

FACT SHEET: House Bill 217

Criminal Law/Procedures Amendment Bill
(updated on 4/22/13)

What is HB 217?

Section 4 of HB 217 removes judicial discretion for certain felonies allegedly committed by youth 15 years old. Currently under North Carolina law, judges must consider whether probable cause exists that the youth committed the offense, and weigh the protection of the public and the best interests of the youth in determining whether to transfer the case to adult court. **Just by a written motion signed by the elected or appointed district attorney for the district**, section 4 of HB217 gives prosecutors the power to prosecute youth 15 years old in the adult criminal court system and relinquishes juvenile court judges' discretion.

What is prosecutorial discretion? Prosecutorial discretion laws define a class of cases that may be brought in either juvenile or criminal court. No hearing is held to determine which court is appropriate, and there are no formal standards for deciding between them. **The decision is entrusted entirely to the prosecutor.**

Why oppose section 4 of HB 217?

Section 4 of this bill removes judicial discretion, which is tasked with balancing the "protection of the public and the needs of the juvenile who will be served by transfer," and replaces it with the sole discretion of the prosecutors. Under current law, the judge is mandated to consider eight separate factors in determining whether to transfer the case to adult court.

NC has a transfer process

- Current NC law gives **judge's** discretion to transfer any youth age 13 or over accused of certain felonies to adult court.

Placing youth in adult facilities is ineffective

- **Placing youth into adult facilities greatly increases the risk of suicide.** Youth in adult jails are 19 times more likely to commit suicide than youth in the general population and 36 times more likely to commit suicide than youth in juvenile detention facilities.ⁱ
- **Placing youth into adult facilities greatly increases the risk that they will be harmed by others.** Statistics compiled by the Bureau of Justice Statistics confirm that youth under 18 comprise a disproportionately high percentage of victims of prisoner-on-prisoner violence.ⁱⁱ
- **Holding youth awaiting trial as adults in adult jail facilities is unnecessary.** As many as half of the youth under 18 tried as adults will be sent back to the juvenile system. Putting these children in adult facilities while they await trial can be very damaging, costly and is ultimately not effective.ⁱⁱⁱ

- **Trying children as adults doesn't prevent crime.** The U.S. Centers for Disease Control and Prevention (CDC) and the Office of Juvenile Justice and Delinquency Prevention at the U.S. Department of Justice concluded that prosecuting youth as adults has little or no deterrent effect on juvenile crime.^{iv}
- **Putting children into adult jails and prisons is the least effective way to improve public safety.** Studies have shown that youth who are transferred from the juvenile court system to the adult criminal system are 34% more likely to be re-arrested than youth retained in the juvenile system.^v
- **Youth of color are disproportionately affected by these policies.** In North Carolina, nearly 7 out of 10 youth in the North Carolina Department of Corrections are youth of color.^{vi}
- **The public opposes this.** Americans overwhelmingly support treatment and rehabilitation of youth over incarceration and automatic prosecution in adult criminal court^{vii}
 - 76% strongly favor individualized determinations on a case by case basis by juvenile court judges in the juvenile justice system over automatic prosecution in adult criminal court.
 - 89% strongly favor rehabilitation and treatment approaches, such as counseling, education, treatment, restitution, and community service.
 - 69% reject placement of youth in adult jails and prisons.
- **All major professional Juvenile Justice and Criminal Justice Associations have issued statements and resolutions that oppose sending kids to the adult system, including:**
 - The Council of Juvenile Correctional Administration
 - National Partnership for Juvenile Services
 - American Jail Association
 - American Probation and Parole Association
 - National Association of Counties
 - Center for Disease Control
- **States are moving away from these ineffective policies.** HB 217 puts North Carolina out of step with a well-established and widespread national trend of moving toward treating youth as youth rather than as adult criminals.^{viii}

ⁱ Mumola, C.J. (2005, August). *Suicide and Homicide in State Prisons and Local Jails*. Washington, D.C.: US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

ⁱⁱ Beck, A.J., Harrison, P.M. (2006, July). *Sexual Violence Reported by Correctional Authorities, 2005*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

ⁱⁱⁱ Juszkiewicz, Jolanta. "To Punish a Few: Too Many Youth Caught in the Net of Adult Prosecution," October 2007, http://www.campaignforyouthjustice.org/documents/to_punish_a_few_final.pdf.

^{iv} Redding, Richard E. *Juvenile Transfer Laws: An Effective Deterrent to Delinquency*. (2010). Washington, D.C. : U.S. Justice Department, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

^v Center for Disease Control and Prevention (2007). *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System*. A Report on Recommendations of the Task Force on Community Preventive Services. MMWR 2007; 56 (No. RR-9).

^{vi} Collected from the Office of Research and Planning, Department of Correction, North Carolina, on July 20 and July 24, 2006. All data and statistics concern youth under the age of 18 during the calendar year 2005.

^{vii} GBA Strategies surveyed a sample of 1,000 American voters (October 2011)

^{viii} Campaign for Youth Justice. *Strategies to Reduce the Number of Youth in Adult Court and Increase Public Safety: A Guide for State Legislators*.