Senate Engrossed

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 183

SENATE BILL 1009

AN ACT

AMENDING SECTION 13-501, ARIZONA REVISED STATUTES; RELATING TO JUVENILE PROSECUTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 13-501, Arizona Revised Statutes, is amended to read:

13-501. Persons under eighteen years of age; felony charging; definitions

A. The county attorney shall bring a criminal prosecution against a juvenile in the same manner as an adult if the juvenile is fifteen, sixteen or seventeen years of age AT THE TIME THE ALLEGED OFFENSE IS COMMITTED and THE JUVENILE is accused of any of the following offenses:

1. First degree murder in violation of section 13-1105.
2. Second degree murder in violation of section 13-1104.
3. Forcible sexual assault in violation of section 13-1406.
4. Armed robbery in violation of section 13-1904.
5. Any other violent felony offense.
6. Any felony offense committed by a chronic felony offender.
7. Any offense that is properly joined to an offense listed in this subsection.

B. Except as provided in subsection A of this section, the county attorney may bring a criminal prosecution against a juvenile in the same manner as an adult if the juvenile is at least fourteen years of age AT THE TIME THE ALLEGED OFFENSE IS COMMITTED and THE JUVENILE is accused of any of the following offenses:

1. A class 1 felony.
2. A class 2 felony.
3. A class 3 felony in violation of any offense in chapters 10 through 17 or chapter 19 or 23 of this title.
4. A class 3, 4, 5 or 6 felony involving a dangerous offense.
5. Any felony offense committed by a chronic felony offender.
6. Any offense that is properly joined to an offense listed in this subsection.

C. A criminal prosecution shall be brought against a juvenile in the same manner as an adult if the juvenile has been accused of a criminal offense and has a historical prior felony conviction.

D. At the time the county attorney files a complaint or indictment the county attorney shall file a notice stating that the juvenile is a chronic felony offender. Subject to subsection E of this section, the notice shall establish and confer jurisdiction over the juvenile as a chronic felony offender.

E. ~~Upon~~ ON motion of the juvenile the court shall hold a hearing after arraignment and before trial to determine if a juvenile is a chronic felony offender. At the hearing the state shall prove by a preponderance of the evidence that the juvenile is a chronic felony offender. If the court does not find that the juvenile is a chronic felony offender, the court shall transfer the juvenile to the juvenile court pursuant to section 8-302. If the court finds that the juvenile is a chronic felony offender or if the

juvenile does not file a motion to determine if the juvenile is a chronic felony offender, the criminal prosecution shall continue.

F. Except as provided in section 13-921, a person who is charged pursuant to this section shall be sentenced in the criminal court in the same manner as an adult for any offense for which the person is convicted.

G. UNLESS OTHERWISE PROVIDED BY LAW, NOTHING IN THIS SECTION SHALL BE CONSTRUED AS TO CONFER JURISDICTION IN THE JUVENILE COURT OVER ANY PERSON WHO IS EIGHTEEN YEARS OF AGE OR OLDER.

~~G.~~ H. For the purposes of this section:

1. "Accused" means a juvenile against whom a complaint, information or indictment is filed.

2. "Chronic felony offender" means a juvenile who has had two prior and separate adjudications and dispositions for conduct that would constitute a historical prior felony conviction if the juvenile had been tried as an adult.

3. "Forcible sexual assault" means sexual assault pursuant to section 13-1406 that is committed without consent as defined in section 13-1401, paragraph 5, subdivision (a).

4. "Other violent felony offense" means:

(a) Aggravated assault pursuant to section 13-1204, subsection A, paragraph 1.

(b) Aggravated assault pursuant to section 13-1204, subsection A, paragraph 2 involving the use of a deadly weapon.

(c) Drive by shooting pursuant to section 13-1209.

(d) Discharging a firearm at a structure pursuant to section 13-1211.

APPROVED BY THE GOVERNOR APRIL 27, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 28, 2010.