

STATE OF TENNESSEE

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Opinion No. 04-038

Juvenile court authority to detain an adult for an offense committed while a juvenile

QUESTION

Where may a juvenile court detain a defendant who committed an offense as a juvenile but was not convicted until after the defendant's eighteenth birthday?

OPINION

The juvenile court may only order the detention of such a defendant to a juvenile detention facility, where the defendant may only be held until his/her nineteenth birthday, at which time the juvenile court's jurisdiction over the defendant is terminated, and the defendant must be released.

ANALYSIS

Tenn. Code Ann. § 37-1-103(a)(1) states: "The juvenile court has exclusive original jurisdiction of . . . [p]roceedings in which a child is alleged to be delinquent, unruly or dependent and neglected, or to have committed a juvenile traffic offense. . . ."

Tenn. Code Ann. § 37-1-102(b)(4)(B)(iii), in pertinent part, defines "child," as:

[a] person under nineteen (19) years of age for the limited purpose of . . . [r]emaining under the jurisdiction of the juvenile court for resolution of a delinquent offense or offenses committed prior to a person's eighteenth birthday but considered by the juvenile court after a person's eighteenth birthday with the court having the option of retaining jurisdiction for adjudication and disposition or transferring the person to criminal court. . . .

Furthermore, Tenn. Code Ann. § 37-1-103(c) states that in such cases "jurisdiction shall continue until a person reaches the age of eighteen (18), except that the court may extend jurisdiction for the limited purposes set out in § 37-1-102(b)(4)(B) until the person reaches the age of nineteen (19)."

Although the juvenile courts have jurisdiction over any "child," as defined above, Tenn. Code Ann. § 37-1-134 allows a case to be transferred to the criminal court system where the child may be prosecuted as an adult.

Tenn. Code Ann. §37-1-116(a) limits the options available to the juvenile court in determining a place of detention for a juvenile offender:

- (a) A child alleged to be delinquent or unruly may be detained only in:
 - (1) A licensed foster home or a home approved by the court;
 - (2) A facility operated by a licensed child care agency;
 - (3) A detention home or center for delinquent children which is under the direction or supervision of the court or other public authority or of a private agency approved by the court; or
 - (4) . . . [A]ny other suitable place or facility designated or operated by the court. The child may be detained in a jail or other facility for the detention of adults only if:
 - (A) Other facilities in subdivision (a)(3) are not available;
 - (B) The detention is in a room separate and removed from those for adults; and
 - (C) It appears to the satisfaction of the court that public safety and protection reasonably require detention, and it so orders.

Except under very limited conditions,¹ “[n]o child may be detained or otherwise placed in any jail or other facility for the detention of adults” Tenn. Code Ann. § 37-1-116(e).

The juvenile court, then, has exclusive jurisdiction for offenses committed by a person when that person is under eighteen years of age, although such cases may be transferred to the criminal courts under certain circumstances. When the juvenile court retains jurisdiction over the person and the offense, that jurisdiction continues only until the person is nineteen years of age. The juvenile court may order the child to be detained in one of several different types of facilities but may not order the child to be detained “in any jail or other facility for the detention of adults.”

Regarding the severity of the offense committed by the child, the juvenile court’s authority to order the detention of a juvenile is limited by the offense and the juvenile status of a defendant, i.e., the juvenile court may not order the detention of a defendant beyond the sentence limit for the particular crime for which the defendant would be eligible if an adult and the defendant may not be detained, under any circumstances, beyond the defendant’s nineteen birthday. If the alleged crime is of such a serious nature that the juvenile court deems its authority inadequate to address the alleged crime, the juvenile court may take action in accordance with Tenn. Code Ann. § 37-1-134, to transfer the case to the criminal court system where the child would be dealt with as an adult.²

¹Tenn. Code Ann. §37-116(c) states that “[i]f a case is transferred to another court for criminal prosecution, the child may be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of persons charged with crime.” Tenn. Code Ann. § 37-1-116(h) states that a juvenile may be temporarily detained for no more than forty-eight hours in an adult jail or lockup when certain specific conditions have been met.

²Even where a child is prosecuted as an adult, the law recognizes the possible danger to a child in an adult penal institution. Tenn. Code Ann. § 37-1-134(h) allows an adult institution to request a defendant’s transfer to a juvenile facility until the defendant is eighteen years old, at which time the defendant would be transferred to the adult facility to serve the remainder of his/her sentence.

Accordingly, it is the opinion of this office that a juvenile offender who has attained the age of majority before being convicted of an offense by a juvenile court may not be held in an adult facility, such as the local jail. Such a defendant may only be held in a juvenile detention facility as set forth above and may not be held beyond the defendant's nineteenth birthday, regardless of whether the offense is a misdemeanor or a felony.

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