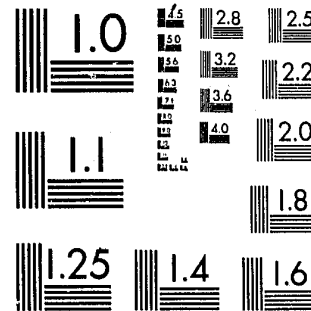


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JUVENILES AS CRIMINALS:  
1980 STATUTES ANALYSIS

An Analysis of State Statutes  
Governing Waiver of Juveniles  
To and From Criminal Court

by

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ACQUISITION

1. WALVER OR TRANSFER TO CRIMINAL COURT

- a) Any provision for transfer.
- b) At discretion of:
  - i) Court
  - ii) Prosecutor
  - iii) Child
- c) Ages for which transfer is allowed.
- d) Restricted to certain crimes.
- e) May mentally ill or retarded child be transferred?
- f) Transfer hearing:
  - i) Required
  - ii) With notice
  - iii) With right to counsel
  - iv) With provisions for recording and transcript
- g) Criteria for transfer:
  - i) Criteria outlined in statute
  - ii) Non-amenability to treatment
  - iii) Need to protect society
  - iv) Showing that child did commit act
- h) Must court give reasons for the transfer?

WAIVER OR TRANSFER TO CRIMINAL COURT

State	Any Provision for Waiver	At Discretion of: Ct.      Pros.      Child	Ages for which Waiver is Allowed	Restricted to Certain Crimes
ALABAMA	§12-15-34	x      May Move	14 or more	Already committed as delinquent or charged with felony.
ALASKA	47.10.060	x	Any	No
ARIZONA	Const. Art. 6 §15 Rules 12-14	x                      x 436 P.2d 948	Above 14 272 P.97 (1928)	No
ARKANSAS	45-417 45-420	x	15, 16, 17 41-617(2)	Any offense
CALIFORNIA	606 707	x      May Move	16 or over	Violation of any criminal statute or ordinance
COLORADO	19-1-104(4) 19-3-108	x      x D.A. may refuse criminal case by not filing information within 5 days, in which case juv. court retains jurisdiction	14 and up	Felony
CONNECTICUT	46b-126	x	14 or over	Class A Felony or second serious juv. offense
	46b-127	No discretion "Court shall transfer..."	14 or over	Murder; A or B Felony, if previously adjudicated delinquent for commission of A or B felony

WAIVER OR TRANSFER TO CRIMINAL COURT

State	Any Provision for Waiver	At Discretion of: Ct.      Pros.      Child	Ages for which Waiver is Allowed	Restricted to Certain Crimes
DELAWARE	10-938	x May Move      May Move	16 or over	Any delinquent act.
	10-938, 10-937(c)(5)	x Transfer hearing shall be held	14 or over	Felony committed during escape or AWOL from mandatory DOC commitment.
DISTRICT OF COLUMBIA	16-2307	x      May Move (See exclusions)	15 or over 16 or over  18 or over	Felony. Any offense by child already under commitment for delinquency. Offense committed before 18.
FLORIDA	39.02(5) and 39.09(2)	x      May Move      39.02(5)(b) Child and parent may demand.	14 or over 39.02(5)(a)	Any crime 39.09(2)(a)
	39.02(5) and 39.09(2)	x      Shall Move      39.09(a)	14 or over 39.02(5)(a)	Second violent offense, to wit Murder, sexual battery, armed or strong-armed robbery, aggravated battery, aggravated assault. 39.09(2)(a)
GEORGIA	Yes 24A-2501	x	15 or over 13 or over	Any crime Capital or life offenses
HAWAII	571-22	x	16 or over	Felony
IDAHO	16-1806	x      Motion may be made by prosecutor, court or child	15 and up	Any crime

WAIVER OR TRANSFER TO CRIMINAL COURT

State	Any Provision for Waiver	At Discretion of: Ct.      Pros.      Child	Ages for which Waiver is Allowed	Restricted to Certain Crimes
ILLINOIS	37-702-7(3)	x      May Move      37-702-7(5) Child & counsel may demand.	13 and up	Crimes
INDIANA	31-6-2-4(b)	x      May Move	14 or more	Heinous or aggravated act, or part of repetitive pattern of less serious delinquent acts.
	31-6-2-4(c)	x      May Move Court <u>shall</u> waive unless	10 or more	Murder
	31-6-2-4(d)	x      May Move Court <u>shall</u> waive unless	16 or more	Murder or Class A or B Felony.
IOWA	232.8(3) 232.45	x      May Move      May Move	After 14th birthday	Public offense
KANSAS	38-808	x      May Move	16 or older	Crime

