



March 30, 2023

SUMMARY OF BILL: Eliminates two of the three requirements of probable cause a juvenile court must find to authorize a juvenile charged with certain criminal offenses be transferred to criminal court to be tried as an adult. Eliminates outlined criteria a juvenile court is required to consider in making the determination to transfer a juvenile to adult criminal court.

FISCAL IMPACT:

Other Fiscal Impact – The extent and timing of any change in state expenditures is dependent upon the actions of the juvenile court and cannot be determined with reasonable certainty.

Assumptions:

- Tennessee Code Annotated § 37-1-134(a)(1)(A) requires a juvenile meet the following criteria in order to be eligible for transfer to criminal court and tried for a criminal offense as an adult:
 - The child was less than 14 years of age at the time of the alleged conduct and charged with first degree murder or second-degree murder or attempted first or second-degree murder;
 - The child was between the ages of 14 and 16 years at the time of the alleged conduct and charged with specified violent offenses;
 - The child was 16 years of age or more at the time of the alleged conduct and charged with the offense of robbery or attempt to commit robbery; or
 - The child was 17 years of age or more at the time of the alleged conduct.
- Pursuant to Tenn. Code Ann. § 37-1-134(a)(4), a juvenile is authorized to be transferred to criminal court and tried for a criminal offense as an adult if the court finds there is probable cause to believe:
 - The child committed the delinquent act;
 - The child is not committable to an institution for the developmentally disabled or mentally ill; and
 - The interests of the community require that the child be put under legal restraint or discipline.
- The proposed legislation eliminates two of the three requirements of probable cause a juvenile court must find, to only require the juvenile court find probable cause to believe

the child committed the delinquent act, in order for the juvenile to be authorized to be transferred to criminal court and tried as an adult.

- Pursuant to Tenn. Code Ann. § 37-1-134(b)(1)-(7), in making the determination to transfer a juvenile to adult criminal court, the juvenile court is required to consider, among other matters:
 - The extent and nature of the child's prior delinquency records;
 - The nature of past treatment efforts and the nature of the child's response thereto;
 - Whether the offense was against person or property, with greater weight in favor of transfer given to offenses against the person;
 - Whether the offense was committed in an aggressive and premeditated manner;
 - The possible rehabilitation of the child by use of procedures, services and facilities currently available to the court in this state;
 - Whether the child's conduct would be a criminal gang offense, if committed by an adult; and
 - Whether the child has a history of trauma or abuse, including, but not limited to, the child being a victim of a human trafficking offense.
- The proposed legislation deletes such criteria so that the juvenile court is no longer required to consider such matters when making the determination to transfer a juvenile to adult criminal court.
- Passage of the proposed legislation may result in an increase in children being transferred to adult criminal court and a corresponding decrease in children committed to the custody of the Department of Children's Services; however, the extent and timing of any change in state expenditures is dependent upon the actions of the juvenile court and cannot be determined with reasonable certainty.
- Passage of the proposed legislation will not significantly impact the number of cases in the court system for state or local government to experience any significant impact on revenue or expenditures.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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