

1 HB440
2 175063-3
3 By Representative Hill (J)
4 RFD: Judiciary
5 First Read: 17-MAR-16

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8 SYNOPSIS: Under existing law, a case in which a child
9 14 years of age or more is alleged to have
10 committed an act that would constitute a criminal
11 offense if committed by an adult may be transferred
12 from juvenile court to circuit court under certain
13 conditions.

14 This bill would require the juvenile court
15 clerk to forward to the circuit or district court
16 all papers connected with the case within a
17 specified time, would require the circuit or
18 district court, within a specified time, to examine
19 all orders, papers, reports, and studies and would
20 require for reversion of the case to the juvenile
21 court under certain conditions.

22 Also under existing law, a minor who has
23 attained 16 years of age may be charged, arrested,
24 and tried as an adult for capital offenses, other
25 specified felonies, and certain lesser included
26 offenses.

1 This bill would require the juvenile court
2 to maintain jurisdiction for future charges
3 relating to offenses not enumerated in the law if
4 charges are filed, but the grand jury fails to
5 indict or the charges are otherwise dismissed and
6 to conduct a hearing under certain conditions.

7 This bill would allow a minor to file a
8 motion requesting that the court determine if
9 subjecting the minor to adult court jurisdiction is
10 in the best interest of the individual and the
11 public, would provide for the remand of the case to
12 juvenile court upon certain findings.

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14 A BILL
15 TO BE ENTITLED
16 AN ACT

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18 To amend Sections 12-15-203 and 12-15-204, Code of
19 Alabama 1975, to require the juvenile court clerk to forward
20 to the circuit or district court all papers connected with the
21 transfer of a minor's case within a specified time frame; to
22 require the remand of the case to the juvenile court under
23 certain conditions; to require the juvenile court to maintain
24 jurisdiction for future charges of offenses not enumerated in
25 the law allowing a minor to be charged as an adult under
26 certain conditions; to allow a minor charged as an adult to
27 file a motion requesting that the court determine if

1 subjecting the minor to adult court jurisdiction is in the
2 best interest of the individual and the public; to provide for
3 a hearing; and to provide for the remand of the case to
4 juvenile court under certain conditions.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 12-15-203 and 12-15-204, Code of
7 Alabama 1975, are amended to read as follows:

8 "§12-15-203.

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

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

26 "(c) When there are grounds to believe that the
27 child is committable to an institution, department, or agency

1 for individuals with an intellectual disability or mental
2 illness, the juvenile court judge shall order an examination
3 pursuant to Section 12-15-130.

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

7 "(1) The nature of the present alleged offense.

8 "(2) The extent and nature of the prior delinquency
9 record of the child.

10 "(3) The nature of past treatment efforts and the
11 nature of the response of the child to the efforts.

12 "(4) Demeanor.

13 "(5) The extent and nature of the physical and
14 mental maturity of the child.

15 "(6) The interests of the community and of the child
16 requiring that the child be placed under legal restraint or
17 discipline.

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

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

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

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

14 "(i) A conviction or adjudication as a youthful
15 offender of a child of a criminal offense, with the exception
16 of a nonfelony traffic offense, shall not terminate the
17 jurisdiction of the juvenile court over that child with
18 respect to any future delinquent acts and with respect to any
19 pending allegations of delinquency which have not been
20 disposed of by the juvenile court at the time of the criminal
21 conviction or adjudication as a youthful offender. Any pending
22 or future criminal acts committed by the child shall be
23 prosecuted as other criminal charges are prosecuted.

24 ~~Termination of the jurisdiction of the juvenile court over the~~
25 ~~child with respect to future criminal charges and pending~~
26 ~~allegations of delinquency, as provided herein, shall not~~
27 ~~affect the jurisdiction of the juvenile court over the child~~

1 ~~with respect to any other matter provided in this chapter,~~
2 ~~specifically including any prior allegations of delinquency~~
3 ~~which, at the time of the criminal conviction, has been~~
4 ~~disposed of by the juvenile court either through informal~~
5 ~~adjustment, consent decree, or adjudication.~~ The juvenile
6 court is specifically authorized, to the extent practicable,
7 to continue exercising its jurisdiction over the child with
8 respect to such previously disposed delinquency cases ~~after~~
9 ~~the termination of its jurisdiction~~ with respect to other
10 criminal charges, including jurisdiction to enforce its order
11 requiring the payment of fines, costs, restitution, or other
12 money ordered by the juvenile court pursuant to Section
13 12-15-117.

14 "(j) Within 10 days after the decision to transfer
15 an individual pursuant to subsections (b) and (f), the clerk
16 of the juvenile court shall forward to the circuit or district
17 court all papers connected with the case, including the order
18 required by subsection (f) and any report or study created
19 pursuant to subsections (c) and (e).