WAIVER OR TRANSFER TO CRIMINAL COURT

State	Any Provision for Waiver	At Discretion of:			Ages for which Waiver is Allowed	Restricted to Certain Crimes
		Ct.	Pros.	Child		
KENTUCKY	208.170	x			16 or over Under 16	Any felony Capital offense or Class A felony
LOUISIANA	Yes 13:1571.1 C.J.P. Art.106	x May Move	May Move	May Move	15 or older	Any crime if previously adjudicated delinquent for specified offenses 13:1571.1(A)(5) No previous adjudication necessary if charged with armed robbery or offense punishable by life 13:1571.1(D)
MAINE	3101(4)	x	May Move		Any	Criminal homicide in 1st or 2nd degree, Class A, B or C crime 3101(4)(A)
MARYLAND	3-817	x	x	(On own motion or petition of state's attorney) Rules 913	15 or over  Under 15	Any crime  Capital or life crime
MASSACHUSETTS	Yes Ch.119 §61	x			14, 15, 16	Child previously committed to DYS as delinquent and present offense punishable by imprisonment;  Offense involved infliction or threat of serious bodily harm

WAIVER OR TRANSFER TO CRIMINAL COURT

State	Any Provision for Waiver	At Discretion of: Ct.      Pros.      Child	Ages for which Waiver is Allowed	Restricted to Certain Crimes	
MICHIGAN	27.3178 (598.4)	x      May Move	15 or older	Felony	
MINNESOTA	260.125	x      x  Court refers to Pros. who decides whether to prosecute.	14 and over	Violation of state or local law or ordinance	
MISSISSIPPI	43-21-157 Youth Court	x      May Move	13 or older	Any crime	
	43-23-29 Family Court	x	13 or older	Felony	
MISSOURI	211.071	x	May move Juv. Ct. Rule 118.01	14 or older 17-21 and within Juv. Ct.'s continuing jurisdiction	Felony; traffic offense Any state law or municipal ordinance
MONTANA	41-5-206	x      May Move	16 or older	Homicide; arson; aggravated assault; robbery; burglary; rape; aggravated kidnapping; possession of explosives; sale of drugs for profit.	

WAIVER OR TRANSFER TO CRIMINAL COURT

State	Any Provision for Waiver	At Discretion of: Ct.      Pros.      Child	Ages for which Waiver is Allowed	Restricted to Certain Crimes
NEBRASKA	No waiver. Juv. and criminal court have concurrent jurisdiction over certain cases and prosecutor decides where to file.	x County atty decides whether to file in juv. court or criminal court 43-202.01	Any 16, 17 Less than 16	Felony Any offense Traffic offense
NEVADA	62.080	x	16 or older	Felony
NEW HAMPSHIRE	169-B-24	x      May Move	Any	Felony
NEW JERSEY	2A:4-48	x	14 or older	Homicide; treason, violent crime; drugs (addict can't be waived).
	2A:4-49	x	14 or older	Any offense



WAIVER OR TRANSFER TO CRIMINAL COURT

State	Any Provision for Waiver	At Discretion of: Ct.      Pros.      Child	Ages for which Waiver is Allowed	Restricted to Certain Crimes	
NEW MEXICO	32-1-29	x	16 or older	Felony	
	32-1-30	x	15 or older 16 or older	Murder Certain crimes transferable under 32-1-30--assault with intent to commit violent felony; kidnap; aggravated battery; dangerous use of explosives; rape; robbery, aggravated burglary; aggravated arson	
NEW YORK	NO				
NORTH CAROLINA	7A-557	x	14 or over	Felony (waiver is <u>mandatory</u> for capital offenses).	
NORTH DAKOTA	27-20-34	x	x (if over 17)	16 or over	Crime or public offense
OHIO	2151.26	x	15 or older	Felony	

WAIVER OR TRANSFER TO CRIMINAL COURT

State	Any Provision for Waiver	At Discretion of: Ct.      Pros.      Child	Ages for which Waiver is Allowed	Restricted to Certain Crimes
OKLAHOMA	10 § 1112(b)	x      May Move	Any age	Felony
OREGON	419.533	x	16 and older	Crime, violation of municipal ordinance
PENNSYLVANIA	42 §6355	x      May request	14 and older	Felony (except case referred to juvenile court by criminal court 42 §6355(d),(e))
RHODE ISLAND	14-1-7	x	16 and older	Indictable offense
SOUTH CAROLINA	14-21-510(c)	Petitioner may request that family court transfer case to general sessions. If request denied, petitioner may appeal to circuit court which may in its discretion exercise general sessions' jurisdiction or relinquish jurisdiction to family court	Any age	Murder and rape
	14-21-540	x	16 or older	Misdemeanor or felony

WAIVER OR TRANSFER TO CRIMINAL COURT

State	Any Provision for Waiver	At Discretion of: Ct.      Pros.      Child	Ages for which Waiver is Allowed	Restricted to Certain Crimes
SOUTH DAKOTA	26-8-22.7 26-11-4	x	Any age	Any
TENNESSEE	37-234	x	16 or older 15 or older	Crime or public offense Murder, manslaughter, rape, robbery with deadly weapon, kidnapping
TEXAS	54.02	x	15 or older	Felony
UTAH	78-3a-25	x	14 and older	Felony
VERMONT	No			
VIRGINIA	16.1-269	x	15 or older	Punishable by imprisonment (Transfer mandatory if child charged with felony and previously tried as adult and convicted of felony.)
		May make motion 16.1-269(A); with May elect consent of counsel if court decides to retain and crime is punishable by death or more than 20 years imprisonment. -16.1-269E		

