

SENATE BILL 718

By Lamar

AN ACT to amend Tennessee Code Annotated, Title 37;  
Title 40 and Title 41, relative to the Extended  
Juvenile Jurisdiction Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 37, Chapter 1, is amended by adding the following as a new part:

**37-1-1001. Short title.**

This part is known and may be cited as the "Extended Juvenile Jurisdiction Act."

**37-1-1002. 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 first degree murder, in violation of § 39-13-202, and the state has overcome presumptions of lack of fitness to proceed and lack of capacity as set forth in § 37-1-1003;

(2) Juvenile, thirteen (13) years of age at the time of the alleged offense, is charged with first degree murder, in violation of § 39-13-202; however, the juvenile shall have an evaluation pursuant to § 37-1-1003, and the burden will be upon the juvenile to establish lack of fitness to proceed and lack of capacity; or

(3) Juvenile, fourteen (14) years of age or older at the time of the alleged offense, is charged with any of the crimes listed in § 37-1-1011(b)(1) and (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).

**37-1-1003. Competency – Fitness to proceed – Lack of capacity.**

(a) Except as provided in subsection (b), §§ 37-1-128 and 37-1-135 apply:

(1) In any juvenile delinquency proceeding in which the juvenile's fitness to proceed is put in issue by any party or the court; and

(2) In juvenile delinquency proceedings in which extended juvenile jurisdiction designation has been requested by any party and a party intends to raise lack of capacity as an affirmative defense.

(b)

(1)

(A) For a juvenile under thirteen (13) years of age at the time of the alleged offense and who is charged with first degree murder, in violation of § 39-13-202, there shall be a presumption that:

(i) The juvenile is unfit to proceed; and

(ii) The juvenile lacked capacity to:

(a) Possess the necessary mental state required for the offense charged;

(b) Conform conduct to the requirements of law;

and

(c) Appreciate the criminality of the conduct.

(B) The prosecution must overcome the presumptions described in subdivision (b)(1)(A) by a preponderance of the evidence.

(2)

(A) For a juvenile under thirteen (13) years of age and who is charged with first degree murder, in violation of § 39-13-202, the court shall order an evaluation to be performed in accordance with § 37-1-128.

(B) Upon an order for evaluation, all proceedings must be suspended, and the period of delay until the juvenile is determined fit to proceed constitutes an excluded period under the speedy trial requirements of § 40-14-101.

(3) The court shall require the prosecuting attorney to provide to the examiner any information relevant to the evaluation, including, but not limited to:

- (A) The names and addresses of all attorneys involved;
- (B) Information about the alleged offense; and
- (C) Any information about the juvenile's background that the prosecutor deems relevant.

(4) The court may require the attorney for the juvenile to provide any available information relevant to the evaluation, including, but not limited to:

- (A) Psychiatric records;
- (B) School records; and
- (C) Medical records.

(5) All information required under subdivisions (b)(3) and (4) must be provided to the examiner within ten (10) days after the court order for the evaluation and, when possible, this information must be received prior to the juvenile's admission to the facility providing the inpatient evaluation.

(6) In assessing the juvenile's competency, the examiner shall:

- (A) Obtain and review all records pertaining to the juvenile, which include the information described in subdivisions (b)(3) and (4) and any other relevant records;

(B) Consider the social, developmental, and legal history of the juvenile, as related by the juvenile and a parent or guardian, and any other relevant source;

(C) Consider the current alleged offense;

(D) Conduct a competence abilities interview of the juvenile;

(E) Conduct an age-appropriate mental status exam using tests designed for juveniles;

(F) Conduct an age-appropriate psychological evaluation using tests designed for juveniles; and

(G) Consider any other relevant test or information.

(7)

(A) Evaluations must be filed with the court and distributed to the parties within ninety (90) days from the date of the order requesting the evaluation.

(B) All such reports are subject to the confidentiality and disclosure provisions of § 37-1-136.

