**Juvenile Certification**

***The Law***

**WHAT IS CERTIFICATION**

Certification is a proceeding in juvenile court in which the court determines if a juvenile will stand trial as an adult. If the court decides that the juvenile should be tried in adult court, the juvenile is “certified” to adult court. Certification proceedings are initiated by the prosecution. Age of the juvenile and the alleged crime are the determining factors in deciding whether or not to certify a juvenile.

**CAN A JUVENILE EVER BE TRIED AS AN ADULT AUTOMATICALLY WITHOUT A CERTIFICATION HEARING?**

Yes, if the juvenile is 16 or 17 and being charged with first-degree murder or if the juvenile is being charged with a felony and has prior convictions in adult court after having been certified.

**ARE THERE SITUATIONS WHEN CERTIFICATION WILL HAPPEN UNLESS THERE ARE GOOD REASONS NOT TO CERTIFY?**

Yes. It’s called Presumptive Certification.

Certification to adult trial court is presumed if:

1. The child was 16 or 17 years old at the time of the alleged offense, and
2. The alleged offense is
3. an offense for which the minimum sentence is a commitment to prison under the Adult Sentencing Guidelines, (such as first degree assaults, first degree aggravated robbery) or
4. a felony offense in which the child used a firearm.

The defense must show that the "public safety" will be served by keeping the child in juvenile court. If the defense is successful, the matter will automatically become EJJ. If the defense is not successful, the court will certify the matter to adult court.

**ARE THERE OTHER TYPES OF CERTIFICATION**?

Yes, Non-presumptive Certification.

If the factors of presumptive certification are not met, but the child is at least 14 but under 18 years old and is alleged to have committed a felony, the court has three options:

1. Order certification to adult court if it is necessary to serve the public safety,
2. Designate the proceeding EJJ if it will serve the public safety, or
3. Deny the prosecution’s motion and let the matter proceed as a regular delinquency matter.

**HOW DOES THE COURT DECIDE IF IT SERVES THE PUBLIC SAFETY?**

The Court considers these factors:

* Seriousness of the offense in terms of community protection, use of a firearm, impact on victim, and other aggravating factors;
* Child’s prior record of delinquency;
* Culpability of the child in committing the alleged offense, including the level of participation in planning and carrying out the offense;
* The child's programming history, including willingness to participate meaningfully in previous court-ordered programs (treatment, foster care);
* Adequacy of the punishment or programming available in the juvenile justice system;
* Dispositional options available for the child.

**Juvenile Certification**

***Questions***

1. What is presumptive certification?

2. If a juvenile commits a crime that falls under the presumptive certification category, what must the defense do in order for the juvenile not to be certified?

3. What will happen to the juvenile if the defense demonstrates that the public safety would best be served by keeping the child in juvenile court?

4. What is non-presumptive certification?

5. What are the three things that the court can do when the prosecution is trying to certify a child who falls under the category of non-presumptive certification?

6. What are the six factors that are considered with respect to public safety?

7. When will a juvenile automatically be certified to stand trial as an adult without a certification hearing?

**Juvenile Certification**

***Activity: You Decide***

**Decide whether the following types of cases would fall under the category of presumptive certification (PC) or non-presumptive certification (NPC). In each of the situations write down the things that might be considered in the certification process.**

**PC = Presumptive Certification**

**NPC=Non-presumptive Certification**

\_\_\_\_\_\_\_\_\_\_James is a 17-year-old who robbed a store at gunpoint.

 Reasons:

\_\_\_\_\_\_\_\_\_\_Maria is a 14-year-old who shoplifted from the corner drug store.

 Reasons:

\_\_\_\_\_\_\_\_\_\_Julian is a 15-year-old who shot and wounded a 12-year-old boy in a drive-by shooting.

 Reasons:

\_\_\_\_\_\_\_\_\_Roxanne, a 17-year-old, stabbed another girl during a fight in school.

 Reasons:

\_\_\_\_\_\_\_\_\_Jenny is a 17-year-old who stole her neighbor’s car, and while joyriding hit a pedestrian, injuring him severely.

 Reasons:

**Juvenile Certification**

***Activity: Case Study***

James, a 17-year-old, held up a convenience store with a gun. His friend took the money out of the cash register while James kept the gun on the cashier. Another friend was driving the getaway car. The prosecutor is trying to certify James as an adult. James has been in trouble before. At the age of 12 he was caught shoplifting and put on probation. Shortly thereafter a truancy petition was filed, and the court ordered him to attend school. At the age of 14, assault charges were filed against him when he attacked and beat up a fellow classmate. At that time he was placed in a foster home and the court ordered him to a day treatment program. He ran away from the foster home and did not attend the day treatment program. When the authorities found him, he was placed in a residential facility. He did not complete this program due to several aggressive behaviors.

Do you think James should be certified as an adult? Give reasons for your decision based on the public safety issue.

**Juvenile Certification**

***Activity: You Decide***

Using the information from “Extended Jurisdiction Juvenile” and “Juvenile Certification,” decide what you would do if you were the judge. State your reasons for your decision.

### Case 1

Mary has been taken into custody for the murder of her aunt. She is 15 years old

and has never been in trouble before. She enjoys most school activities and is fairly successful at everything she tries to do. But she has a terrible temper and is now being charged with killing her aunt by strangling her with a cord because her aunt demanded that she stop using the telephone.

**Should the charge be first-degree murder (premeditated)?**

Yes\_\_\_\_ No\_\_\_\_ If yes, the case is referred to adult court.

**If no, what court proceeding should be used?**

Juvenile Court\_\_\_\_\_ Adult Court\_\_\_\_\_\_ EJJ\_\_\_\_\_\_

**Reasons:**

**Case 2**

Tony is a familiar face. He has appeared before you on several occasions. He does not get along with his parents and often runs away. He also hates school and is a truant. When he has appeared before you before, he has been required to do community service and has promised to change his behavior. He has not kept his promise. Recently, he allegedly went on a crime spree, smashing the car windows of 63 cars in a nearby neighborhood. Tony is 17 years old.

**What court proceeding should be used?**

Juvenile Court\_\_\_\_\_ Adult Court\_\_\_\_\_ EJJ\_\_\_\_\_\_

**Reasons:**

#### Case 3

Tasha, age 16, has been involved in criminal behavior on many occasions. She has assaulted people, destroyed property, and has many motor vehicle violations. Tasha has spent much of the past five years in juvenile institutions. She is now before you because she allegedly beat an old woman with a crowbar during a robbery. The woman is in the hospital in a coma. Her doctors do not expect her to live.

**What court proceeding should be used?**

Juvenile Court\_\_\_\_ Adult Court\_\_\_\_\_ EJJ\_\_\_\_\_

**Reasons:**

**Case 4**

Max is 9 years old. He has been a behavior problem in school since first grade. He used to enjoy killing animals. He has been in several different types of counseling and has had several juvenile placements. He is now before you because he is being charged with assaulting a 4-year-old neighbor boy, causing a broken arm and broken cheekbone.

**What proceeding should be used?**

Juvenile Court\_\_\_\_ Adult Court\_\_\_\_ EJJ\_\_\_\_\_

**Reasons:**