designate an agency, as defined in s. 938.38(1)(a), to submit a report analyzing the criteria specified in sub. (5). The agency shall file the report with the court and the court shall cause copies of the report to be given to the juvenile, any parent, guardian or legal custodian of the juvenile and counsel at least 3 days before the hearing. The court may rely on facts stated in the report in making its findings with respect to the criteria under sub. (5).

(3) Rights of juvenile. All of the following apply at a waiver hearing under this section:

(a) The juvenile shall be represented by counsel. Written notice of the time, place, and purpose of the hearing shall be given to the juvenile, any parent, guardian, or legal custodian, and counsel at least 3 days prior to the hearing. The notice shall contain a statement of the requirements of s. 938.29(2) with regard to substitution of the judge. If parents entitled to notice have the same address, notice to one constitutes notice to the other. Counsel for the juvenile shall have access to the social records and other reports under s. 938.293.

(b) The juvenile has the right to present testimony on his or her own behalf including expert testimony and has the right to cross-examine witnesses.

(c) The juvenile does not have the right to a jury.

(4) Prosecutive merit; contested or uncontested petition. (a) The court shall determine whether the matter has prosecutive merit before proceeding to determine if it should waive jurisdiction. If the court determines that the matter does not have prosecutive merit, the court shall deny the petition for waiver.

(b) If a petition for waiver of jurisdiction is contested, the district attorney shall present relevant testimony and the court, after taking that testimony and considering other relevant evidence, shall base its decision whether to waive jurisdiction on the criteria specified in sub. (5).

(c) If a petition for waiver of jurisdiction is uncontested, the court shall inquire into the capacity of the juvenile to knowingly, intelligently and voluntarily decide not to contest the waiver of jurisdiction. If the court is satisfied that the decision not to contest the waiver of jurisdiction is knowingly, intelligently and voluntarily made, no testimony need be taken and the court, after considering the petition for waiver of jurisdiction and other relevant evidence in the record before the court, shall base its decision whether to waive jurisdiction on the criteria specified in sub. (5).

(5) Criteria for waiver. If prosecutive merit is found, the court shall base its decision whether to waive jurisdiction on the following criteria:

(a) The personality of the juvenile, including whether the juvenile has a mental illness or developmental disability, the juvenile's physical and mental maturity, and the juvenile's pattern of living, prior treatment history, and apparent potential for responding to future treatment.

(am) The prior record of the juvenile, including whether the court has previously waived its jurisdiction over the juvenile, whether the juvenile has been previously convicted following a waiver of the court's jurisdiction or has been previously found delinquent, whether such conviction or delinquency involved the infliction of serious

bodily injury, the juvenile's motives and attitudes, and the juvenile's prior offenses.

(b) The type and seriousness of the offense, including whether it was against persons or property and the extent to which it was committed in a violent, aggressive, premeditated or willful manner.

(c) The adequacy and suitability of facilities, services and procedures available for treatment of the juvenile and protection of the public within the juvenile justice system, and, where applicable, the mental health system and the suitability of the juvenile for placement in the serious juvenile offender program under s. 938.538 or the adult intensive sanctions program under s. 301.048.

(d) The desirability of trial and disposition of the entire offense in one court if the juvenile was allegedly associated in the offense with persons who will be charged with a crime in the court of criminal jurisdiction.

(6) Decision on waiver. After considering the criteria under sub. (5), the court shall state its finding with respect to the criteria on the record, and, if the court determines on the record that there is clear and convincing evidence that it is contrary to the best interests of the juvenile or of the public to hear the case, the court shall enter an order waiving jurisdiction and referring the matter to the district attorney for appropriate proceedings in the court of criminal jurisdiction. After the order, the court of criminal jurisdiction has exclusive jurisdiction.

(7) Juvenile who absconds. If the juvenile absconds and does not appear at the waiver hearing, the court may proceed with the waiver hearing as provided in subs. (4) to (6) in the juvenile's absence. If the waiver is granted, the juvenile may contest that waiver when the juvenile is apprehended by showing the court of criminal jurisdiction good cause for his or her failure to appear. If the court of criminal jurisdiction finds good cause for the juvenile's failure to appear, that court shall transfer jurisdiction to the court assigned to exercise jurisdiction under this chapter and ch. 48 for the purpose of holding the waiver hearing.

(8) Transfer to adult facility; bail. When waiver is granted, the juvenile, if held in secure custody, shall be transferred to an appropriate officer or adult facility and shall be eligible for bail in accordance with chs. 968 and 969.

(9) Criminal charge. If waiver is granted, sub. (1) does not restrict the authority of the district attorney to charge the offense he or she deems is appropriate and does not restrict the authority of any court or jury to convict the juvenile in regard to any offense.

