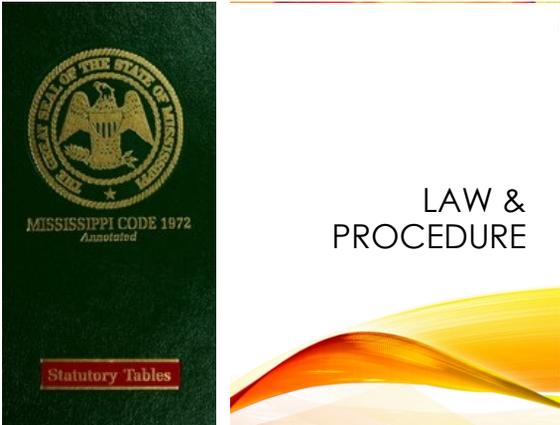
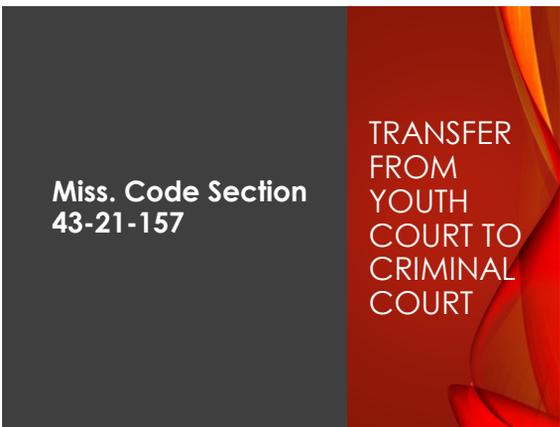




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3

WHO CAN BE TRANSFERRED?

A child who has reached his 13th birthday



and

Has been charged by petition to be a delinquent child.



4

WHO INITIATES A MOTION TO TRANSFER?

Youth Court Prosecutor



Or

On the Youth Court's own motion.



5

WHEN?

After a hearing, the court may, in its discretion, transfer jurisdiction of the alleged offense described in the petition or a lesser included offense.



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6

WHERE ?

To the criminal court which would have trial jurisdiction of the offense if it were committed by an adult.



7



PROCEDURE

8

WHEN IS THE MOTION FILED

- A motion to transfer shall be filed on a day prior to the date set for the adjudicatory hearing
- but not more than ten (10) days after the filing of the petition.



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THE HEARING

13



BIFURCATED HEARING

The transfer hearing shall be bifurcated.

- Probable Cause
- Reasonable Prospects of Rehabilitation Within the Youth Court System



14



STANDARD OF PROOF

Youth court must find by **clear and convincing evidence** that there are no reasonable prospects of rehabilitation within the juvenile justice system.

15



BURDEN OF PROOF

The prosecution (State) has the burden of proof. The State must prove that "no reasonable prospects of rehabilitation" are possible in the juvenile justice system.

16



RULES OF EVIDENCE

- ✘ Rules of evidence **DO NOT APPLY** at the probable cause portion of a transfer hearing.
- ✘ Rules of evidence **APPLY** at the transfer hearing during prospect of rehabilitation phase.

17

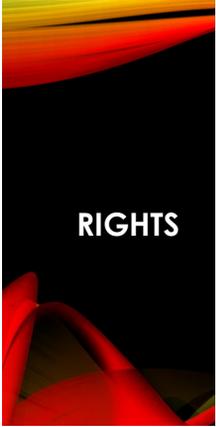


Youth Rights



WHAT RIGHTS TO THE YOUTH HAVE AT A TRANSFER HEARING?

18

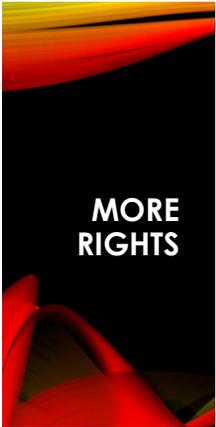


19

Right to Counsel

Right to a Hearing

Five horizontal lines for notes.

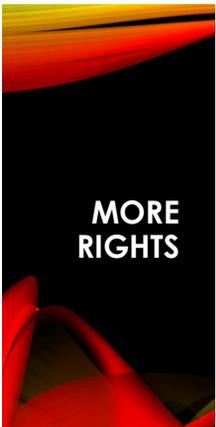


20

Right to be Present

Right to Cross-Examine and Present a Defense

Five horizontal lines for notes.



