**A** **BILL**

TO AMEND SECTION 63‑19‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO JUVENILE JUSTICE CODE DEFINITIONS, SO AS TO PROVIDE THAT A “CHILD” OR “JUVENILE” MEANS A PERSON LESS THAN EIGHTEEN YEARS OF AGE, DOES NOT MEAN A PERSON SEVENTEEN YEARS OF AGE OR OLDER WHO IS CHARGED WITH A VIOLENT CRIME, AND THAT A PERSON SIXTEEN YEARS OF AGE WHO IS CHARGED WITH A CLASS A, B, C, OR D FELONY OR A FELONY WHICH PROVIDES FOR A MAXIMUM TERM OF IMPRISONMENT OF FIFTEEN YEARS OR MORE MUST BE PROVIDED THE RIGHT TO HAVE THE CASE REMANDED TO FAMILY COURT; AND TO AMEND SECTION 63‑19‑1210, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO JURISDICTION OVER A CASE INVOLVING A CHILD, SO AS TO PROVIDE THAT IF A CHILD WAS UNDER THE AGE OF EIGHTEEN YEARS AT THE TIME OF COMMITTING AN ALLEGED OFFENSE, THE CIRCUIT COURT SHALL TRANSFER THE CASE TO FAMILY COURT, THAT IF A CHILD BELOW EIGHTEEN YEARS OF AGE IS CHARGED WITH AN OFFENSE WHICH, IF COMMITTED BY AN ADULT, WOULD BE A VIOLENT CRIME, THE COURT MAY RETAIN JURISDICTION, AND THAT IF A CHILD UNDER THE AGE OF EIGHTEEN IS CHARGED WITH CERTAIN OFFENSES, THE COURT MAY BIND OVER THE CHILD TO A COURT WHICH WOULD HAVE TRIAL JURISDICTION OF THE OFFENSES IF COMMITTED BY AN ADULT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 63‑19‑20(1) of the 1976 Code is amended to read:

“(1) ‘Child’ or ‘juvenile’ means a person less than ~~seventeen~~ eighteen years of age. ‘Child’ or ‘juvenile’ does not mean a person ~~sixteen~~ seventeen years of age or older who is charged with a violent ~~Class A, B, C, or D felony~~ crime as defined in Section ~~16‑1‑2 or a felony which provides for a maximum term of imprisonment of fifteen years or more~~ 16‑1‑60. However, a person sixteen years of age who is charged with a Class A, B, C, or D felony as defined in Section 16‑1‑20 or a felony which provides for a maximum term of imprisonment of fifteen years or more ~~may be~~ must be provided the right to have the case remanded to the family court for disposition of the charge ~~at the discretion of the solicitor~~. An additional or accompanying charge associated with the charges contained in this item must be heard by the court with jurisdiction over the offenses contained in this item.”

SECTION 2. Section 63‑19‑1210 of the 1976 Code is amended to read:

“Section 63‑19‑1210. In accordance with the jurisdiction granted to the family court pursuant to Sections 63‑3‑510, 63‑3‑520, and 63‑3‑530, jurisdiction over a case involving a child must be transferred or retained as follows:

(1) If, during the pendency of a criminal or quasi‑criminal charge against a child in a circuit court of this State, it is ascertained that the child was under the age of ~~seventeen~~ eighteen years at the time of committing the alleged offense, it is the duty of the circuit court immediately to transfer the case, together with all the papers, documents, and testimony connected with it, to the family court of competent jurisdiction, except in those cases where the Constitution gives to the circuit court exclusive jurisdiction or in those cases where jurisdiction has properly been transferred to the circuit court by the family court under the provisions of this section. The court making the transfer shall order the child to be taken immediately to the place of detention designated by the court or to that court itself, or shall release the child to the custody of some suitable person to be brought before the court at a time designated. The court then shall proceed as provided in this chapter. The provisions of this section are applicable to all existing offenses and to offenses created in the future unless the General Assembly specifically directs otherwise.

(2) Whenever a child is brought before a magistrate or city recorder and, in the opinion of the magistrate or city recorder, the child should be brought to the family court of competent jurisdiction under the provisions of this section, the magistrate or city recorder shall transfer the case to the family court and direct that the child involved be taken there.

(3) When an action is brought in a circuit court which, in the opinion of the judge, falls within the jurisdiction of the family court, he may transfer the action upon his own motion or the motion of any party.

(4) If a child sixteen years of age or older is charged with an offense which, if committed by an adult, would be a misdemeanor, a Class E or F felony as defined in Section 16‑1‑20, or a felony which provides for a maximum term of imprisonment of ten years or less, and if the court, after full investigation, considers it contrary to the best interest of the child or of the public to retain jurisdiction, the court, in its discretion, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offense if committed by an adult.

(5) If a child ~~fourteen or fifteen years~~ below eighteen years of age is charged with an offense which, if committed by an adult, would be a ~~Class A, B, C, or D felony~~ violent crime as defined in Section ~~16‑1‑20 or a felony which provides for a maximum term of imprisonment of fifteen years or more~~ 16‑1‑60, the court, after full investigation and hearing, may determine it contrary to the best interest of the child or of the public to retain jurisdiction. The court, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offenses if committed by an adult.

(6) Within thirty days after the filing of a petition in the family court alleging the child has committed the offense of murder or criminal sexual conduct, the person executing the petition may request in writing that the case be transferred to the court of general sessions with a view to proceeding against the child as a criminal rather than as a child coming within the purview of this chapter. The judge of the family court is authorized to determine this request. If the request is denied, the petitioner may appeal within five days to the circuit court. Upon the hearing of the appeal, the judge of the circuit court is vested with the discretion of exercising and asserting the jurisdiction of the court of general sessions or of relinquishing jurisdiction to the family court. If the circuit judge elects to exercise the jurisdiction of the general sessions court for trial of the case, he shall issue an order to that effect, and then the family court has no further jurisdiction in the matter.

(7) Once the family court relinquishes its jurisdiction over the child and the child is bound over to be treated as an adult, Section 63‑19‑2020 dealing with the confidentiality of identity and fingerprints does not apply.

(8) When jurisdiction is relinquished by the family court in favor of another court, the court shall have full authority and power to grant bail, hold a preliminary hearing and any other powers as now provided by law for magistrates in such cases.

(9) If a child ~~fourteen years of age or older~~ under the age of eighteen is charged with a violation of Section 16‑23‑430(1), Section 16‑23‑20, assault and battery of a high and aggravated nature, or Section 44‑53‑445, the court, after full investigation and hearing, if it considers it contrary to the best interest of the child or the public to retain jurisdiction, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offenses if committed by an adult.

~~(10)~~ ~~If a child fourteen years of age or older is charged with an offense which, if committed by an adult, provides for a term of imprisonment of ten years or more and the child previously has been adjudicated delinquent in family court or convicted in circuit court for two prior offenses which, if committed by an adult, provide for a term of imprisonment of ten years or more, the court acting as committing magistrate shall bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offense if committed by an adult. For the purpose of this item, an adjudication or conviction is considered a second adjudication or conviction only if the date of the commission of th~~e ~~second offense occurred subsequent to the imposition of the sentence for the first offense.~~”

SECTION 3. This act takes effect upon approval by the Governor.

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