WIS. STAT. ANN. § 938.183 (2014). Original adult court jurisdiction for criminal proceedings

(1) Juveniles under adult court jurisdiction. Notwithstanding ss. 938.12(1) and 938.18, courts of criminal jurisdiction have exclusive original jurisdiction over all of the

following:

(a) A juvenile who has been adjudicated delinquent and who is alleged to have violated s. 940.20(1) or 946.43 while placed in a juvenile correctional facility, a juvenile detention facility, or a secured residential care center for children and youth or who has been adjudicated delinquent and who is alleged to have committed a violation of s. 940.20(2m).

(am) A juvenile who is alleged to have attempted or committed a violation of s. 940.01 or to have committed a violation of s. 940.02 or 940.05 on or after the juvenile's 10th birthday.

(ar) A juvenile specified in par. (a) or (am) who is alleged to have attempted or committed a violation of any state criminal law in addition to the violation alleged under par. (a) or (am) if the violation alleged under this paragraph and the violation alleged under par. (a) or (am) may be joined under s. 971.12(1).

(b) A juvenile who is alleged to have violated any state criminal law if the juvenile has been convicted of a previous violation following waiver of jurisdiction under s. 48.18, 1993 stats., or s. 938.18 by the court assigned to exercise jurisdiction under this chapter and ch. 48 or if the court assigned to exercise jurisdiction under this chapter and ch. 48 has waived its jurisdiction over the juvenile for a previous violation and criminal proceedings on that previous violation are still pending.

(c) A juvenile who is alleged to have violated any state criminal law if the juvenile has been convicted of a previous violation over which the court of criminal jurisdiction had original jurisdiction under this section or if proceedings on a previous violation over which the court of criminal jurisdiction has original jurisdiction under this section are still pending.

(1m) Criminal penalties and procedures. Notwithstanding subchs. IV to VI, a juvenile described in sub. (1) is subject to the procedures specified in chs. 967 to 979 and the criminal penalties for the crime that the juvenile is alleged to have committed except as follows:

(a) If the juvenile is under 15 years of age, the juvenile may be held in secure custody only in a juvenile detention facility or in the juvenile portion of a county jail.

(b) If a court of criminal jurisdiction transfers jurisdiction under s. 970.032 or 971.31(13) to a court assigned to exercise jurisdiction under this chapter and ch. 48, the juvenile is subject to the procedures and dispositions specified in subch. IV to VI.

(c) If the juvenile is found to have committed a lesser offense than the offense alleged under sub. (1)(a), (am), (ar), (b) or (c) or is found to have committed the offense alleged under sub. (1)(ar), but not the offense under sub. (1)(a) or (am) to which the offense alleged under sub. (1)(ar) is joined, and if any of the following conditions applies, the

court of criminal jurisdiction shall, in lieu of convicting the juvenile, adjudge the juvenile to be delinquent and impose a disposition specified in s. 938.34:

1. Except as provided in subd. 3., the court of criminal jurisdiction finds that the juvenile has committed a lesser offense or a joined offense that is not a violation of s. 940.20(1) or (2m) or 946.43 under the circumstances described in sub. (1)(a), that is not an attempt to violate s. 940.01 under the circumstances described in sub. (1)(am), that is not a violation of s. 940.02 or 940.05 under the circumstances described in sub. (1)(am), and that is not an offense for which the court assigned to exercise jurisdiction under this chapter and ch. 48 may waive its jurisdiction over the juvenile under s. 938.18.

2. Except as provided in subd. 3., the court of criminal jurisdiction finds that the juvenile has committed a lesser offense or a joined offense that is a violation of s. 940.20(1) or (2m) or 946.43 under the circumstances described in sub. (1)(a), that is an attempt to violate s. 940.01 under the circumstances described in sub. (1)(am), that is a violation of s. 940.02 or 940.05 under the circumstances described in sub. (1)(am), or that is an offense for which the court assigned to exercise jurisdiction under this chapter and ch. 48 may waive its jurisdiction over the juvenile under s. 938.18 and the court of criminal jurisdiction, after considering the criteria specified in s. 938.18(5), determines that the juvenile has proved by clear and convincing evidence that it would be in the best interests of the juvenile and of the public to adjudge the juvenile to be delinquent and impose a disposition specified in s. 938.34.

3. For a juvenile who is alleged to have attempted or committed a violation of s. 940.01 or to have committed a violation of s. 940.02 or 940.05 on or after the juvenile's 15th birthday, the court of criminal jurisdiction finds that the juvenile has not attempted to commit a violation of s. 940.01 or committed a violation of s. 940.01, 940.02, or 940.05, and the court of criminal jurisdiction, after considering the criteria under s. 938.18(5), determines that the juvenile has proved by clear and convincing evidence that it would be in the best interests of the juvenile and of the public to adjudge the juvenile to be delinquent and impose a disposition under s. 938.34.

(3) Placement in state prison; parole. When a juvenile who is subject to a criminal penalty under sub. (1m) or s. 938.183(2), 2003 stats., attains the age of 17 years, the department may place the juvenile in a state prison named in s. 302.01, except that the department may not place any person under the age of 18 years in the correctional institution authorized in s. 301.16(1n). A juvenile who is subject to a criminal penalty under sub. (1m) or under s. 938.183(2), 2003 stats., for an act committed before December 31, 1999, is eligible for parole under s. 304.06.