21

Right to Court-Appointed Experts

Youth have both a due process and equal protection right to court-appointed expert assistance. See Ake v. Oklahoma, 470 U.S. 68

Five horizontal lines for notes.

The factors which shall be considered by the youth court in determining the reasonable prospects of rehabilitation within the juvenile justice system are:

- (a) Whether or not the alleged offense constituted a substantial danger to the public;
- (b) The seriousness of the alleged offense;
- (c) Whether or not the transfer is required to protect the community;
- (d) Whether or not the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
- (e) Whether the alleged offense was against persons or against property, greater weight being given to the offense against persons, especially if personal injury resulted;

FACTORS FOR CONSIDERATION

22

- f) The sophistication, maturity and educational background of the child;
- (g) The child's home situation, emotional condition and life-style;
- (h) The history of the child, including experience with the juvenile justice system, other courts, probation, commitments to juvenile institutions or other placements;
- (i) Whether or not the child can be retained in the juvenile justice system long enough for effective treatment or rehabilitation;
- (j) The dispositional resources available to the juvenile justice system;

MORE FACTORS

23

- (k) Dispositional resources available to the adult correctional system for the child if treated as an adult;
- (l) Whether the alleged offense was committed on school property, public or private, or at any school-sponsored event, and constituted a substantial danger to other students;
- (m) Any other factors deemed relevant by the youth court; and
- (n) Nothing in this subsection shall prohibit the transfer of jurisdiction of an alleged offense and a child if that child, at the time of the transfer hearing, previously has not been placed in a juvenile institution.

MORE FACTORS

24

THE TRANSFER ORDER



- If the youth court transfers jurisdiction of the alleged offense to a criminal court, the youth court shall enter a transfer order containing:
 - (a) Facts showing that the youth court had jurisdiction of the cause and of the parties;
 - (b) Facts showing that the child was represented by counsel;
 - (c) Facts showing that the hearing was held in the presence of the child and his counsel;

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(d) A recital of the findings of probable cause and the facts and reasons underlying the youth court's decision to transfer jurisdiction of the alleged offense;

(e) The conditions of custody or release of the child pending criminal court proceedings, including bail or recognizance as the case may justify, as well as a designation of the custodian for the time being; and

(f) A designation of the alleged offense transferred and of the court to which the transfer is made and a direction to the clerk to forward for filing in such court a certified copy of the transfer order of the youth court.



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MYCYDS TRANSFER ORDER FORM

IN THE YOUTH COURT OF _____ MISSISSIPPI

IN THE PRESENCE OF: _____ LC# _____
 A JUDGE (PRINT)

ORDER TRANSFERRING JURISDICTION TO A CRIMINAL COURT FOR CRIMINAL PROSECUTION

THIS DAY, THIS CASE NO. _____, comes before the TRANSFER BEARING JUDGE who, in accordance with the Code and the Code of Criminal Procedure, has reviewed the petition and the facts concerning the petition and the child's best interests and

1. the child within the purview of the Youth Court Act, being the age of, _____, having been born on _____, and has been charged by Petition to be a Delinquent Child or a Child in Need of Supervision;
2. On _____ a Petition was filed charging in Count 1, _____, a(n) _____, in _____ COUNTY, MISSISSIPPI, with _____, knowingly and unlawfully causing the death of a victim as a violation of § 97 of the Mississippi Code of 1972, Annotated;
3. That the facts alleged in the petition are supported by credible evidence which constitute a substantial danger to the public;
4. That there is probable cause to believe that the accused the offense as alleged in the Petition;
5. That after careful consideration of all testimony and the facts on both the ACCUSATIONS of the Mississippi Code of 1972, Annotated, that the Court finds by clear and convincing evidence that there are no reasonable prospects of rehabilitation for the juvenile justice system;
6. Good and sufficient cause exists to transfer jurisdiction of this cause regarding to the COUNTY CIRCUIT COURT for criminal prosecution.

IT IS ORDERED AND ADJUDGED that the above styled cause be and hereby is transferred to the COUNTY CIRCUIT COURT of _____ MISSISSIPPI for criminal prosecution in the following alleged offense for

Offense Date: _____ **Alleged Offense: _____**
 as violation of § 97 of the Mississippi Code of 1972

IT IS ORDERED AND ADJUDGED that be returned to the custody of the

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ROLE OF THE JUVENILE
DEFENDER WHEN OUR
CLIENT FACES
TRANSFER

28
