

# HOUSE BILL REPORT

## HB 2616

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**As Reported By House Committee On:**  
Law & Justice

**Title:** An act relating to juveniles.

**Brief Description:** Granting to adult court jurisdiction over juveniles who use a firearm while committing a violent offense.

**Sponsors:** Representatives Foreman, Sheahan, Lisk, Robertson, Hickel, Johnson, Campbell, McMahan and Thompson.

**Brief History:**

**Committee Activity:**

Law & Justice: 1/24/96, 1/30/96 [DP].

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass. Signed by 11 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Campbell; Carrell; Chappell; Lambert; McMahan; Robertson; Smith and Sterk.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Dellwo, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Cody; Morris and Murray.

**Staff:** Pat Shelledy (786-7149).

**Background:**

Jurisdiction of the Juvenile Court

In general, the Juvenile Court has exclusive original jurisdiction over a juvenile under age 18 who is charged with an offense, traffic infraction, or violation.

A few exceptions apply to the general rule.

- A. One exception, which was adopted during the 1994 session, provides that juveniles will automatically be prosecuted as adults in adult criminal court under the following circumstances:

The juvenile is 16 or 17 years old and the alleged offense is:

- (1) a serious violent offense, or;
- (2) a violent offense and the offender has a criminal history consisting of:
  - (a) one or more prior serious violent offenses;
  - (b) two or more prior violent offenses, or;
  - (c) three or more of any combination of the following offenses: any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's 13th birthday and prosecuted separately.

B. Another exception, which has existed since 1979, is when the Juvenile Court declines to exercise its jurisdiction and transfers a juvenile to adult Criminal Court for prosecution pursuant to a procedure commonly referred to as a "decline hearing." The court must consider a variety of factors at the decline hearing to determine whether a transfer is in the best interest of the public or the juvenile. A juvenile does not have a constitutional right to be tried as a juvenile. However, the state bears the burden of proving that prosecuting the juvenile as an adult is in the juvenile's or the public's best interest.

The prosecutor, juvenile, or the court on its own motion may file a motion requesting the court to transfer a juvenile for adult criminal prosecution. This motion may be filed in any case.

Unless waived by the court, the parties, and their counsels, the court must hold a decline hearing under the following circumstances:

- (1) The juvenile is 15, 16, or 17, and the information alleges a class A felony or an attempt, solicitation, or conspiracy to commit a class A felony;
- (2) The juvenile is 17 and the information alleges:
  - second-degree assault;
  - first-degree extortion;
  - indecent liberties;
  - second-degree child molestation;
  - second-degree kidnapping; or
  - second-degree robbery.

#### Limitations on Juvenile Court Jurisdiction

If the Juvenile Court transfers a juvenile to adult Superior Court after a decline hearing on one offense, the juvenile will be treated as an adult for all future offenses, even if the juvenile commits future offenses while is still under age 18.

The Juvenile Court loses jurisdiction over a juvenile when the juvenile turns age 18, unless the court extends juvenile court jurisdiction by issuing a written order.

In no event may the juvenile court extend jurisdiction over any juvenile offender beyond the juvenile's 21st birthday.

A person who commits a crime on or after his or her 18th birthday is considered an adult and is prosecuted in adult Criminal Court.

#### Meaning of "Armed with a Firearm"

A firearm is a deadly weapon. The phrase "armed with a deadly weapon" has a specific meaning under case law. It means that a deadly weapon is easily accessible and readily available for use for offensive or defensive purposes. The prosecutor has discretion whether to file an allegation asking the trier of fact to enter a special finding that the accused was armed with a deadly weapon during the commission of the crime.

An offender does not have to discharge, aim or display, or threaten to use the deadly weapon during the commission of the crime to be considered "armed."

#### Illegal Possession of Firearms by Juveniles

A person under age 18 may not possess a firearm except under limited circumstances, such as when the juvenile is attending a hunter safety course; target shooting at a shooting range; engaging in an organized competition involving firearms; hunting; under supervision of a parent and is at home, on property owned by the parent, or on property where shooting is permitted; traveling to and from these events with an unloaded firearm in the vehicle; or a member of the military and is on duty.

**Summary of Bill:** A juvenile who is 15, 16, or 17 years old will automatically be prosecuted as an adult when the prosecutor alleges the juvenile committed a violent offense while armed with a firearm that the juvenile illegally possessed.

When a juvenile's case is automatically transferred to adult court, the juvenile will remain subject to adult court jurisdiction for future offenses as well, whether the offenses are committed as a juvenile or an adult. This parallels the current provisions for decline proceedings. Also, the adult court will have jurisdiction over any other offenses that the juvenile committed during the same incident that led to the automatic transfer to adult court. Parallel changes are made to the definitional sections of the

Juvenile Justice Act and the Sentencing Reform Act. The bill will apply to offenses committed on or after the effective date of this act.

**Appropriation:** None.

**Fiscal Note:** Requested on January 21, 1996.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** A clear message must be sent that we will not tolerate teenage violence, especially when it involves a gun. The rate of juvenile violent crime and crimes committed with guns has risen dramatically.

**Testimony Against:** An anomaly is created under the bill because 15-year-old offenders who commit murder in the first or second degree, or other crimes with deadly weapons other than guns, will not be automatically prosecuted as adults, while 15-year-old offenders who commit less serious offenses while armed with a gun will be automatically prosecuted as adults. Judges should decide whether a juvenile should be transferred to adult court on a case-by-case basis after considering a variety of factors. The current system is working well.

**Testified:** Representative Foreman, prime sponsor; Sid Sidorowicz, Assistant Secretary, Juvenile Rehabilitation Administration (con); and George LeClair, Children's Alliance (con).