(4) Child support. If the juvenile is placed outside the juvenile's home under this section, the order shall contain, a designation of the amount of support, if any, to be paid by the juvenile's parent, guardian or trustee, specifying that the support obligation begins on the

date of the placement, or a referral to the county child support agency under s. 59.53(5) for establishment of child support.

WYOMING

WYO. STAT. ANN. § 14-6-237 (2014). Transfer hearing; transfer of proceedings commenced in district court or in municipal or circuit court

(a) After a petition alleging a child has committed a delinquent act is filed, the court may, on its own motion or that of any party any time prior to the adjudicatory hearing, order a transfer hearing to determine if the matter should be transferred to another court having jurisdiction of the offense charged for criminal prosecution as provided by law. Notice in writing of the time, place and purpose of the transfer hearing shall be given to the child and his parents, guardian or custodian at least three (3) days before the hearing. The transfer hearing shall be conducted in conformity with W.S. 14-6-222 through 14-6-224 except there shall be no jury.

(b) The court shall order the matter transferred to the appropriate court for prosecution if after the transfer hearing it finds that proper reason therefor exists. The determinative factors to be considered by the judge in deciding whether the juvenile court's jurisdiction over such offenses will be waived are the following:

(i) The seriousness of the alleged offense to the community and whether the protection of the community required waiver;

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

(iii) Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons especially if personal injury resulted;

(iv) The desirability of trial and disposition of the entire offense in one (1) court when the juvenile's associates in the alleged offense are adults who will be charged with a crime;

(v) The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude and pattern of living;

(vi) The record and previous history of the juvenile, including previous contacts with the law enforcement agencies, juvenile courts and other jurisdictions, prior periods of probation to this court, or prior commitments to juvenile institutions;

(vii) The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile (if he is found to have committed the alleged offense) by the use of procedures, services and facilities currently available to the

juvenile court.

(c) If the court orders the matter transferred under subsection (b) of this section, the court shall state on the record its basis for the decision.

(d) The court may make any necessary orders for the detention of the child until the court to which the matter is transferred has acquired jurisdiction, at which time jurisdiction of the juvenile court with respect to the alleged delinquent act terminates.

(e) Statements made by the child at a transfer hearing are not admissible against him over objection in a criminal proceeding following the transfer.

(f) If the case is not transferred, the judge who conducted the hearing shall not, over objection of an interested party, preside at the adjudicatory hearing on the petition. If the case is transferred to a court of which the judge who conducted the transfer hearing is also a judge, he may be disqualified from presiding at the criminal proceeding.

(g) If any proceeding commenced in the district court is within the concurrent jurisdiction of the juvenile court, the district court may on motion of any party or on its own motion order any proceeding transferred to the juvenile court. The district court judge may, after notice and hearing, find the matter more properly suited to disposition under the provisions of this act. The order of transfer confers upon the juvenile court full jurisdiction in the matter as if originally commenced in the juvenile court.

(h) No court other than the district court shall order the transfer of a case to juvenile court. At any time after a proceeding over which the juvenile court has concurrent jurisdiction is commenced in municipal or circuit court, the judge of the court in which the proceeding is commenced may on the court's own motion, or on the motion of any party, suspend further proceedings and refer the case to the office of the district attorney to determine whether a petition should be filed in the juvenile court to commence a proceeding under this act. If a petition is filed under this act, the original proceeding commenced in the municipal or circuit court shall be dismissed. If the district attorney determines not to file a petition under this act, the district attorney shall immediately notify the municipal or circuit court and the proceeding commenced in that court may continue.

FEDERAL LEGISLATION

18 U.S.C.S. § 5032 (2014). Delinquency proceedings in district courts; transfer for criminal prosecution

A juvenile alleged to have committed an act of juvenile delinquency, other than a violation of law committed within the special maritime and territorial jurisdiction of the United States for which the maximum authorized term of imprisonment does not exceed six months, shall not be proceeded against in any court of the United States unless the Attorney General, after investigation, certifies to the appropriate district court of the

United States that (1) the juvenile court or other appropriate court of a State does not have jurisdiction or refuses to assume jurisdiction over said juvenile with respect to such alleged act of juvenile delinquency, (2) the State does not have available programs and services adequate for the needs of juveniles, or (3) the offense charged is a crime of violence that is a felony or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), (3)), section 922(x) or section 924(b), (g), or (h) of this title, and that there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction.

If the Attorney General does not so certify, such juvenile shall be surrendered to the appropriate legal authorities of such State. For purposes of this section, the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

If an alleged juvenile delinquent is not surrendered to the authorities of a State pursuant to this section, any proceedings against him shall be in an appropriate district court of the United States. For such purposes, the court may be convened at any time and place within the district, in chambers or otherwise. The Attorney General shall proceed by information or as authorized under section 3401(g) of this title, and no criminal prosecution shall be instituted for the alleged act of juvenile delinquency except as provided below.

A juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this chapter unless he has requested in writing upon advice of counsel to be proceeded against as an adult, except that, with respect to a juvenile fifteen years and older alleged to have committed an act after his fifteenth birthday which if committed by an adult would be a felony that is a crime of violence or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959), or section 922(x) of this title, or in section 924(b), (g), or (h) of this title, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, such transfer would be in the interest of justice. In the application of the preceding sentence, if the crime of violence is an offense under section 113(a), 113(b), 113(c), 1111, 1113, or, if the juvenile possessed a firearm during the offense, section 2111, 2113, 2241(a), or 2241(c), "thirteen" shall be substituted for "fifteen" and "thirteenth" shall be substituted for "fifteenth".

Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to the preceding sentence for any offense the Federal jurisdiction for which is predicated solely on Indian country (as defined in section 1151), and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that the preceding sentence have effect over land and persons subject to its criminal jurisdiction. However, a juvenile who is alleged to have committed an act after his sixteenth birthday which if committed by an

adult would be a felony offense that has as an element thereof the use, attempted use, or threatened use of physical force against the person of another, or that, by its very nature, involves a substantial risk that physical force against the person of another may be used in committing the offense, or would be an offense described in section 32, 81, 844(d), (e), (f), (h), (i) or 2275 of this title, subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), (3)), and who has previously been found guilty of an act which if committed by an adult would have been one of the offenses set forth in this paragraph or an offense in violation of a State felony statute that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed, shall be transferred to the appropriate district court of the United States for criminal prosecution.

Evidence of the following factors shall be considered, and findings with regard to each factor shall be made in the record, in assessing whether a transfer would be in the interest of justice: the age and social background of the juvenile; the nature of the alleged offense; the extent and nature of the juvenile's prior delinquency record; the juvenile's present intellectual development and psychological maturity; the nature of past treatment efforts and the juvenile's response to such efforts; the availability of programs designed to treat the juvenile's behavioral problems. In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh in favor of a transfer to adult status, but the absence of this factor shall not preclude such a transfer.

Reasonable notice of the transfer hearing shall be given to the juvenile, his parents, guardian, or custodian and to his counsel. The juvenile shall be assisted by counsel during the transfer hearing, and at every other critical stage of the proceedings. Once a juvenile has entered a plea of guilty or the proceeding has reached the stage that evidence has begun to be taken with respect to a crime or an alleged act of juvenile delinquency subsequent criminal prosecution or juvenile proceedings based upon such alleged act of delinquency shall be barred.

Statements made by a juvenile prior to or during a transfer hearing under this section shall not be admissible at subsequent criminal prosecutions.

Whenever a juvenile transferred to district court under this section is not convicted of the crime upon which the transfer was based or another crime which would have warranted transfer had the juvenile been initially charged with that crime, further proceedings concerning the juvenile shall be conducted pursuant to the provisions of this chapter.

A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 (disposition after a finding of juvenile delinquency) until any prior juvenile court records of such juvenile have been received by the court, or the clerk of the juvenile

court has certified in writing that the juvenile has no prior record, or that the juvenile's record is unavailable and why it is unavailable.

Whenever a juvenile is adjudged delinquent pursuant to the provisions of this chapter, the specific acts which the juvenile has been found to have committed shall be described as part of the official record of the proceedings and part of the juvenile's official record.

AMERICAN SAMOA

AM. SAMOA CODE ANN. § 45.0115 (2014). Original jurisdiction.

(a) The Trial Division of the High Court of American Samoa has exclusive original jurisdiction in proceedings:

- (1) concerning any delinquent child, as defined in subsections (2) and (9) of 45.0103;
- (2) concerning any child in need of supervision, as defined in subsection (5) of 45.0103;
- (3) concerning any child who is neglected or dependent, as defined in subsection (19) of 45.0103;
- (4) to determine the legal custody of any child or to appoint a guardian of the person or legal custodian of any child who comes within the Court's jurisdiction under provisions of this section;
- (5) to terminate the legal parent-child relationship, including termination of residual parental rights and responsibilities as defined in subsection (24) of 45.0103;
- (6) for the issuance of orders of support under 45.1601 through 45.1604;
- (7) to determine the paternity of a child and to make an order of support in connection with it;
- (8) for the contested adoption of a person of any age and relinquishment proceeding under 45.0401 through 45.0403 (uncontested adoptions are under 45.0420 through 45.0431; see subsection (8) of 45.0103);
- (9) for judicial consent to the marriage, employment, or enlistment of a child, when the consent is required by law.

(b) The Court may issue temporary orders providing for protection, support, or medical or surgical treatment it considers in the best interests of any child concerning whom a petition has been filed prior to adjudication or disposition of his case.

(c) (1) When a petition filed in Court alleges a child 14 years of age or older to be a delinquent child as defined in subsection (a) of 45.0103 by virtue of having committed an act which would constitute a felony if committed by an adult and if, after investigation and a hearing, the Court finds it would be contrary to the best interests of the child or of the public to prosecute the child as a juvenile, it may enter an order certifying the child to be held for criminal proceedings as an adult. The hearing required in this subsection is held under 45.0124.