WAIVER OR TRANSFER TO CRIMINAL COURT

State	Any Provision for Waiver	At Discretion of:			Ages for which Waiver is Allowed	Restricted to Certain Crimes
		Ct.	Pros.	Child		
WASHINGTON	13.40.110	x	May	May	16 or 17	Class A felony or attempt, 2nd degree assault, 1st degree extortion; indecent liberties; 2nd degree kidnapping; 2nd degree rape; 2nd degree robbery.
WEST VIRGINIA	49-5-10	x			Any age	Treason, murder, robbery with deadly weapon, kidnapping, first degree arson, first degree sexual assault 49-5-10(d)(1)
			x		Any age	Second violent felony 49-5-10(d)(2)
			x		Any age	Third felony, 49-5-10(d)(3)
			x		16 or over	Violent felony, 49-5-10(d)(4)
			x		16 or over	Second felony, 49-5-10-(d)(5)
					x	16 or over
WISCONSIN	48.18	x	Child or D.A. may move; judge may move if he disqualifies himself from future proceedings. 48.18(1)		16 or older	State criminal law

WAIVER OR TRANSFER TO CRIMINAL COURT

State	Any Provision for Waiver	At Discretion of: Ct.      Pros.      Child	Ages for which Waiver is Allowed	Restricted to Certain Crimes
WYOMING	14-6-237	x County attorney makes initial decision whether to file in juvenile court or criminal court, 14-6-203(c). Thereafter, either court may decide to transfer to other.	Any age	Crimes

WAIVER OR TRANSFER TO CRIMINAL COURT (contin.)

HEARING (On Transfer Issue)

State	May Mentally Ill or Retarded Child be Transferred	Required	With Notice	With Counsel	Transcript
ALABAMA	No, 12-15-34(c)	12-15-34(b)		Yes, 12-15-63(a)	
ALASKA	N.P.	X 504 P.2d 837 (1972) 47.10.060(a) Children's Rule 3, Alaska Rules of Court	X (To depart- ment) 47.10.070	X 47.10.050	
ARIZONA	No Rule 14(b)(2)	X Rule 13	X Rule 13 (5 days)	X Rule 13 8-225	
ARKANSAS	N.P.	N.P.			
CALIFORNIA	?-705	Yes	Yes 498 P.2d 1098	Yes 700	
COLORADO	No 19-3-107	X 19-1-104(4)	X 19-3-106(4)(b)	X 19-3-108(2)(b) 19-1-106	X 19-3-108(2)(a) 19-1-107(3)

WAIVER OR TRANSFER TO CRIMINAL COURT (contin.)

HEARING (On Transfer Issue)

State	May Mentally Ill or Retarded Child be Transferred	Required	With Notice	With Counsel	Transcript
DELAWARE	N.P.	X, 938 Family	X Court	X Rules	X 170,230
DISTRICT OF COLUMBIA	(Unless incompetent to participate in proceedings, but child <u>must</u> then be "committed" to a mental hospital) 16-2307	X 16-2307(d)	X 16-2304(a)	16-2304(a)	
FLORIDA		39.09(2)(c)	X, 39.09(2)(b)	X, 39.071	N.P.
GEORGIA	No 24A-2501(3)(ii)	X 24A-2501(1)	X 24A-2501(2)	X 24A-2001	X 24A-1801
HAWAII	Not if committable 571-22(a)	Full Investigation and Hearing, --- See: 446 P.2d 564		571-22	
IDAHO	Yes	X 16-1806(4)	X	X	X 16-1806(5)
ILLINOIS	N.P.	X 37-702-7(3)		X, 37-702-7(3)a	
INDIANA		X		X, 31-6-7-2	

HEARING OR TRANSFER TO CRIMINAL COURT (contin.)

HEARING (On Transfer Issue)

State	May Mentally Ill or Retarded Child be Transferred	Required	With Notice	With Counsel	Transcript
IOWA	N.P.	X, 232.45(2)	232.45(3)	232.11(1)(c)	252.41
KANSAS	N.P.	X 38-808(b)	X 38-808(b)	Guardian ad litem 38-808(b) 38-815(b)	Minutes 38-808(b)
KENTUCKY	No 208.150	208.170(1)		Yes 479 S.W.2d 592	N.P.
LOUISIANA	N.P.	Yes 13:1571.1(A)(2)	Yes 13:1571.1(A)(3)	Yes 1571.3	If requested or ordered by court 1571.2(C)
MAINE	No 3318	Yes 3101(4)(A)	Yes 3101(4)(A)	Yes 3101(4)(A)	Yes 3101(4)(C)
MARYLAND	N.P.	Yes 3-817(b)	Yes	Yes Rule 913 3-821	N.P.
MASSACHUSETTS	N.P.	Yes 119 §61	X Rule 83	X Rule 85	Finding in writing Rule 85A



WIVER OR TRANSFER TO CRIMINAL COURT (contin.)