(C) The report must include, but not be limited to, the following:

(i) Identification of the juvenile and the charges;

(ii) Listing of assessment methods used;

(iii) Description of what the juvenile was told about the purpose of the evaluation;

(iv) Social, clinical, and developmental history and the sources from which this information was obtained;

(v) Mental status data, including any psychological testing conducted and results;

- (vi) Comprehensive intelligence testing;
- (vii) Competence data assessing the competence-to-stand-trial abilities;
- (viii) Interpretation of the data, including clinical or developmental explanations for any serious deficits in competence abilities;
- (ix) An opinion as to the juvenile's fitness to proceed, and in reaching this opinion, the examiner shall consider and make written findings regarding the following:
  - (a) Whether the juvenile's capabilities entail:
    - (1) An ability to understand and appreciate the charges and their seriousness;
    - (2) An ability to understand and realistically appraise the likely outcomes;
    - (3) A reliable episodic memory so that the juvenile can accurately and reliably relate a sequence of events;
    - (4) An ability to extend thinking into the future;
    - (5) An ability to consider the impact of the juvenile's actions on others;
    - (6) Verbal articulation abilities or the ability to express oneself in a reasonable and coherent manner; and

(7) Logical decision-making abilities, particularly multifactored problem solving or the ability to take several factors into consideration in making a decision; and

(b) Developmentally, whether the juvenile has:

(1) An ability to understand the charges;

(2) An ability to understand the roles of participants in the trial process, including the judge, defense attorney, prosecutor, witnesses, and jury, and understand the adversarial nature of the process;

(3) An ability to adequately trust and work collaboratively with the juvenile's attorney and provide a reliable recounting of events;

(4) An ability to reason about available options by weighing their consequences, including, but not limited to, weighing pleas, waivers, and strategies;

(5) An ability to disclose to an attorney a reasonably coherent description of facts pertaining to the charges, as perceived by the juvenile; and

(6) An ability to articulate motives; and

(x)

(a) An opinion as to whether at the time the juvenile engaged in the conduct charged, as a result of

immaturity or mental disease or defect, the juvenile lacked capacity to:

(1) Possess the necessary mental state required for the offense charged;

(2) Conform conduct to the requirements of the law; and

(3) Appreciate the criminality of the conduct; and

(b) In reaching the opinion under this subdivision (b)(7)(C)(x), the examiner shall consider and make written findings with respect to the following issues regarding the juvenile's abilities and capacities:

(1) Whether the juvenile was able to form the necessary intent;

(2) Whether the juvenile knew which actions were wrong;

(3) Whether the juvenile had reasonably accurate expectations of the consequences of the juvenile's actions;

(4) Whether the juvenile was able to act of the juvenile's own volition;

(5) Whether the juvenile had the capacity to behave intentionally;

(6) Whether the juvenile had the capacity to engage in logical decision-making;

(7) Whether the juvenile had the capacity to foresee the consequences of the juvenile's actions; and

(8) Whether the juvenile had the capacity to exert impulse control and to resist peer pressure.

(8)

(A) Within thirty (30) days of the receipt of the evaluation report, the court shall first determine whether the juvenile is fit to proceed.

(B)

(i) The parties may stipulate to the findings and conclusions of the evaluation report and the court may enter an order with respect to fitness based thereon.

(ii)

(a) If the parties do not stipulate to the findings and conclusions of the report, then a hearing shall be conducted and in order for the court to find a juvenile fit to proceed, the prosecution shall be required to prove by a preponderance of the evidence the following:

(1) The juvenile understands the charges and potential consequences;

(2) The juvenile understands the trial process and proceedings against the juvenile; and

(3) The juvenile has the capacity to effectively participate with and assist the juvenile's attorney in a defense to prosecution.



(b) The court shall issue written findings as to whether the prosecution has met its burden with respect to such issues and whether the juvenile is fit or unfit to proceed.

(9)

(A) If the juvenile is found unfit to proceed, then the court shall commit the juvenile to the custody of the department of children's services or a residential treatment facility for a period not to exceed nine (9) months.

(B) During this period, the facility responsible for the juvenile shall be required to report to the court and the parties at least every thirty (30) days on the juvenile's progress.

(C) If fitness to proceed is not restored within nine (9) months, then the court shall determine which services are necessary, including whether to proceed in accordance with § 37-1-166.

(10)

(A) If a juvenile is found fit to proceed, then the court shall next conduct a hearing wherein the state is required to prove by a preponderance of the evidence that at the time the juvenile engaged in the conduct charged, the juvenile had the capacity to:

(i) Possess the necessary mental state required for the offense charged;

(ii) Conform conduct to the requirements of the law; and

(iii) Appreciate the criminality of the conduct.