(2) A child may be charged with the commission of a felony only after the hearing as provided in paragraph (1), or when the child is:

- (A) alleged to have committed a crime of violence and is 14 years of age or older;
- (B) alleged to have committed a crime punishable by a maximum punishment of life imprisonment or death, and is 16 years of age or older, and the child has been

adjudicated a delinquent child within the previous 2 years and the act for which the child was adjudicated a delinquent would have constituted a felony if committed by an adult; or

(C) alleged to have committed any felony subsequent to any other felony which was the subject of a hearing in which the child was certified for criminal proceedings as an adult.

(d) Nothing in this section may deprive the Court of jurisdiction to appoint a guardian for a child nor jurisdiction to determine the legal custody of a child upon writ of habeas corpus or when the question of legal custody is incidental to the determination of a cause in the court.

AM. SAMOA CODE ANN. § 45.0333 (2014). Adjudicatory hearing-Allegation of delinquent child.

When the petition alleges a child 14 years of age or older to be a delinquent child as defined by subsection (9) of 45.0103, by virtue of having committed an act which would constitute a felony if committed by an adult, the court shall:

- (1) proceed as otherwise provided in 45.0330 through 45.0335; or
- (2) upon request of the Attorney General, continue the case for further investigation to determine whether the court should certify the child for criminal proceedings as an adult under subsection (d) of 45.0115, in which event the court shall advise the child and his parents, guardian, or legal custodian of the possible consequences of the certification and all constitutional and legal rights in connection with it.

AM. SAMOA CODE ANN. § 45.0340 (2014). Certification of child for criminal proceedings as an adult.

Under subsection (c) of 45.0115, at the certification hearing, the Court considers:

- (1) whether there is probable cause to believe that the child has committed an act for which he may be certified for criminal proceedings as an adult under subsection (c) of 45.0115, and the introductory portion and paragraph (2) of 45.0333; and
- (2) whether the interest of the child or of the community would be better served if the child were certified for criminal proceedings as an adult.

GUAM

GUAM CODE ANN. tit. 19 § 5106 (2010). Certification for Criminal Proceedings.

(a) If a child is sixteen (16) years of age or older at the time he committed the offense for which he is charged, and if the conduct is a misdemeanor or a felony of the third degree, and if the court after full investigation deems it contrary to the best interest of such child or of the public to retain jurisdiction, the court may, in its discretion, certify such child for proper criminal proceedings to any court which would have trial jurisdiction of such offense if committed by an adult. A child who is sixteen (16) years of age or older at the

time he committed the offense for which he is charged shall automatically be charged as an adult for any act which would constitute a felony of the first or second degree along with any acts which are misdemeanors or felonies of the third degree which are part of the same scheme of criminal activity as the felony. If a child is under sixteen years of age at the time he committed the offense for which he is charged, and if the conduct would constitute an offense under 9 GCA Chapter 16 (Homicides), and if the court after full investigation deems it contrary to the best interest of such child or of the public to retain jurisdiction, the court may, in its discretion, certify such child for proper criminal proceedings to any court which would have trial jurisdiction of such offense if committed by an adult. If a child is certified as an adult, the same judge shall not, in turn preside over the criminal proceedings against such child.

(b) If a person over the age of eighteen (18) years, over whom the court retains jurisdiction under this Title, is subject to a commitment or probation order of the Family Division and is charged with any offense against the laws of Guam not triable in the Traffic Division of the Court, such person shall be tried and punished as an adult. If, during the pendency of such adult proceedings, the person would be entitled to bail as an adult, the Superior Court shall, instead of releasing such person, remand him to the custody of the department, agency, or institution to which he was committed at the time of the bail proceedings. If such person was not committed under this Title, but was on probation, he may be admitted to bail and the conditions of his probation under this Title made a part of the conditions of his bail. Nothing in this Section shall prevent the Family Division, upon the appropriate proceedings, from taking action against such person based upon a violation of his conditions of probation.

(c) Should the adult proceedings against any person described in Subsection (b), above, be terminated for any reason, or such person released from the judgment of the adult court, including by the completion of any adult sentence, before the person has reached his twenty-first (21st) birthday, such person shall be remanded to the jurisdiction of the Family Division for the completion of his original juvenile disposition. Upon such remand, the judge of the Family Division may determine, in light of all the circumstances then existing, whether this person shall be returned to the custody of the juvenile institution to which he had been committed at the time he was sentenced as an adult or, whether, because of such conviction and other circumstances, a modification of the juvenile commitment, or discharge from the jurisdiction of the Family Division, should be made. The court may continue the juvenile confinement, or may release the person from the jurisdiction of the Family Court, or may modify the order previously issued in any manner the court deems necessary.

PUERTO RICO

P.R. LAWS ANN. tit. 34, § 2203 (2011). Definitions

The words and phrases used in this chapter shall mean:

(a) Adult.— Any person who has attained eighteen (18) years of age.