HEARING (On Transfer Issue)

State	May Mentally Ill or Retarded Child be Transferred	Required	With Notice	With Counsel	Transcript
MICHIGAN	N.P.	Yes 27.3178(598.4)(2)	Yes (2)	Yes (5)	N.P.
MINNESOTA	N.P.	Yes 260.125	X 260.125	X Rule 8-3 Rule 5-1	X Rule 1-3
MISSISSIPPI	N.P.	Yes 43-21-157	X, 43-21-157(2)	X, 43-21-157(1)	Record 43-21-157(6),(7)
	N.P.	"Full investiga- tion"	N.P.	N.P.	N.P.
MISSOURI	N.P.	Yes 211.071	Yes Juv. Ct. Rule 118.02	Yes Juv. Ct. Rule 116.01	
MONTANA	N.P.	Yes 41-5-206(1)(b)	Yes 41-5-206(1)(c)	Yes 41-5-511	Yes 41-5-206(b) 41-5-521 (3) - Verbatim Recording
NEBRASKA	N.P.	N.P. (Within discretion of county attorney to bring in criminal court)			

WIVER OR TRANSFER TO CRIMINAL COURT (contin.)

HEARING (On Transfer Issue)

State	May Mentally Ill or Retarded Child be Transferred	Required	With Notice	With Counsel	Transcript
NEVADA	N.P.	"Full Investigation"	62.080		
NEW HAMPSHIRE	Yes	Yes 169-B-24	N.P.	Yes 169-B-24	N.P.
NEW JERSEY	N.P.	X 2A:4-48		X 2A:4-59	
NEW MEXICO	Not if committable 32-1-29(A)(4)(c)	X, 32-1-29(A)(2)	X, 32-1-29(A) (3)	X 32-1-27(E)	X, 32-1-29(A)(2) 32-1-31(A)
	Yes	X, 32-1-30(A)(2)	X, 32-1-30(A) (3)	X 32-1-27(e)	X, 32-1-30(A)(2) 32-1-31(A)
NEW YORK	N/A				
NORTH CAROLINA	N.P.	X 7A-558	X 7A-557	X 7A-558	N.P.
NORTH DAKOTA	No, 27-20-35 Not if committable	X 27-20-34	X	X 27-20-34 27-20-26	X 27-20-34 27-20-24(3)

WAIVER OR TRANSFER TO CRIMINAL COURT (contin.)

HEARING (On Transfer Issue)

State	May Mentally Ill or Retarded Child be Transferred	Required	With Notice	With Counsel	Transcript
OHIO	N.P.	X, 2151.26(A)	X, 2151.26(C)	X 2151.352	Upon request 2151.35 2301.20
OKLAHOMA	Consideration given to juvenile's ability to distinguish right from wrong. 10 §1112(b)	X	X	X 10 §1109(a)	
OREGON	N.P.	N.P.			
PENNSYLVANIA	No 42 §6355(4)(iii)(B)	X 42 §6355(a)(2)	X 42 §6355(a)(3)	X 42 §6337	If requested 42 §6336(c)
RHODE ISLAND	N.P.	Yes 231 A.2d 767			
SOUTH CAROLINA	N.P.	N.P. as to 14-10-510			
	N.P.	"Full investigation" under 14-10-540			

WAIVER OR TRANSFER TO CRIMINAL COURT (contin.)

HEARING (On Transfer Issue)

State	May Mentally Ill or Retarded Child be Transferred	Required	With Notice	With Counsel	Transcript
SOUTH DAKOTA	N.P.	X 26-11-4		X 26-8-22.1	
TENNESSEE	Not if committable 37-234(a)(4)(iii)	X 37-234(a)(2)	X 37-234(a)(3)	X 37-226	Minutes 37-224
TEXAS	No 55.02, 55.03	X 54.02(c)	X 54.02(b)	X 51.10(a)(2)	X 54.09
UTAH	N.P.	X 78-3a-25		X 78-3a-25 78-3a-35	X 78-3a-25 78-3a-35
VERMONT	N.P.				
VIRGINIA	No 16.1-269(A)(3)(c)	X 16.1-269	X 16.1-269(2)	X 16.1-266B	
WASHINGTON	N.P.	X 13.40.110		13.40.080(8) 13.40.140(2)	13.40.140(5)

WIVER OR TRANSFER TO CRIMINAL COURT (contin.)

