

2 **SHB 2906** - H AMD TO H AMD (H-4293.2/94) **1127 LOST 02/21/94**

3 By Representatives J. Kohl and others

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5 On page 48, line 31 of the amendment, after "have" strike
6 "exclusive original jurisdiction" and insert "concurrent original
7 jurisdiction with the juvenile court.

8 The prosecuting attorney shall have the discretion to file criminal
9 charges in adult criminal court against a juvenile whose alleged
10 offense and criminal history satisfies the criteria under this
11 subsection or to file charges against the juvenile in juvenile court.
12 The juvenile shall not be entitled to a hearing on the issue of whether
13 the prosecutor may file charges in adult criminal court or juvenile
14 court and the filing decision may not be appealed"

15 On page 48, line 37 of the amendment, after "plea" insert ".

16 If the prosecutor files criminal charges against the juvenile in
17 adult criminal court, the court may, on its own motion or on the
18 juvenile's motion, hold a hearing to determine whether the juvenile
19 should be transferred to juvenile court to be prosecuted in juvenile
20 court. If the court grants a hearing, the burden shall be on the
21 juvenile to prove by a preponderance of the evidence that prosecution
22 as a juvenile will adequately protect the community. In determining
23 whether prosecuting the juvenile in juvenile court will adequately
24 protect the community, the court may consider a variety of factors,
25 including but not limited to the following:

26 Whether the alleged facts of the crime and the juvenile's
27 participation in the crime is serious enough to warrant concern that
28 the juvenile poses a serious threat to the community. In making this
29 determination, the court may compare the facts of the crime charged
30 against the juvenile with facts of identical crimes charged against
31 adults. The court may also consider whether the juvenile was an
32 accomplice or principal. The court may review the affidavit of
33 probable cause in determining the seriousness of the case;

34 Whether the potential term of confinement that the juvenile would
35 receive in adult criminal court is substantially longer than the
36 potential term of confinement the juvenile would receive in juvenile

1 court, after considering apparent grounds for finding that mitigating
2 or aggravating factors exist; and

3 The prospects for the juvenile's rehabilitation in juvenile court
4 considering the availability of disposition alternatives that have
5 rehabilitation components and the availability of rehabilitation
6 services in the juvenile system compared with the adult criminal
7 system.

8 A judicial decision to grant or deny a motion for a hearing may not
9 be appealed. If the court grants a motion to hold a hearing, the
10 court's decision to retain the juvenile in adult court or to transfer
11 the juvenile for prosecution in juvenile court may be appealed under an
12 abuse of discretion standard of review"

13 EFFECT: The following changes are made to provision concerning
14 adult criminal court jurisdiction over juvenile offenders:

15 (1) Adult criminal court will have concurrent original jurisdiction
16 with the juvenile court over the offenders designated in the underlying
17 bill;

18 (2) The prosecutor will decide whether to file the case in adult or
19 juvenile court. No hearing will be held. The prosecutor's decision is
20 not appealable.

21 (3) When the case is filed in adult court, the court may, but does
22 not have to, hold a hearing to determine whether the juvenile should be
23 transferred to juvenile court for prosecution as a juvenile. The
24 decision to grant or deny a hearing is not appealable.

25 (4) If the court grants a hearing, the burden will be on the
26 juvenile to prove that transferring the juvenile to juvenile court will
27 adequately protect the community. The court may consider a variety of
28 factors, including (a) the seriousness of this particular offense in
29 comparison with other offenses that would result in the same charge
30 being filed; (b) the juvenile's role in the crime such as whether the
31 juvenile was an accomplice or a principal; and (c) the juvenile's
32 prospects of rehabilitation. The court's decision is appealable. The
33 standard of review is an abuse of discretion standard.

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