(b) Probable cause.— Determination made by an investigating magistrate on the occurrence of a violation to a law or municipal ordinance, in the commission of which a minor is regarded as the perpetrator or accomplice.

(c) Treatment center.— Residential institution which offers the minor protective, evaluating and diagnostic services, in addition to rehabilitating treatment after a final decision of the case has been made.

(d) Detention center.— Institution where the minor shall be held pending the adjudication or final decision of the case, or pending any other procedure before the court.

(e) Custody.— The act of putting the minor under the responsibility of the Secretary of the Family or of any other body or private or public institution through a court order and subject to the jurisdiction thereof; said person shall retain custody during the period he is receiving the protective, evaluating and diagnostic services, in addition to the rehabilitating treatment which his condition calls for.

(f) Classification and Evaluation Division.— A dependency of the Juvenile Institutions Administration in charge of evaluating all minors whose custody has been assigned to the Juvenile Institutions Administration by order of the court, and which shall determine the placement of the minor.

(g) Removal.— Resolution of the court suspending the judicial procedure in the interest of the minor and referring him to an agency, institution or public or private body to receive services.

(h) Detention.— Provisional care of the minor in an institution or center created for such purposes pending the determination of the court on the facts he is charged with, and thus is placed under its authority after probable cause has been found, or due to pending post-adjudicative procedures.

(i) Family Relations Specialists.— Social worker thus classified in the Personnel Administration System of the Judiciary Branch attached to the court.

(j) Offense.— Violation or attempted violation by a minor of penal or special laws or municipal ordinances of Puerto Rico except those violations or attempted violations that are excluded, by the express provisions of this chapter.

(k) Class I Offense.— Conduct that if incurred by an adult would constitute a misdemeanor.

(l) Class II Offense.— Conduct that if incurred by an adult would constitute a felony, except those included in Class III offenses.

(m) Class III Offense.— Conduct that if incurred by an adult would constitute a first

degree felony, except for the modality of first degree murder that is excluded from the authority of the court; second degree felony; the following felonies in the classification of third degree: manslaughter, aggravated burglary, kidnapping, theft, aggravated assault under the modality of mutilation, manslaughter; and the following offenses in special laws: distribution of controlled substances and §§ 458b, 458f, 458g, 458h and 458i of Title 25, part of the Weapons Law.

(n) Judge.— The person designated to take cognizance in the matters within the provisions of this chapter.

(o) Minor.— A person who is under eighteen (18) years of age or that having attained said age is held liable for an offense committed prior to attaining that age.

(p) Prosecutor for Minor's Affairs, or Prosecutor.— Assistant Prosecutor of the Court of First Instance designated exclusively to exercise his functions in matters covered by this chapter.

(q) Complaint.— Writ filed in the court describing the offense charged to a minor.

(r) Rehabilitation.— Process through which it is expected to adequately reintegrate the minor to society with the capacity to function on his own.

(s) Family Relations Technician.— Professional thus classified in the Personnel Administration System of the Judiciary Branch attached to the court who shall have professional training in the field of human behavior.

(t) Transgressor.— A minor who has been found guilty of committing an offense.

(u) Court.— Court of First Instance, Part that executes its authority pursuant to the provisions of this chapter.

(v) Escape.— Any minor who, while under the custody of the Juvenile Institutions Administration, commits the offense of escape, shall be guilty of a new offense. The resolutive measure of this new offense shall be subsequent to the original resolutive measure. Escape shall be understood to be a unjustified absence without the permission of the Institution, or the unjustified abandonment of any program to which the minor was referred.

P.R. LAWS ANN. tit. 34, § 2204 (2011). Jurisdiction of the court

(1) The court shall have the authority to take cognizance of:

(a) Any case in which a minor is charged with conduct that constitutes an offense incurred before he/she has attained eighteen (18) years of age. Such authority shall be subject to the statute of limitations provided in penal laws for the conduct he/she is charged with.

(b) Any matter concerning minors as provided by a special act, conferring upon it the power to take cognizance in the matter.

(2) The court shall not have the authority to take cognizance of:

(a) Any case in which a minor who has reached the age of fifteen (15) is charged with having committed acts constituting first degree murder as defined in subsection (a) of § 4734 of Title 33.

(b) Any case in which a minor who has reached the age of fifteen (15) is charged with acts constituting a crime arising from the same transaction or event constituting murder in the first degree as defined in subsection (a) of § 4734 of Title 33.

(c) Any case in which a minor is charged with acts constituting a crime when he/she has been previously charged with a felony as an adult.

(3) In all cases contemplated in the previous subsections, the minor shall be tried as an adult.

(4) The Criminal Part of the General Court of Justice shall retain jurisdiction over the minor even when he/she pleads guilty or has been convicted of a crime other than murder as defined in subsection (a) of § 4734 of Title 33. Similarly, it shall retain jurisdiction when the Minors Part of the Superior Court has waived jurisdiction over the minor and in the ordinary process as an adult, the charges against the minor have been vacated or the minor has been found not guilty.

