

Prosecuting Juveniles in Adult Court

Last month, I was listening to hosts on a radio station discuss the fires in Tennessee that caused the loss of 14 lives and damage or destruction to more than 1,700 buildings. They were shocked to learn that two teenagers are alleged to have started these fires. The hosts discussed the many stupid things they did when they were teenagers. They shared how they did not consider the consequences of their actions before engaging in such risky behaviors. One host said he once set something on fire in the woods. Although the fire didn't cause any damage or harm, he never considered that the fire could get out of hand. Another host stated that she could not excuse the teenagers. She could understand if they were eight or nine years of age, but she believes teenagers know exactly what they are doing. At what age should a teenager be held criminally responsible for misconduct that constitutes a crime? North Carolina lawmakers are currently debating this question.

In North Carolina, the age of criminal responsibility is 16, which means that 16- and 17-year olds are automatically prosecuted as adults for their crimes. Juveniles as young as 13 may also be tried as adults through a process called transfer, which is either mandatory or discretionary depending on the offense. If the court finds probable cause for a Class A felony, the court *must* transfer the case to superior court for prosecution of the juvenile as an adult. For any other felony, the court *may* transfer the case to adult court if the juvenile was 13 or older at the time he or she allegedly committed the offense. After notice, hearing, and a finding of probable cause, the court decides, on motion of the prosecutor or the juvenile's attorney or on its own motion, whether to transfer jurisdiction over the juvenile to superior court. See G.S. 7B-2200.

At the transfer hearing, the court determines whether the protection of the public and the needs of the juvenile would be served by transfer of the case to superior court and considers the following statutory factors. See G.S. 7B-2203.

1. The age of the juvenile;
2. The maturity of the juvenile;
3. The intellectual functioning of the juvenile;
4. The prior record of the juvenile;
5. Prior attempts to rehabilitate the juvenile;
6. Facilities or programs available to the court prior to the expiration of the court's jurisdiction under this Subchapter and the likelihood that the juvenile would benefit from treatment or rehabilitative efforts;
7. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner; and
8. The seriousness of the offense and whether the protection of the public requires that the juvenile be prosecuted as an adult.

This approach may be revised if the General Assembly passes legislation raising the age at which

juveniles may be prosecuted as adults. The Criminal Investigation and Adjudication Committee of the North Carolina Commission on the Administration of Law and Justice (NCCALJ), convened by Chief Justice Mark Martin of the North Carolina Supreme Court, recently released its [Juvenile Reinvestment Report](#) (Dec. 2016). In this report, the Committee recommends that North Carolina raise the age of juvenile court jurisdiction to include 16- and 17-year olds for all offenses, except high-level felonies and traffic offenses. The proposal lists several contingencies, one of which addresses the transfer of jurisdiction to superior court. The Committee proposes that the existing procedure in G.S. 7B-2200 be maintained except that 16- and 17-year olds who commit Class A through E felonies would automatically be transferred to adult court upon a finding of probable cause or issuance of an indictment. The Committee members included and its report was endorsed by representatives from law enforcement, the bench, the defense bar, and interested organizations in North Carolina.

The Committee declined to adopt a proposal by the N.C. Conference of District Attorneys. The Conference proposed that prosecutors have the authority to “direct file” against all juveniles 13 years of age or older who are alleged to have committed Class A through E felonies—that is, to determine without a hearing or determination by a judge whether to prosecute these juveniles in adult court. As indicated above, current North Carolina law makes the judge responsible for determining whether it is appropriate to transfer jurisdiction over a juvenile to adult court.

Reflecting the importance of this issue, the age of juvenile jurisdiction was one of four topics addressed by the Criminal Investigation and Adjudication Committee of NCCALJ. For more information about the raise-the-age recommendation or to read about other NCCALJ recommendations, visit nccalj.org.