HEARING (On Transfer Issue)

State	May Mentally Ill or Retarded Child be Transferred	Required	With Notice	With Counsel	Transcript
WEST VIRGINIA		X 49-5-10(a)	X 49-5-10(a)	X 49-5-1(c)	X 49-5-1(f)
WISCONSIN	Whether a proper subject for commitment is a criteria under 48.18(5)(a). See also 48.135	X 48.18	X 48.18(3)(a)	X 48.18(3)(a)	X 48.18(7)
WYOMING	Only if reasonable grounds to believe child not subject to commitment to MH/MR institution 14-6-237(b)(iii)	X 14-6-237(a)	X 14-6-237(a)	X 14-6-237 14-6-222	X 14-6-237 14-6-224

WAIVER OR TRANSFER TO CRIMINAL COURT (Cont.)

Criteria for Waiver					
State	Criteria Outlined in Statute	Non-Amenability to Treatment	Need to Protect Society	Showing That Child did Commit Act	Must Court Give Reasons for Transfer
ALABAMA	Yes 12-5-34(d)	Yes	Yes	Probable cause 12-15-34(f)	Yes 12-15-34(f)
ALASKA	Yes 47.10.060(a), (d)	Yes	Yes	Probable cause	Yes Children's Rule 3 Alaska Rules of Court
ARIZONA	Yes Rule 14(b)	Yes Rule 14(b)(1)	Yes Rule 14(b)(3)	Probable cause Rule 14(a) unless waived	Yes Rule 14(c)
ARKANSAS	No				
CALIFORNIA	Yes	Yes	Yes	Alleged	Yes
COLORADO	Yes 19-3-108, 19-1-104(4)(a)	Yes	Yes	Probable cause	N.P.
CONNECTICUT	Yes 46b-126	X		Probable cause	Written findings
	Yes 46b-127			Probable cause	Written findings
DELAWARE	Yes 10-938	X	x	Alleged	N.P.

WAIVER OR TRANSFER TO CRIMINAL COURT (cont.)

State	Criteria for Waiver				
	Criteria Outlined in Statute	Non-Amenability to Treatment	Need to Protect Society	Showing That Child did Commit Act	Must Court Give Reasons for Transfer
DISTRICT OF COLUMBIA	Yes 16-2307(d), (e)	X		Alleged	Yes 16-2307(d)
FLORIDA	Yes 39.09(2)(c)	X	X	Alleged; consider also "prosecutive merit of the complaint"	Yes 39.09(e)
GEORGIA	Yes 24A-2301(3)	X <u>AND</u>	X	Reasonable grounds	Yes
HAWAII	Yes 571-22(a)	Yes	Yes	Alleged	N.P.
IDAHO	Yes 16-1806(8)	Yes	Yes	Alleged	Yes 16-1806(6)
ILLINOIS	Yes 37-702-7(3)	Yes •	Yes	Alleged, Court to consider sufficiency of evidence for indictment	Unclear

WAIVER OR TRANSFER TO CRIMINAL COURT (cont.)

Criteria for Waiver

State	Criteria Outlined in Statute	Non-Amenability to Treatment	Need to Protect Society	Showing That Child did Commit Act	Must Court Give Reasons for Transfer
INDIANA	Yes 31-6-2-4(b)	X	X	Probable cause	Yes 31-6-2-4(h)
	Yes 31-6-2-4(c) Court shall waive unless it would be in best interest of child and of welfare and safety of community for him to remain in juvenile system	X	X	Probable cause	Yes 31-6-2-4(h)
	Yes 31-6-2-4(d) Court shall waive unless it would be in best interests of child and of welfare and safety of community for him to remain in juvenile system.	X	X	Probable cause	Yes 31-6-2-4(h)
IOWA	Yes 232.45(6), (7)	Yes	Yes	Probable cause	Yes 232.45(8)
KANSAS	Yes 38-808	Yes	Yes	Alleged	Unclear 38-808(b)
KENTUCKY	Yes 208.170(3)	Yes	Yes	Probable cause	Yes 208.170(4)
LOUISIANA	Yes 13.1571.1	Yes	N.P.	Alleged	Yes 1571.2(c)



WAIVER OR TRANSFER TO CRIMINAL COURT (cont.)

Criteria for Waiver					
State	Criteria Outlined in Statute	Non-Amenability to Treatment	Need to Protect Society	Showing That Child did Commit Act	Must Court Give Reasons for Transfer
MAINE	Yes 3101(4)(D) & (E)	Yes	Yes	Probable cause	Yes 3101(F)
MARYLAND	Yes CJ3-817(d)	Yes CJ3-817(d)(3)	Yes CJ3-817(d)(5)	No "assumed"	Yes Rule 913(e)(c)(g), 3-817(d)
MASSACHUSETTS	119§61	x	x	Probable cause	"Written finding based on clear and convincing evidence."
MICHIGAN	Yes 27.3178(598.4) (4)	x	x	Probable cause 27.3178(598.4)(3)	Yes 273.3178(598.4)(7)
MINNESOTA	Yes 260.125(2) (d)	x OR	x	Alleged	Yes Rule 8-7(1) (b)
MISSISSIPPI	Yes §43-21-157(4)(5)	x	x	Probable cause	Yes 43-21-157(6)
	No, (Full investigation)			Charged	N.P.

