

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 92

Short Title: Juvenile Court Changes.

(Public)

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Sponsors: Senator Ballance.

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Referred to: Judiciary.

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February 12, 1997

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE JUVENILE STATUTES TO PROVIDE GUIDELINES  
FOR AND MAKE DISCOVERY AVAILABLE PRIOR TO TRANSFER  
HEARINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-610 reads as rewritten:

**"§ 7A-610. Procedure upon finding of probable cause.**

(a) If probable cause is found and transfer to superior court is not required by G.S. 7A-608, the prosecutor or the juvenile may move that the case be transferred to the superior court for trial as in the case of adults. ~~The judge may proceed to determine whether the needs of the juvenile or the best interest of the State will be served by transfer of the case to superior court for trial as in the case of adults.~~ Upon a motion for transfer, a hearing shall be granted.

(a1) The transfer hearing is a dispositional hearing. At the transfer hearing:

(1) A prosecutor shall represent the State.

(2) The juvenile shall be represented by counsel in accordance with G.S. 7A-584.

(3) The juvenile may testify as a witness in the juvenile's own behalf and call and examine other witnesses and offer other evidence regarding the factors set out in subsection (c) of this section.

1           (4) The State may offer evidence regarding the facts set out in subsection  
2           (c) of this section.

3           (5) Information presented may be informal, and the judge may consider  
4           written reports or other evidence concerning the needs of the juvenile as  
5           is relevant under subsection (c) of this section.

6           (6) The judge may exclude the public from the hearing unless the juvenile  
7           moves that the hearing be open. If the juvenile moves that the hearing  
8           be open, the judge shall grant that motion.

9           (a2) superior court has jurisdiction over that felony, any offense based on the same  
10          act or transaction or on a series of acts or transactions connected together or constituting  
11          parts of a single scheme or plan of that felony, and any greater or lesser included offense  
12          of that felony.

13          (b) If probable cause is not found, the judge shall dismiss the proceeding.

14          (c) Any order of transfer shall ~~specify the reasons for transfer.~~ include findings of  
15          fact supporting the transfer. In making findings of fact, the judge shall consider:

16               (1) The juvenile's age, emotional maturity, intellectual functioning, prior  
17               juvenile record, and previous rehabilitation attempts;

18               (2) The likelihood that the juvenile can benefit from treatment within the  
19               time that the juvenile would remain under the jurisdiction of the juvenile  
20               court; and

21               (3) The seriousness of the offense, the degree of violence involved, and the  
22               prospects for adequate protection of the public.

23          All findings of fact shall be based upon clear, convincing and cogent evidence in the  
24          record.

25          (c1) Hearings held under this section shall be recorded, and shall be transcribed  
26          upon the request of either party.

27          (d) A finding of no probable cause shall not preclude the judge from adjudicating  
28          the juvenile delinquent for the commission of a lesser included offense. If the lesser  
29          included offense is a misdemeanor, the judge may, if the parties consent, proceed  
30          immediately to dispose of the case by accepting a plea of responsible or no contest or  
31          trying the offense. If the parties do not consent, the judge may enter an appropriate order  
32          for subsequent calendaring of the case for adjudication for not earlier than five working  
33          days from the date of the order. The judge shall note in the case records the new offense  
34          with which the juvenile is charged, has been adjudicated, or to which the juvenile entered  
35          a plea of responsible or no contest."

36               Section 2. G.S. 7A-618 reads as rewritten:

37          "**§ 7A-618. Disclosure of evidence by petitioner.**

38               (a) Statement of the Juvenile. – Upon motion of a juvenile alleged to be  
39          delinquent, the judge shall order the petitioner:

40               (1) To permit the juvenile to inspect and copy any relevant written or  
41               recorded statements within the possession, custody, or control of the  
42               petitioner made by the juvenile or any other party charged in the same  
43               action; and

1 (2) To divulge, in written or recorded form, the substance of any oral  
2 statement made by the juvenile or any other party charged in the same  
3 action.

4 (b) Names of Witnesses. – Upon motion of the juvenile, the judge shall order the  
5 petitioner to furnish the names of persons to be called as witnesses. A copy of the record  
6 of witnesses under the age of 16 shall be provided by the petitioner to the juvenile upon  
7 his motion if accessible to the petitioner.

8 (c) Documents and Tangible Objects. – Upon motion of the juvenile, the judge  
9 shall order the petitioner to permit the juvenile to inspect and copy books, papers,  
10 documents, photographs, motion pictures, mechanical or electronic recordings, tangible  
11 objects, or portions thereof:

12 (1) Which are within the possession, custody, or control of the petitioner,  
13 the prosecutor, or any law-enforcement officer conducting an  
14 investigation of the matter alleged; and

15 (2) Which are material to the preparation of his defense, are intended for  
16 use by the petitioner as evidence, and were obtained from or belong to  
17 the juvenile.

18 (d) Reports of Examinations and Tests. – Upon motion of a juvenile, the judge  
19 shall order the petitioner to permit the juvenile to inspect and copy results of physical or  
20 mental examinations or of tests, measurements or experiments made in connection with  
21 the case, within the possession, custody, or control of the petitioner. In addition upon  
22 motion of a juvenile, the judge shall order the petitioner to permit the juvenile to inspect,  
23 examine, and test, subject to appropriate safeguards, any physical evidence or a sample of  
24 it or tests or experiments made in connection with the evidence in the case if it is  
25 available to the petitioner, the prosecutor, or any law-enforcement officer conducting an  
26 investigation of the matter alleged and if the petitioner intends to offer the evidence at  
27 trial.

28 (e) Except as provided in subsections (a) through (d), this Article does not require  
29 the production of reports, memoranda, or other internal documents made by the  
30 petitioner, law-enforcement officers, or other persons acting on behalf of the petitioner in  
31 connection with the investigation or prosecution of the case or of statements made by  
32 witnesses or the petitioner to anyone acting on behalf of the petitioner.

33 (e1) Upon motion by either party to bind the juvenile over to superior court, the  
34 judge shall order the petitioner to provide discovery to the juvenile pursuant to  
35 subsections (a) through (e) of this section at least seven days prior to the date the transfer  
36 hearing is scheduled.

37 (f) Nothing in this section prohibits a petitioner from making voluntary  
38 disclosures in the interest of justice."

39 Section 3. G.S. 7A-619 is amended by adding a new subsection to read:

40 "(d) Upon motion by either party to bind the juvenile over to superior court, the  
41 judge shall order the juvenile to provide discovery to the petitioner pursuant to  
42 subsections (a) through (e) of this section at least seven days prior to the date the transfer  
43 hearing is scheduled."

1           Section 4. This act becomes effective October 1, 1997.