(B)

(i) In making the determination, the court shall consider the written findings of the examiner and any other relevant evidence and shall issue a written order with respect to the hearing.

(ii) If the court finds that the state did not meet its burden with regard to the capacity of the charged offense, but the juvenile had the capacity for a lesser included offense, then the court shall convert the extended juvenile jurisdiction petition to a delinquency petition.

(iii) If the court finds the state did not meet its burden with regard to the capacity of the charged offense or a lesser included offense, then the court shall determine which services are necessary, including whether to proceed in accordance with § 37-1-166.

(iv) If the court finds that the state met its burden with regard to the capacity, then the court shall schedule a designation hearing as described in § 37-1-1004. Such a finding by the court does not prevent the juvenile from raising the affirmative defense of lack of capacity at a subsequent adjudication hearing.

**37-1-1004. Designation hearing.**

(a)

(1) When a party requests an extended juvenile jurisdiction designation, the court shall hold a designation hearing within thirty (30) days if the juvenile is detained and if the juvenile is not detained, then no longer than ninety (90) days following the petition or motion requesting such designation.

(2) The time limitations described in this subsection (a) are tolled during the pendency of any competency issues.

(b) The party requesting the extended juvenile jurisdiction designation has the burden to prove by a preponderance of the evidence that such a designation is warranted.

(c) The court shall make written findings and consider all of the following factors in making its determination to designate a juvenile as an extended juvenile jurisdiction offender:

(1) The seriousness of the alleged offense and whether the protection of society requires prosecution as an extended juvenile jurisdiction offender;

(2) Whether the alleged offense was committed in an aggressive, violent, premeditated, or intentional 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 delinquent prior to the alleged offense 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 and 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 that are likely to rehabilitate the juvenile prior to the expiration of the court's jurisdiction;

(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 court.

(d) Upon finding that the juvenile shall be treated as an extended juvenile jurisdiction offender, the court shall enter its written findings and inform the juvenile of the juvenile's right to a jury trial and shall set a date for the adjudication.

(e) If the court denies the request for extended juvenile jurisdiction, then the court shall enter its written findings and proceed with the case as a delinquency proceeding.

(f) For purposes of appeal, a designation order is a final appealable order and is subject to an interlocutory appeal.

**37-1-1005. Right to counsel.**

An extended juvenile jurisdiction offender shall have a right to counsel at every stage of the proceedings, including all reviews. This right to counsel cannot be waived.

**37-1-1006. Extended juvenile jurisdiction adjudication.**

(a) An extended juvenile jurisdiction offender and the state shall have the right to a jury trial at the adjudication hearing.

(b) The juvenile shall be advised of the right to a jury trial by the court following a determination that the juvenile will be tried as an extended juvenile jurisdiction offender.

(c)

(1) The right to a jury trial may be waived by a juvenile only after the juvenile is advised of the juvenile's rights and after consultation with the juvenile's attorney.

(2) The waiver must be in writing and signed by the juvenile, the juvenile's attorney, and the juvenile's parent or guardian, and the court shall inquire on the record to ensure that the waiver was made in a knowing, intelligent, and voluntary manner.

(d) Title 40 and the Tennessee Rules of Criminal Procedure not in conflict with this part that regulate criminal jury trials in circuit or criminal court apply to jury trials for juveniles subject to extended juvenile jurisdiction proceedings.

(e) The adjudication must be held within the speedy trial requirements of § 40-14-101.

(f) The state bears the burden to prove the charges in the petition beyond a reasonable doubt.

(g)

(1) If a juvenile is adjudicated delinquent as an extended juvenile jurisdiction offender, then the court shall enter a disposition in accordance with § 37-1-1007.

(2) If the juvenile is adjudicated delinquent for an offense that would not have subjected the juvenile to extended juvenile jurisdiction, then the court shall enter any of the dispositions available under § 37-1-131.

**37-1-1007. Extended juvenile jurisdiction disposition hearing.**

If a juvenile is found delinquent as an extended juvenile jurisdiction offender, the court shall enter the following dispositions:

(1) Order any of the juvenile dispositions authorized by § 37-1-131; and

(2) Suspend the imposition of an adult sentence pending court review.