WAIVER OR TRANSFER TO CRIMINAL COURT (cont.)

Criteria for Waiver					
State	Criteria Outlined in Statute	Non-Amenability to Treatment	Need to Protect Society	Showing That Child did Commit Act	Must Court Give Reasons for Transfer
MISSOURI	Yes	X		Alleged	Yes Juv. Ct. Rule 118.04(d)
MONTANA	Yes 41-5-206(1)(d) and (2)	X <u>AND</u>	Yes <u>AND</u>	Reasonable grounds (and offense committed in aggressive, violent or premeditated manner)	Yes 41-5-206(3)
NEBRASKA	<u>County Atty.</u> considers: 43-202.01	X	X	Violence and premeditation; motivation; age. Charged.	
NEVADA	No				
NEW HAMPSHIRE	169-B-24 Court shall consider	X	X	Prosecutive merit of complaint	X 169-B-24

WAIVER OR TRANSFER TO CRIMINAL COURT (cont.)

State	Criteria for Waiver				
	Criteria Outlined in Statute	Non-Amenability to Treatment	Need to Protect Society	Showing That Child did Commit Act	Must Court Give Reasons for Transfer
NEW JERSEY	2A:4-48(b)(c)	X	X	Probable cause	
NEW MEXICO	Yes 32-1-29(A)(4)	X	X	Reasonable grounds	No
	32-1-30(A)(4)	Court must "consider"		Reasonable grounds	No
NEW YORK	N/A				
NORTH CAROLINA	7A-559	X	X	Probable cause 7A-558	Yes 7A-559(3)
NORTH DAKOTA	Yes 27-20-34	X	X	Reasonable grounds	

WAIVER OR TRANSFER TO CRIMINAL COURT (cont.)

State	Criteria for Waiver				Must Court Give Reasons for Transfer
	Criteria Outlined in Statute	Non-Amenability to Treatment	Need to Protect Society	Showing That Child did Commit Act	
OHIO	Yes 2151.26(A)	X	X	Probable cause	Yes 2151.26(E)
OKLAHOMA	Yes 10 §1112(b)	X	X	Whether there is prosecutive merit to complaint	Yes 10 §1112(b)
OREGON	419.533(1)(c)	X		Alleged	Yes 419.533(2)
PENNSYLVANIA	Yes 42 §6355	X	X	<u>Prima facie</u> case	N.P.
RHODE ISLAND	No				Yes 231 A.2d 767
SOUTH CAROLINA	No as to 14-21-510				N.P.
	Yes as to 14-21-540	X	X	Charged	N.P.

WAIVER OR TRANSFER TO CRIMINAL COURT (cont.)

Criteria for Waiver					
State	Criteria Outlined in Statute	Non-Amenability to Treatment	Need to Protect Society	Showing That Child did Commit Act	Must Court Give Reasons for Transfer
SOUTH DAKOTA	26-11-4	X	X	Prosecutive merit of complaint	Yes 26-11-4
TENNESSEE	Yes 37-234	X	X	Reasonable grounds	
TEXAS	Yes 54.02(f)	X	X	Evidence that grand jury would return indictment	Yes 54.02(h)
UTAH	Yes, 78-3a-25	X Contrary to best interest of child or public	X	Alleged	
VERMONT	N.P.				
VIRGINIA	Yes 16.1-269(A)(3)	X (Not required if offense is armed robbery, rape, or murder)	X	Probable cause	

WAIVER OR TRANSFER TO CRIMINAL COURT (cont.)

Criteria for Waiver					
State	Criteria Outlined in Statute	Non-Amenability to Treatment	Need to Protect Society	Showing That Child did Commit Act	Must Court Give Reasons for Transfer
WASHINGTON	Yes 13.40.110(2)	Best interest of juvenile or public	Best interest of juvenile or public		Yes R.C.W. 13.40.110(3)
WEST VIRGINIA	Not really. 49-5-10(d) provides the child's mental, emotional attitude, experience, and similar probable cause."	court may transfer "upon consideration of and physical condition, home or family environment, school similar personal factors, if there is	upon consideration of maturity, school, if there is	Probable cause (Probable cause alone is sufficient for transfer under 49-5-10(d)(1) of listed offenses)	Yes 45-5-10(e)
WISCONSIN	48.18(5)	X 48.18(5)(a)	X 48.18(5)(c)	Prosecutive merit	Yes 48.18(6)
WYOMING	Juvenile proceedings inappropriate under circumstances. 14-6-237(b)			Reasonable grounds	No

2. WAIVER OR TRANSFER FROM CRIMINAL COURT

- (a) Transfer to Juvenile Court Provided in Statute
- (b) If, at time of Act, Defendant was Under Age \_\_\_\_
- (c) May Defendant Refuse Transfer?
- (d) May Criminal Court Choose to Retain Case?
- (e) Other Provisions