(5) When a judge determines that there is probable cause for a crime other than murder, as defined in subsection (a) of § 4734 of Title 33, this, and any other crime arising from the same transaction shall be transferred to the court exercising its authority under the provisions of this chapter which shall retain and maintain jurisdiction, as provided in sec. 2205 of this title.

P.R. LAWS ANN. tit. 34, § 2215 (2011). Waiver of jurisdiction

(a) Petition by the Advocate.— The court, by petition of the Advocate, may waive its jurisdiction over a minor who is over fourteen (14) and under eighteen (18) years of age, who is charged with committing any Class II or III offense. The Advocate may file the well-founded petition when he/she deems that it shall not be in the best interest of the minor and of the community to try the case under the provisions of this chapter.

The Advocate may file the petition for waiver of jurisdiction in the following cases:

(1) When a minor who is older than fourteen (14) years of age is charged with acts constituting murder in the modality under the authority of the court, any other first degree felony and any other offense that arises from the same transaction or event.

(2) When a minor is charged with a Class II or III offense and has previously been adjudicated a Class II or III offense, incurred between the ages of fourteen (14) and eighteen (18) years.

The Prosecutor shall be bound to notify the court as to the lack of jurisdiction in these cases excluded from its authority by the express provisions of this chapter.

(b) Hearing.— The court, after due notice, shall conduct a hearing to waive jurisdiction.

(c) Factors to be considered.— In order to determine the legal basis for the waiver referred to in subsection (a) of this section, the court shall examine the following factors:

(1) Nature of the offense the minor is charged with and the circumstances surrounding it.

(2) Previous legal record of the minor, if any.

(3) Social record of the minor.

(4) If his socioemotional record and his attitude towards authority make it necessary to establish controls with respect to his behavior that cannot be offered in custody centers or in the social treatment institutions available to the court.

P.R. LAWS ANN. tit. 34, § 2216 (2011). Waiver of jurisdiction – In absentia

The court may waive jurisdiction in the absence of a minor, provided the requirements listed in this chapter are met after a hearing is conducted in which the minor is represented by counsel, when the following circumstances concur:

(1) That on the date of the commission of the deed he has attained the age of fourteen (14) years.

(2) That he has fled the jurisdiction.

(3) That sufficient measures have been taken in the jurisdiction to locate him and these have been unsuccessful.

In case of a mandatory waiver of jurisdiction, the court may do so in absentia when the above stated circumstances concur, the minor has fled the jurisdiction and the measures taken to locate him have been unsuccessful.

P.R. LAWS ANN. tit. 34, § 2217 (2011). Transfer of case to adults' court

If the judge deems that there are grounds to waive jurisdiction, he shall issue a resolution expressing the grounds therefor and shall direct the transfer of the case to be prosecuted as an adult.

The statements, evidence, documents and other information in the custody of the court shall be included with the order to transfer the matter, except those that in harmony with this chapter and the Rules of Procedure for Minors' Affairs, App. I-A of this title, are of a confidential nature.

The notice of the waiver that the clerk of the court shall send to the District Prosecuting Attorney or to the competent authority shall not contain a copy of the resolution issued in the case.

The Prosecutor shall be responsible for ensuring that the minor is taken immediately to the pertinent authorities in order to initiate the procedures in the regular jurisdiction.

U.S. VIRGIN ISLANDS

V.I. CODE ANN. tit. 5, § 2508 (2014). Transfer from the Family Division

(a) If a child or adult is charged with an offense which would be a felony if committed by an adult, and the child or adult was fourteen years of age or older at the time of the alleged offense, the Family Division of the Superior Court may transfer the person for proper criminal proceedings to a court of competent jurisdiction.

(b) If a child or adult is charged with an offense which would be a felony if committed by an adult, and the child or adult was fourteen years of age or older at the time of the alleged offense, the Family Division of the Superior Court, after a determination of probable cause, shall transfer the person for proper criminal proceedings to a court of competent criminal jurisdiction when:

(1) the person has been twice adjudicated to be a delinquent for offenses which would constitute a felony if committed by an adult; or

(2) the offense now charged is an offense which would be a violent crime, as defined herein, if committed by an adult and the person has at least once been adjudicated to be a delinquent child for an offense which would constitute a felony if committed by an adult; or

(3) the offense now charged is an offense which would be a felony if committed by an adult and the person has at least once been adjudicated to be a delinquent child for an offense which would be a violent crime, as defined herein, if committed by an adult; or

(4) the offense now charged is one of the following offenses, which would be a felony if committed by an adult: murder in the first degree or an attempt to do so; rape in the first degree or an attempt to do so; aggravated rape or an attempt to do so; possession or use of a firearm in the commission of a crime of violence irrespective of whether the minor has been previously adjudicated to be a delinquent.

(5) the offense now charged is possession of a loaded firearm, if such possession occurred on school property.