**37-1-1008. Extended juvenile jurisdiction court review hearing.**

(a) The state may petition the criminal court at any time to impose an adult sentence on an extended juvenile jurisdiction offender, if the juvenile:

(1) Has violated a juvenile disposition order;

(2) Has been adjudicated delinquent or found guilty of committing a new offense; or

(3) Is not amenable to rehabilitation in the juvenile system.

(b) If the court finds by a preponderance of the evidence that the juvenile has violated a juvenile disposition order, has been found delinquent or guilty of committing a new offense, or is not amenable to rehabilitation in the juvenile system, then the court may:

(1) Amend or add any juvenile disposition authorized by § 37-1-131; or

(2) Exercise its discretion to impose the full range of adult sentencing available in criminal court, including probation, suspended imposition of sentence, and imprisonment; provided, that:

(A) A sentence of imprisonment shall not exceed forty (40) years, except for juveniles adjudicated for first degree murder, in violation of § 39-13-202, who may be sentenced for any term, up to and including life;

(B) Statutory provisions prohibiting or limiting probation or suspended imposition of sentence or parole for offenses when committed by an adult shall not apply to juveniles sentenced as extended juvenile jurisdiction offenders;

(C) A juvenile shall receive credit for time served in a juvenile detention facility or any juvenile facility; and

(D)

(i) A court may not order an absolute release of an extended juvenile jurisdiction offender who has been adjudicated delinquent for first degree murder, in violation of § 39-13-202; and

(ii) If release is ordered, then the court shall impose a period of probation for not less than three (3) years.

(c)

(1)

(A) The juvenile may petition the court to review and modify the disposition at any time.

(B) If the juvenile's petition is denied, then the juvenile must wait one (1) year from the date of the denial to file a new petition for modification.

(2)

(A) The department of children's services may petition the court to review and modify the disposition at any time.

(B) If the department's petition for review and modification is denied, then the department must wait one (1) year from the date of the denial to file a new petition for review and modification unless the department has clear and convincing new evidence that the juvenile has been rehabilitated.

(d)

(1) If the state or the juvenile files a petition to modify the court's disposition order before six (6) months prior to the juvenile's eighteenth birthday, then the filing party bears the burden of proof.

(2) If the juvenile is sixteen (16) or seventeen (17) years of age at the time that the extended juvenile jurisdiction modification petition is filed, then the state or the juvenile may petition the court after the juvenile's eighteenth birthday but no later than six (6) months before the juvenile's twenty-first birthday.

(e)

(1) If no hearing has been conducted six (6) months before the juvenile's eighteenth birthday, or no later than six (6) months before the juvenile's twenty-first birthday if the juvenile is sixteen (16) or seventeen (17) years of age at the time that the juvenile was adjudicated as an extended juvenile jurisdiction offender, then the court shall conduct a hearing to determine whether to release the juvenile, amend or add any juvenile disposition, or impose an adult sentence.

(2) In making its determination, the court shall consider the following:

(A) The experience and character of the juvenile before and after the juvenile disposition, including compliance with the court's orders;

(B) The nature of the offense or offenses and the manner in which the offense or offenses were committed;

(C) The recommendations of the professionals who have worked with the juvenile;

(D) The protection of public safety;

(E) Opportunities provided to the juvenile for rehabilitation and the juvenile's efforts toward rehabilitation; and

(F) Victim impact evidence admitted pursuant to the Victim Impact Statement Act, compiled in title 40, chapter 38, part 2.



(3) If the state seeks to impose an adult sentence, then the state must prove by a preponderance of the evidence that the imposition of an adult sentence is appropriate and that public safety requires imposition.

(4)

(A) Following a hearing, the court may enter any of the following dispositions:

(i) Release the juvenile;

(ii) Amend or add any juvenile disposition; and

(iii)

(a) Exercise its discretion to impose the full range of sentencing available in criminal court, including probation, suspended imposition of sentence, and imprisonment; and

(b) A sentence of imprisonment shall not exceed forty (40) years, except juveniles adjudicated for first degree murder, in violation of § 39-13-202, may be sentenced for any term, up to and including life.

(B) Statutory provisions prohibiting or limiting probation or suspended imposition of sentence or parole for offenses when committed by an adult shall not apply to juveniles sentenced as extended juvenile jurisdiction offenders.