WAIVER OR TRANSFER FROM CRIMINAL COURT

State	Transfer to Juvenile Court provided in Statute	If, at time of Act, Def. was under AGE _____	May Def. Refuse Transfer?	May Criminal Court Choose to Retain Case:	OTHER PROVISIONS
ALABAMA	12-15-33	18	No	No	Court has discretion to transfer or retain traffic offenses
ALASKA	No				Child is exempt from criminal prosecution until Children's Court waives. 504 P.2d 837 (1972)
ARIZONA	8-222	18	No	No 8-222	No transfer after verdict or guilty plea 436 P.2d 948 (1968)
ARKANSAS	45-417 45-420 41-617(2)	18	No	Yes - Criminal court has concurrent jurisdiction of 15,16, & 17 year olds. Prosecutor may file in either court.	Any judge has discretion to transfer case to any court having jurisdiction
CALIFORNIA	604(a)	18	No 603, 604	No	
COLORADO	19-1-104(4)(c) For disposition only	18	No	Yes....Criminal Court has power to make juv. disposition	



WAIVER OR TRANSFER FROM CRIMINAL COURT

State	Transfer to Juvenile Court provided in Statute	If, at time of Act, Def. was under AGE	May Def. Refuse Transfer?	May Criminal Court Choose to Retain Case:	OTHER PROVISIONS
CONNECTICUT	46b-133	16 46b-120 46b-133	No	No	
DELAWARE	10-939	18 10-901	Court can transfer. Upon defendant's application. Atty. Gen. can transfer w/o D's application.	Yes 10-939	Superior Court may transfer any case of a child even if Family Court did not originally have jurisdiction. Atty. General also has authority to transfer a case.
DISTRICT OF COLUMBIA	16-2302	18	No	No	No transfer of excluded offenses (see exclusions). No transfer after jeopardy attaches. After verdict, can transfer for disposition. No transfer if defendant is over 21.
FLORIDA	39.02(2)	18	No, but if joined by parent or guardian, may demand waiver to adult court.	No	Adult court may retain if there has already been a verdict. Rule 18. When juvenile has been waived and tried as adult, criminal court may withhold adjudication of guilt, enter adjudication of delinquency and enter juvenile disposition. 39-111.

WAIVER OR TRANSFER FROM CRIMINAL COURT

State	Transfer to Juvenile Court provided in Statute	If, at time of Act, Def. was under AGE _____	May Def. Refuse Transfer?	May Criminal Court Choose to Retain Case:	OTHER PROVISIONS
GEORGIA	24A-901	17 21 if on probation for delinquent act committed when under 17.	No	No (except for capital or life offenses, 24A-301(b) )	
HAWAII	571-12	18	No	No	Mandatory transfer during the pendency of criminal charge
IDAHO	16-1804	18	No	No, except for traffic or waiver offenses under 16-1806(1)(a)(b)	Mandatory during pendency
ILLINOIS	N.P.				
INDIANA	31-6-2-2	18	No	No	
IOWA	232.8(2)	18	No	No	

WAIVER OR TRANSFER FROM CRIMINAL COURT

State	Transfer to Juvenile Court provided in Statute	If, at time of Act, Def. was under AGE _____	May Def. Refuse Transfer?	May Criminal Court Choose to Retain Case:	OTHER PROVISIONS
KANSAS	38-815(c)	18	No	No	
KENTUCKY	No				Juvenile Court has exclusive jurisdiction over child under 18, 208.020
LOUISIANA	13:1571 C.J.P. Art. 107	17	No	No	Mandatory transfer if defendant is still under 21.
MAINE	Yes, 3101(3)	18	No	No	
MARYLAND	\$594A of Article 27	18		Yes	
MASSACHUSETTS	No, 119 §74				"No criminal proceeding shall be begun."
MICHIGAN	27.3178(598.3)	17	No	No	

WAIVER OR TRANSFER FROM CRIMINAL COURT

State	Transfer to Juvenile Court provided in Statute	If, at time of Act, Def. was under AGE ____	May Def. Refuse Transfer?	May Criminal Court Choose to Retain Case:	OTHER PROVISIONS
MINNESOTA	260.115	18	No	No	
MISSISSIPPI	43-21-159(1)	18	No	No (except traffic)	
	43-21-159(3)	18	No	Yes (capital and life offenses of which Circuit Court has original jurisdiction.	
	43-23-37 re Circuit Court	18	Yes	Yes (capital and life offenses)	
MISSOURI	211.061	17	No	No	Mandatory transfer, no matter when true age is discovered.
MONTANA	No				
NEBRASKA	Yes 43-202.02	18	Def. may move for transfer	Yes	

