

H.95; Jurisdiction Over Delinquency Proceedings

I. Family Division generally has exclusive jurisdiction over delinquency proceedings, subject to statutory exceptions, until child reaches age of 18.

§ 5103. Jurisdiction

(a) The Family Division of the Superior Court shall have exclusive jurisdiction over all proceedings concerning a child who is or who is alleged to be a delinquent child or a child in need of care or supervision brought under the authority of the juvenile judicial proceedings chapters, except as otherwise provided in such chapters.

(c)(1) Except as otherwise provided by this title and by subdivision (2) of this subsection, jurisdiction over a child shall not be extended beyond the child's 18th birthday.

II. Juvenile proceedings generally start, subject to statutory exceptions, in the Family Division with the filing of a delinquency petition by the state's attorney.

§ 5201. Commencement of delinquency proceedings

(a) Proceedings under this chapter shall be commenced by:

(1) transfer to the Court of a proceeding from another court as provided in section 5203 of this title; or

(2) the filing of a delinquency petition by a State's Attorney.

III. There are EXCEPTIONS to general rules of Family Division jurisdiction in I and II, and these exceptions often involve a group of offenses sometimes known as "the Big 12." (arson causing death, assault and robbery with a dangerous weapon, assault and robbery causing bodily injury, aggravated assault, murder, manslaughter, kidnapping, unlawful restraint, maiming, sexual assault, aggravated sexual assault, burglary into an occupied dwelling)

A. If the child is 14-17 and the offense is one of the Big 12, the proceeding starts in the Criminal Division and may be transferred down to the Criminal Division.

§ 5201. Commencement of delinquency proceedings

(c) Consistent with applicable provisions of Title 4, any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining the age of 14, but not the age of 18, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

B. If the child is 10-13 and the offense is one of the Big 12, the proceeding starts in the Family Division and may be transferred up to the Criminal Division.

§ 5204. Transfer from Family Division of the Superior Court

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court . . . if the child had attained the age of 10 but not the age of 14 at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was [one of the Big 12].

C. If the child is 16-17 and the offense is not one of the Big 12, the state's attorney may start the proceeding in either the Family or Criminal Division, and either division may transfer to the other.

§ 5204. Transfer from Family Division of the Superior Court

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court, if the child had attained the age of 16 but not the age of 18 at the time the act was alleged to have occurred and the delinquent act set forth in the petition was not one of [the Big 12].

§ 5203. Transfer from other courts

(c) If it appears to the State's Attorney that the defendant was over the age of 16 and under the age of 18 at the time the offense charged was alleged to have been committed and the offense charged is not an offense specified in subsection 5204(a) of this title, the State's Attorney may file charges in the Family or Criminal Division of the Superior Court. If charges in such a matter are filed in the Criminal Division of the Superior Court, the Criminal Division of the Superior Court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the person shall thereupon be considered to be subject to this chapter as a child charged with a delinquent act.