(C) A juvenile shall receive credit for time served in a juvenile detention or any juvenile facility.

(D)

(i) A court shall not order an absolute release of an extended juvenile jurisdiction offender who has been adjudicated delinquent for first degree murder, in violation of § 39-13-202.

(ii) If release is ordered, then the court shall impose a period of probation for not less than three (3) years.

(5)

(A) A juvenile committed to the department of children's services under extended juvenile jurisdiction shall not remain in the physical custody of the department beyond the date of the juvenile's twenty-first birthday, even if the court fails to provide a hearing before the release.

(B) If a court order imposing an adult sentence or granting the absolute release of a juvenile is not entered on or before the juvenile's twenty-first birthday, then the department shall release the juvenile from its custody on the juvenile's twenty-first birthday.

(C) Nothing in this subdivision (e)(5) limits the court's jurisdiction to impose a period of probation on offenders adjudicated delinquent for first degree murder, in violation of § 39-13-202, as required by subdivision (b)(2)(D).

**37-1-1009. Department of children services – Commitment of extended juvenile jurisdiction juveniles.**

(a) The court has sole release authority for juveniles in extended juvenile jurisdiction proceedings.

(b) In every case in which an order of commitment has been entered pursuant to an adjudication of delinquency, the facility to which the juvenile is committed shall, within

thirty (30) days of the juvenile's commitment, prepare and file with the court a treatment case plan that must:

- (1) State the treatment plan for the juvenile; and
- (2) State the anticipated length of commitment of the juvenile.

(c)

(1) Upon determination that the juvenile has been rehabilitated, the department of children's services may petition the court for release.

(2) The court shall conduct a hearing and consider the following factors in making its determination to release the juvenile from the department:

(A) The experience and character of the juvenile before and after the juvenile disposition, including compliance with the court's orders;

(B) The nature of the offense or offenses and the manner in which they were committed;

(C) The recommendations of the professionals who have worked with the juvenile;

(D) The protection of public safety; and

(E) Opportunities provided to the juvenile for rehabilitation and the juvenile's efforts toward rehabilitation.

(3) The court shall release the juvenile upon a finding by a preponderance of the evidence that the juvenile's release does not pose a substantial threat to public safety.

**37-1-1010. Department of correction – Placement.**

(a)

(1) A juvenile who has received an adult sentence in the department of correction shall not be transported to the department until the juvenile is sixteen (16) years of age.

(2) If a juvenile receives a sentence to the department of correction before the juvenile's sixteenth birthday, then the juvenile shall be housed by the department of children's services until that date, except as provided by court order or parole decision made by the board of parole.

(b) A juvenile sentenced in criminal court who is less than sixteen (16) years of age when sentenced shall be committed to the custody of the department of children's services until the juvenile's eighteenth birthday, at which time the juvenile shall be transferred to the department of correction; provided, that a juvenile may be transferred to the department of correction upon the juvenile's sixteenth birthday if done pursuant to § 37-1-134(k).

(c)

(1)

(A) Juveniles sentenced to the department of correction pursuant to extended juvenile jurisdiction are subject to parole as any other inmate within the department.

(B) Juveniles adjudicated for first degree murder, in violation of § 39-13-202, are subject to parole.

(2) Juveniles shall be given credit for time served in a juvenile detention or juvenile facility against any adult sentence.

**37-1-1011. Filing and transfer of juveniles to criminal court.**

(a) The state may proceed with a case as a delinquency under this part only when the case involves a juvenile who is:

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

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

(b) The state may file a motion in juvenile court to transfer a case to the criminal 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 of age when the juvenile engages in conduct that, if committed by an adult, would be:

(A) Second degree murder, as prohibited by § 39-13-210;

(B) Possession of a firearm on school property, as prohibited by § 39-17-1309;

(C) Aggravated assault, as prohibited by § 39-13-102;

(D) Unlawful discharge of a firearm from a vehicle, as prohibited by §§ 39-13-102, 39-13-103, and 39-13-209;

(E) A criminal gang offense, as defined in § 40-35-121;

(F) Escape, as prohibited by § 39-16-605;

(G) A felony, if the juvenile engages in the conduct while possessing or employing a firearm; or

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

(i) First degree murder, as prohibited by § 39-13-202;

