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DELAWARE STATE SENATE  
150th GENERAL ASSEMBLY

SENATE BILL NO. 41

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO JUVENILE DELINQUENCY.

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

1           Section 1. Amend Subchapter II, Chapter 9, Title 10 of the Delaware Code by making deletions as shown by strike  
2 through and insertions as shown by underline as follows:

3           § 928A. Extended jurisdiction — Juvenile delinquency, when offense committed before age 18 but arrest occurs  
4 after age 18.

5           (a) If a person commits an offense before age 18 and is arrested after reaching age 18, but before reaching age 21,  
6 the Family Court retains jurisdiction in the same manner as if the person had not reached age 18, and all provisions and  
7 rights applicable to a person who is under 18 apply to the person.

8           (b) Nothing in this section precludes prosecuting a person to whom this section applies as an adult under § 921 and  
9 § 1010 of this title.

SYNOPSIS

This Act establishes that the age of offense and not the age of arrest determines jurisdiction for a person facing charges. Currently, if a person commits a delinquent act before age 18 but is arrested after age 18, the offense is automatically heard before the adult court of jurisdiction. See Howard v. State, 612 A.2d 158 (Del. 1992) (Table).

This Act reverses this procedure so that if the offense occurs before the age of 18 and the arrest is after a person's 18th birthday, but before their 21st birthday, the Family Court will have jurisdiction. However, this Act makes clear that this Act does not preclude prosecuting a person to whom the Act applies as an adult, as permitted in Title 10.

Author: Senator Brown