WAIVER OR TRANSFER FROM CRIMINAL COURT

State	Transfer to Juvenile Court provided in Statute	If, at time of Act, Def. was under AGE _____	May Def. Refuse Transfer?	May Criminal Court Choose to Retain Case:	OTHER PROVISIONS
NEVADA	62.050	18	No	No, but murder or attempted murder cannot be transferred to juvenile court	
	62.060	18-21, Felony or gross misdemeanor except murder or attempted murder	Yes	Yes and if transferred Juvenile Court can decide to transfer back.	
	62.080	16-18, transferred to Criminal Court by Juvenile Court	May move for transfer back to juv. court upon showing of exceptional circumstances	Yes	
NEW HAMPSHIRE					
NEW JERSEY	2A:4-47	18 (2A:4-43)	No, but if over 14, may elect transfer from juv. to criminal court 2A:4-49	No	

WAIVER OR TRANSFER FROM CRIMINAL COURT

State	Transfer to Juvenile Court provided in Statute	If, at time of Act, Def. was under AGE _____	May Def. Refuse Transfer?	May Criminal Court Choose to Retain Case:	OTHER PROVISIONS
NEW MEXICO	32-1-11	18	No	No	
NEW YORK	180.75, 190.71, 210.43, 220.10, 310.85 and 330.25 of CPL; Article 725 of CPL			See statutes noted	
NORTH CAROLINA	No				
NORTH DAKOTA	27-20-09	18	No	No	
OHIO	2151.25	18	No	No	
OKLAHOMA	10 §1112(a)	18	N.P.	No	10 §1112(a) regards transfer to juvenile court of cases not within jurisdiction of criminal court
	10 §1104.2	18: 16 or 17 years old	Must move	Yes	10 §1104.2 regards certification to juvenile court of offenses over which criminal court has original jurisdiction.

WAIVER OR TRANSFER FROM CRIMINAL COURT

State	Transfer to Juvenile Court provided in Statute	If, at time of Act, Def. was under AGE _____	May Def. Refuse Transfer?	May Criminal Court Choose to Retain Case:	OTHER PROVISIONS
OREGON	419.478	18	No	No	
PENNSYLVANIA	42 §6322	18	No	No (except murder)	If child charged with murder is convicted in criminal court of lesser offense, case may be transferred to juvenile court for disposition.
RHODE ISLAND	14-1-28	18	No	No	
SOUTH CAROLINA	14-21-530	17	No	No	Circuit court has exclusive jurisdiction over certain offenses under state constitution
SOUTH DAKOTA	26-11-2	18	No	No	
TENNESSEE	37-209	18	No	No	
TEXAS	51.08	17	No	No	

WAIVER OR TRANSFER FROM CRIMINAL COURT

State	Transfer to Juvenile Court provided in Statute	If, at time of Act, Def. was under AGE	May Def. Refuse Transfer?	May Criminal Court Choose to Retain Case:	OTHER PROVISIONS
UTAH	78-3a-18	18	No	No	
VERMONT	33 §635	18		Yes, if defendant was over 16; otherwise, no.	
VIRGINIA	16.1-245	18		No	
WASHINGTON	N.P.				
WEST VIRGINIA	49-5-1(a)	18	No, but child over 16 may demand that juvenile court transfer back, 49-5-10(c)	No	
WISCONSIN	N.P.				
WYOMING	14-6-237(f)	19	No	Yes	14-6-203. Jurisdiction of juvenile court is not exclusive. County attorney makes initial decision whether to file in juv. or criminal court.



JUVENILES AS CRIMINALS:  
1980 STATUTES ANALYSIS

## LEGISLATION CURRENT THROUGH

AL	January 31, 1981	MT	1979 Legislative Session
AK	November 30, 1979	NE	1980 Legislative Session
AZ	April, 1980	NV	December 31, 1980
AR	December 31, 1980	NH	1979 Legislative Session
CA	December 31, 1979	NJ	September 1, 1979
CO	1979 Legislative Session	NM	1980 Legislative Session
CT	1979 Legislative Session	NY	1980 Legislative Session
DE	April 24, 1980	NC	June 4, 1980
DC	April 25, 1980	ND	December 31, 1980
FL	April 8, 1980	OH	October 31, 1979
GA	December 31, 1979	OK	December 31, 1979
HI	December 31, 1980	OR	December 31, 1980
ID	November 29, 1979	PA	May 20, 1980
IL	April, 1980	RI	September Session, 1979
IN	September 30, 1980	SC	1979 Legislative Session
IA	November 6, 1979	SD	1979 Legislative Session
KS	December 31, 1980	TN	1979 Legislative Session
KY	December 31, 1980	TX	December 31, 1980
LA	1979 Legislative Session	UT	December 31, 1980
ME	December 31, 1979	VT	December 14, 1979
MD	1980 Legislative Session	VA	December 31, 1980
MA	April 17, 1980	WA	1979 Legislative Session
MI	January 14, 1980	WV	1980 Legislative Session
MN	December 31, 1979	WI	November 16, 1979
MS	1979 Legislative Session	WY	1980 Legislative Session
MO	April 1, 1980		

**END**