(ii) Second degree murder, as prohibited by § 39-13-210;

(iii) Kidnapping, as prohibited by § 39-13-303;

(iv) Aggravated kidnapping, as prohibited by § 39-13-304;

(v) Especially aggravated kidnapping, as prohibited by § 39-13-305;

(vi) Especially aggravated burglary, as prohibited by § 39-13-1004;

(vii) Aggravated robbery, as prohibited by § 39-13-402;

(viii) Especially aggravated robbery, as prohibited by § 39-13-403;

(ix) Aggravated sexual battery, as prohibited by § 39-13-504;

(x) Rape, as prohibited by § 39-13-503;

(xi) Aggravated rape, as prohibited by § 39-13-502;

(xii) Rape of a child, as prohibited by § 39-13-522;

(xiii) Aggravated rape of a child, as prohibited by § 39-13-531;

(xiv) Especially aggravated rape, as prohibited by § 39-13-534;

(xv) Especially aggravated rape of a child, as prohibited by § 39-13-535;

(xvi) An act of terrorism, as prohibited by § 39-13-805; or

(xvii) Escape, as prohibited by § 39-16-605;

(2) At least fourteen (14) years of age when the juvenile commits a violation of illegal possession of a handgun, as prohibited by § 39-17-1319, and has previously been adjudicated delinquent for:

(A) An offense that would be a felony if committed by an adult; or

(B) A violation of illegal possession of a handgun; or

(3) At least fourteen (14) years of age when the juvenile 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 court or criminal court when a case involves a juvenile after a hearing is conducted in conformity with §§ 37-1-124, 37-1-126, and 37-1-127:

(1) At least sixteen (16) years of age when the juvenile engages in conduct that, if committed by an adult, would be any felony; or

(2) Fourteen (14) or fifteen (15) years of age when the juvenile engages in conduct that, if committed by an adult, would be:

(A) First degree murder, as prohibited by § 39-13-202;

(B) Kidnapping, as prohibited by § 39-13-303;

(C) Aggravated kidnapping, as prohibited by § 39-13-304;

(D) Especially aggravated kidnapping, as prohibited by § 39-13-305;

(E) Especially aggravated burglary, as prohibited by § 39-13-1004;

(F) Aggravated robbery, as prohibited by § 39-13-402;

(G) Especially aggravated robbery, as prohibited by § 39-13-403;

(H) Aggravated sexual battery, as prohibited by § 39-13-504;

(I) Rape, as prohibited by § 39-13-503;

(J) Aggravated rape, as prohibited by § 39-13-502;

(K) Rape of a child, as prohibited by § 39-13-522;

(L) Aggravated rape of a child, as prohibited by § 39-13-531;

(M) Especially aggravated rape, as prohibited by § 39-13-534;

(N) Especially aggravated rape of a child, as prohibited by § 39-13-535; or

(O) An act of terrorism, as prohibited by § 39-13-805.

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

(e) Upon the motion of the court or of any party, the criminal court judge 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 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 criminal 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 juvenile court judge 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).

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

(i) Upon a finding by criminal court that a juvenile fourteen (14) through seventeen (17) years of age and charged with the crimes in subdivision (c)(2) should be transferred to the juvenile court, the criminal 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 criminal court for an offense other than an offense listed in subsection (b) or subdivision (c)(2), then the judge shall enter a juvenile delinquency disposition under § 37-1-131.

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

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

(m) The court may conduct a transfer hearing and an extended juvenile jurisdiction hearing under § 37-1-1004 at the same time.

**37-1-1012. Pilot project – Application.**

(a) The purpose of this part is to establish a pilot program and create a blended sentencing option to assist the juvenile justice system in balancing the needs of the juvenile offender with the need to control the offender for the benefit of the juvenile and the protection of society.

(b) This part applies only in a county having a population of over nine hundred thousand (900,000), according to the 2020 federal census or any subsequent federal census.

SECTION 2. Tennessee Code Annotated, Section 37-1-136(h), is amended by adding the language "subject to the Extended Juvenile Jurisdiction Act, compiled in title 37, chapter 1, part 10, or a county" immediately after the language "any county".

SECTION 3. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 4. This act takes effect July 1, 2023, the public welfare requiring it, and applies to offenses or delinquent acts committed on or after that date.