(c) For purposes of this chapter only, a violent crime is defined as one of the following offenses:

- (A) murder in the first or second degree or an attempt to do so;
- (B) voluntary manslaughter;
- (C) rape in the first degree or an attempt to do so;
- (D) arson in the first or second degree or an attempt to do so;
- (E) assault in the first, second or third degree or where appropriate, an attempt to do so;
- (F) burglary in the first or second degree or an attempt to do so;
- (G) robbery in the first, second, or third degree or an attempt to do so;
- (H) carnal abuse of a child under 16 years of age or an attempt to do so;
- (I) incendiarism or an attempt to do so;
- (J) extortion;
- (K) kidnapping or an attempt to do so;
- (L) mayhem;
- (M) carrying or using a dangerous weapon;
- (N) carrying firearms;
- (O) distributing a controlled substance to a person under eighteen years of age;
- (P) aggravated rape or the attempt to do so;
- (Q) unlawful sexual contact in the first degree or attempt to do so.

(d) Within five days after the filing of a complaint in the Family Division of the Superior Court that alleges a child was 14 years of age or older at the time of commission of one of the following offenses:

- (1) murder in the first degree;

- (2) rape in the first degree;
- (3) robbery in the first degree;
- (4) burglary in the first degree;
- (5) arson in the first degree;
- (6) aggravated rape;
- (7) possession or use of a firearm in commission of a crime of violence;

the Attorney General may request by motion in writing that the case be transferred for proper criminal proceedings against such person in a court of competent jurisdiction. The judge of the Family Division of the Superior Court is authorized to determine this request unless the child is provided for in subsection (b) of this section. This decision is a final appealable order.

(e) Provided, further, That once such a child has been transferred from the Family Division to a court of competent jurisdiction, that court shall retain jurisdiction over the case, even though the child pleads guilty to, or is convicted of a lesser included offense; and a plea to or conviction of a lesser included offense shall not revest the Family Division with jurisdiction over such a child.

(f) If a child is transferred from the Family Division to a court of competent jurisdiction, that court may also have jurisdiction over other alleged delinquent acts not designated as transferable which occurred during or arose out of the factual circumstances surrounding the offense for which the child was transferred. The transfer of the alleged delinquent acts not designated as transferable must occur at the hearing for transfer of the delinquent act designated for transfer and under the procedures established in section 2509 of this title.

V.I. CODE ANN. tit. 5, § 2509 (2014). Procedure for transfer

(a) Following the filing of the motion by the Attorney General, summonses shall be issued and served as provided by law. A copy of the motion and a copy of the delinquency complaint, if not already served, shall be attached to each summons.

(b) When there are grounds to believe the child is substantially retarded or mentally ill, the court shall stay the proceedings for the purpose of obtaining an examination. After examination, the court shall proceed to determination under subsection (c) of this section unless it determines that the child is incompetent to participate in the proceedings, in which event it shall order the child committed to a mental hospital.

(c) Unless a commitment under subsection (b) of this section has intervened or the transfer is mandatory, the court shall conduct a hearing on each of the factors relevant to transfer. Accompanying an order to transfer shall be a statement of the reasons of the court for ordering the transfer of the child. Included in the statement shall be the court's

findings with respect to each of the factors set forth in subsection (d) of this section. This statement shall be available upon request to any court in which the transfer is challenged, but shall not be available to the trier of fact of the criminal charge prior to verdict.

(d) Evidence of the following factors shall be considered in determining transfer:

(1) the seriousness of the alleged offense to the community and whether the protection of the community requires waiver;

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

(3) whether the alleged offense was against property, greater weight being given to offenses against persons, especially if personal injury resulted;

(4) whether there is probable cause to believe that the offense charged has been committed and that the child has committed it;

(5) the sophistication and maturity of the child as determined by consideration of his home, emotional attitude and pattern of living;

(6) the record and previous history of the juvenile, including previous contacts with the Youth Services Administration, law enforcement agencies and courts, and prior periods of probation or prior commitments to residential institutions;

(7) the prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if found to have committed the alleged offenses.

(e) Prior to a hearing on the motion by the Attorney General, a study and a report to the court, in writing, relevant to the factors in subsection (d)(1) through (d)(4) of this section shall be made by the U.S. Virgin Islands Police Department (V.I.P.D.), and subsection (d)(5) through (d)(7) of this section shall be made by the Youth Services Administration. The child or his parents, or other person responsible for his care, or his counsel shall have the right to examine these reports prior to the hearing and to question the parties responsible for them at the hearing.

(f) If the Attorney General's motion for transfer is not granted, the Attorney General, before jeopardy attaches, may move that the court provide for a hearing on the grounds of newly discovered evidence which could not be discovered with reasonable diligence prior to the original transfer hearing. The court may grant the motion if it finds it is in the best interest of justice.

(g) If the Attorney General's motion for transfer pursuant to section 2508(d) of this chapter is granted, and the child offender has been detained or is subsequently detained, the child offender shall be placed in the custody of the Bureau of Corrections. Such pre-

trial detention of the child offender shall be separate and apart from the adult inmate population.