

DIRECT FILE LEGISLATION

KEEPING YOUTH OUT OF JAIL CELLS



HB 509/SB 936 Juvenile Justice

Sponsored by: Rep. Sean Shaw (District 61) and Sen. Bobby Powell (District 30)

The bill gives judges discretion on where to house a juvenile charged as an adult pending his or her trial. The bill prohibits a child found to be incompetent from being transferred to adult court until competency is restored.

As to the direct file process, the bill:

- Eliminates mandatory direct file.
- Amends eligibility for discretionary direct file:
 - Repeals discretionary direct file for 14- and 15-year-olds.
 - Limits discretionary direct file for 16- and 17-year-olds to specified offenses.
 - Removes grand theft from list of direct-file eligible offenses.
 - Adds to factors judges consider when determining whether to impose juvenile or adult sanctions.
- Allows juveniles charged as adults to request the adult court judge to review whether the juvenile is fit to be tried as an adult; provides criteria for judge to consider.
 - Adds transparency and data collection:
 - Requires prosecutors and public defenders to collect data on the plea process and agreements.
 - Requires the Dept. of Juvenile Justice collect additional data on youth prosecuted as adults and requires OPPAGA to produce a report.

As to the waiver process, the bill:

- Repeals mandatory waiver, which forces state attorney to request waiver; and
- Amends factors juvenile court judge considers in deciding whether to waive jurisdiction.

As to indictment, the bill:

- Sets a minimum age of 14 for indictment.
- Provides an incompetent juvenile may not be indicted.

The end result:

- Juveniles, ages 14 through 17, may still be charged as adults through indictment or waiver processes. Those ages 16 and 17 years old will be eligible for direct file for certain offenses.
- Juveniles charged as adults may be housed in juvenile facilities while awaiting trial.
- There will be an avenue for judicial review of discretionary direct file decisions.
- Juveniles with felony convictions will retain their civil rights.

¹ State attorney charges juvenile as an adult – 98% of cases fall here.

² State attorney asks juvenile court judge to waive jurisdiction over the juvenile.