



SPONSOR: Rep. J. Johnson & Rep. Heffernan & Sen. McDowell & Sen. Henry  
Reps. Potter, Lynn, Paradee, Brady, Longhurst, Kowalko, Baumbach, Keeley; Sens. Ennis, Townsend

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 9

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CERTAIN CRIMES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend § 1302, Title 11 of the Delaware Code by making deletions as shown by strikethrough and  
2     insertions as shown by underline as follows:

3           § 1302. Riot; class F felony.

4           A person is guilty of riot when the person participates with 2 or more persons in a course of disorderly conduct:

5                 (1) With intent to commit or facilitate the commission of a felony or misdemeanor; or

6                 (2) With intent to prevent or coerce official action; or

7                 (3) When the accused or any other participant to the knowledge of the accused uses or plans to use a firearm  
8     or other deadly weapon.

9           Any other provision of this Criminal Code notwithstanding, whoever violates this section shall be guilty of a class  
10   F felony.

11          Any other provision of this Criminal Code or Title 10 notwithstanding, any person over 16 years old who violates  
12   this section ~~shall~~may be prosecuted as an adult pursuant to §§1010 and 1011 of Title 10.

13          Section 2. Amend § 1338, Title 11 of the Delaware Code by making deletions as shown by strikethrough and  
14   insertions as shown by underline as follows:

15          § 1338. Bombs, incendiary devices, Molotov cocktails and explosive devices; class D felony.

16          (c) Any other provision of this Criminal Code notwithstanding, any person over 16 years old who violates this  
17   section ~~shall~~may be prosecuted as an adult pursuant to §§1010 and 1011 of Title 10.

18          Section 3. Amend § 1447, Title 11 of the Delaware Code by making deletions as shown by strikethrough and  
19   insertions as shown by underline as follows:

20          § 1447. Possession of a deadly weapon during commission of a felony; class B felony.

21 (d) Every person charged under this section over the age of 16 years ~~shall~~may be tried as an adult pursuant to  
22 §§1010 and 1011 of Title 10, notwithstanding any contrary provision of statutes governing the Family Court or any other  
23 state law.

24 Section 4. Amend § 1447A, Title 11 of the Delaware Code by making deletions as shown by strikethrough and  
25 insertions as shown by underline as follows:

26 § 1447A. Possession of a firearm during commission of a felony; class B felony.

27 (f) Every person charged under this section over the age of ~~15~~16 years ~~shall~~may be tried as an adult pursuant to  
28 §§1010 and 1011 of Title 10, notwithstanding any contrary provisions or statutes governing the Family Court or any other  
29 state law.

30 Section 5. Amend § 1449, Title 11 of the Delaware Code by making deletions as shown by strikethrough and  
31 insertions as shown by underline as follows:

32 § 1449. Wearing body armor during commission of felony; class B felony.

33 (d) Every person charged under this section over the age of 16 years ~~shall~~may be tried as an adult pursuant to  
34 §§1010 and 1011 of Title 10, notwithstanding any contrary provision of statutes governing the Family Court or any other  
35 state law.

#### SYNOPSIS

This bill allows judicial discretion when juveniles are charged with any of the five specific offenses carved out in state code that say a juvenile of 16 or older, or 15 in the case of § 1447A, must be prosecuted as an adult. The bill simply changes the language from 'shall' to 'may' to allow judges to weigh the possibility that the juvenile may be better served in Delaware's Family Court system via the amenability process already enumerated in Title 10 § 1010 and § 1011.

Four of the five statutes date back to 1972. The most recent change pertaining to the ages of juveniles affected was in 1996 when lawmakers dropped the age requirement on Section 1447A from 16 to 15. This bill also raises the age in § 1447A to 16, as well.