



The Virginia Success Story

Virginia Narrows “Once an Adult, Always an Adult” Law to Apply Only to Convicted Youth

On March 1, 2007, a unanimous Virginia legislature passed a bill amending Virginia's “once an adult, always an adult” law so that it is applied more fairly to youth. Previously, a one-time transfer of a child to adult court was enough to trigger the “once an adult, always an adult” law, regardless of the ultimate outcome of the transferred case. This meant that a child prosecuted in the adult system on any charge would be treated as an adult in all future proceedings, even if the child was acquitted or the charges were dismissed in the first trial. The amended law requires that youth be convicted of the offense in adult court in order to be tried in adult court for all subsequent offenses. If not convicted of the charges for which he or she was transferred, a youth regains juvenile status for potential subsequent charges. This change was championed by Delegate Dave Marsden, a legislator who has gained a reputation for his expertise in juvenile justice.¹

March 2011

References

¹ H.B. 3007, 2007 Gen. Assem., Reg. Sess. (Va. 2007)

VIRGINIA ACTS OF ASSEMBLY -- 2007 SESSION

CHAPTER 221

An Act to amend and reenact § 16.1-271 of the Code of Virginia, relating to juvenile certification; only certified upon conviction.

[H 3007]

Approved March 9, 2007

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-271 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-271. Subsequent offenses by juvenile.

~~The trial or treatment~~ Conviction of a juvenile as an adult pursuant to the provisions of this chapter shall preclude the juvenile court for taking jurisdiction of such juvenile for subsequent offenses committed by that juvenile.

Any juvenile who is tried and convicted in a circuit court as an adult under the provisions of this article shall be considered and treated as an adult in any criminal proceeding resulting from any alleged future criminal acts and any pending allegations of delinquency which have not been disposed of by the juvenile court at the time of the criminal conviction.

All procedures and dispositions applicable to adults charged with such a criminal offense shall apply in such cases, including, but not limited to, arrest; probable cause determination by a magistrate or grand jury; the use of a warrant, summons, or *capias* instead of a petition to initiate the case; adult bail; preliminary hearing and right to counsel provisions; trial in a court having jurisdiction over adults; and trial and sentencing as an adult. The provisions of this article regarding a transfer hearing shall not be applicable to such juveniles.