20 "(k) If the individual is indicted for an offense
21 not enumerated in subsection (a) of Section 12-15-204, the
22 circuit or district court clerk shall transfer the case back
23 to juvenile court within 10 days.

24 "§12-15-204.

25 "(a) Notwithstanding any other provision of law, any
26 person who has attained the age of 16 years at the time of the
27 conduct charged and who is charged with the commission of any

1 act or conduct, which if committed by an adult would
2 constitute any of the following, shall not be subject to the
3 jurisdiction of juvenile court but shall be charged, arrested,
4 and tried as an adult:

5 "(1) A capital offense.

6 "(2) A Class A felony.

7 "(3) A felony which has as an element thereof the
8 use of a deadly weapon.

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

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

14 "a. A law enforcement officer or official.

15 "b. A correctional officer or official.

16 "c. A parole or probation officer or official.

17 "d. A juvenile court probation officer or official.

18 "e. A district attorney or other prosecuting officer
19 or official.

20 "f. A judge or judicial official.

21 "g. A court officer or official.

22 "h. A person who is a grand juror, juror, or witness
23 in any legal proceeding of whatever nature when the offense
24 stems from, is caused by, or is related to the role of the
25 person as a juror, grand juror, or witness.

26 "i. A teacher, principal, or employee of the public
27 education system of Alabama.

1 "(6) Trafficking in drugs in violation of Section
2 13A-12-231, or as the same may be amended.

3 "(7) Any lesser included offense of the above
4 offenses charged or any lesser felony offense charged arising
5 from the same facts and circumstances and committed at the
6 same time as the offenses listed above. Provided, however,
7 that ~~the juvenile court shall maintain original jurisdiction~~
8 ~~over these lesser included offenses if in the event that the~~
9 grand jury fails to indict for any of the offenses enumerated
10 in ~~subsections (a)(1) to (a)(6)~~ subdivisions (1) to (6),
11 ~~inclusive~~ the circuit or district court clerk shall transfer
12 the case back to juvenile court within 10 days.

13 "(b) In the event that the grand jury indicts for
14 any of the offenses enumerated in subdivisions (1) to (6) of
15 subsection (a), and within 60 days of the indictment, the
16 court shall conduct a hearing and make a written determination
17 regarding whether adult court jurisdiction is in the best
18 interest of the individual charged and the public. If the
19 court finds that transfer is not in the best interest of the
20 individual or the public, the court shall enter an order
21 remanding the case to the juvenile court.

22 "(c) (1) In the event that any and all charges for
23 offenses enumerated in subdivisions (1) to (6) of subsection
24 (a) are dismissed, or a jury verdict or guilty plea results in
25 conviction of only offenses that are not enumerated in
26 subdivisions (1) to (6) of subsection (a), or for any other
27 reason a prosecution in criminal court pursuant to this

1 section results in conviction of only offenses that are not
2 enumerated in subdivisions (1) to (6) of subsection (a), and
3 no charge for any offense enumerated in those subdivisions
4 remains pending, a individual charged pursuant to this
5 section, or upon motion of the court, the court shall conduct
6 a hearing as provided in subdivision (2). The juvenile court
7 shall also maintain original jurisdiction over these lesser
8 included offenses, subject to double jeopardy limitations, if
9 the court handling criminal offenses dismisses all charges for
10 offenses enumerated in subsections (a)(1) to (a)(6),
11 inclusive.

12 "(2) In a hearing required under subdivision (1),
13 within 60 days of the request, the court shall make a written
14 determination regarding whether adult court jurisdiction is in
15 the best interest of the individual charged and the public or
16 if the charges are for offenses not enumerated subdivisions
17 (1) to (6) of subsection (a). If the court finds that transfer
18 is not in the best interest of the individual or the public or
19 that the charges are for offenses not enumerated in
20 subdivisions (1) to (6), the court shall enter an order
21 remanding the case to the juvenile court.

22 "(b)(c) Notwithstanding any other provision of law,
23 any person who has been convicted or adjudicated a youthful
24 offender in a court handling criminal offenses pursuant to the
25 provisions of this section shall not thereafter be subject to
26 the jurisdiction of juvenile court for any pending or
27 subsequent offense. Provided, however, pursuant to Section

1 12-15-117, the juvenile court shall retain jurisdiction over
2 an individual of any age for the enforcement of any prior
3 orders of the juvenile court requiring the payment of fines,
4 court costs, restitution, or other money ordered by the
5 juvenile court until paid in full.

6 "~~(e)~~ (d) This section shall apply to all cases in
7 which the alleged criminal conduct occurred after April 14,
8 1994. All conduct occurring before April 14, 1994, shall be
9 governed by pre-existing law."

10 Section 2. This act shall become effective on the
11 first day of the third month following its passage and
12 approval by the Governor, or its otherwise becoming law.