

House Bill 382

By: Representatives Williams of the 83<sup>rd</sup>, Massey of the 86<sup>th</sup> and Coan of the 82<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to  
2 juvenile proceedings, parental rights, and mental incompetency and dependency for  
3 juveniles, so as to change the jurisdiction of the juvenile court to include certain children  
4 under 18 years of age; to change definitions; to provide for jurisdiction as a court of inquiry  
5 regarding certain persons over 18 years of age; to conform provisions in such chapter to the  
6 change in jurisdiction; to provide for notification of the juvenile court if a person who  
7 appears to be under the age of 18 is confined in a jail for adults and transfer of such person;  
8 to provide for commitment of children 13 to 18 years of age to the custody of the Department  
9 of Corrections; to provide for related matters; to repeal conflicting laws; and for other  
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile  
14 proceedings, parental rights, and mental incompetency and dependency for juveniles, is  
15 amended in Code Section 15-11-2, relating to definitions, by striking in its entirety paragraph  
16 (2) and inserting in lieu thereof the following:

17 "(2) 'Child' means any individual who is:

18 (A) Under the age of ~~17~~ 18 years; or

19 (B) Under the age of 21 years, who committed an act of delinquency before reaching  
20 the age of ~~17~~ 18 years, and who has been placed under the supervision of the court or  
21 on probation to the court; ~~or~~

22 ~~(C) Under the age of 18 years, if alleged to be a 'deprived child' as defined by this Code~~  
23 ~~section."~~



1 punishable by loss of life, imprisonment for life without possibility of parole, or  
2 confinement for life in a penal institution. Any such transfer shall be appealable by the  
3 State of Georgia pursuant to Code Section 5-7-1. Upon such a transfer by the superior  
4 court, jurisdiction shall vest in the juvenile court and jurisdiction of the superior court  
5 shall terminate. Any case transferred by the superior court to the juvenile court  
6 pursuant to this subparagraph shall be subject to the designated felony provisions of  
7 Code Section 15-11-63 and the transfer of the case from superior court to juvenile court  
8 shall constitute notice to the child that such case is subject to the designated felony  
9 provisions of Code Section 15-11-63.

10 (C) Before indictment, the district attorney may, after investigation and for  
11 extraordinary cause, decline prosecution in the superior court of a child 13 to ~~17~~ 18  
12 years of age alleged to have committed an offense specified in subparagraph (A) of this  
13 paragraph. Upon declining such prosecution in the superior court, the district attorney  
14 shall immediately withdraw the case and lodge it in the appropriate juvenile court for  
15 adjudication. Any case transferred by the district attorney to the juvenile court pursuant  
16 to this subparagraph shall be subject to the designated felony provisions of Code  
17 Section 15-11-63 and the transfer of the case from superior court to juvenile court shall  
18 constitute notice to the child that such case is subject to the designated felony  
19 provisions of Code Section 15-11-63.

20 (D) The superior court may transfer any case involving a child 13 to ~~17~~ 18 years of age  
21 alleged to have committed any offense enumerated in subparagraph (A) of this  
22 paragraph and convicted of a lesser included offense not included in subparagraph (A)  
23 of this paragraph to the juvenile court of the county of the child's residence for  
24 disposition. Upon such a transfer by the superior court, jurisdiction shall vest in the  
25 juvenile court and jurisdiction of the superior court shall terminate.

26 (E) Within 30 days of any proceeding in which a child 13 to ~~17~~ 18 years of age is  
27 convicted of certain offenses over which the superior court has exclusive jurisdiction  
28 as provided in subparagraph (A) of this paragraph or adjudicated delinquent on the  
29 basis of conduct which if committed by an adult would constitute such offenses, the  
30 superior court shall provide written notice to the school superintendent or his or her  
31 designee of the school in which such child is enrolled or, if the information is known,  
32 of the school in which such child plans to be enrolled at a future date. Such notice shall  
33 include the specific criminal offense that such child committed. A local school system  
34 to which the child is assigned may request further information from the court's file."

35 "(d) *Age limit for new actions.* The juvenile court shall not have jurisdiction to initiate any  
36 new action against an individual for acts committed after he or she has reached the age of



1 "(a) A child 13 to ~~17~~ 18 years of age convicted of any offense enumerated in subparagraph  
 2 (b)(2)(A) of Code Section 15-11-28 shall be committed to the custody of the Department  
 3 of Corrections; provided, however, that any child in the custody of the Department of  
 4 Corrections shall be housed in a designated youth confinement unit until reaching the age  
 5 of ~~17~~ 18 notwithstanding that such child was tried and convicted as an adult in superior  
 6 court. Any designated youth confinement unit in which a child is housed shall be designed  
 7 to ensure that children are at all times housed separately from any adult offender  
 8 incarcerated in the facility in which such youth confinement unit is located and shall be  
 9 designed to facilitate rehabilitation of such children, which shall mean that a youth  
 10 confinement unit shall be of a nondormitory design whenever possible and whenever such  
 11 facilities become available and staffed by personnel who have received specialized  
 12 training in the field of juvenile justice. All designated youth confinement units shall  
 13 provide to children 13 to ~~17~~ 18 years of age who have been sentenced to such units as a  
 14 result of a conviction in superior court as an adult of an offense enumerated in  
 15 subparagraph (b)(2)(A) of Code Section 15-11-28 life skills training, academic or  
 16 vocational training, and substance abuse and violence prevention counseling to the extent  
 17 that appropriations are available for such activities."

#### 18 SECTION 7.

19 Said chapter is further amended in Code Section 15-11-63, relating to designated felony acts,  
 20 by striking paragraph (2) of subsection (a) and inserting in lieu thereof the following:

21 "(2) 'Designated felony act' means an act which:

22 (A) Constitutes a second or subsequent offense under subsection (b) of Code Section  
 23 16-11-132 if committed by a child 13 to ~~17~~ 18 years of age;

24 (B) If done by an adult, would be one or more of the following crimes:

25 (i) Kidnapping or arson in the first degree, if done by a child 13 or more years of age;

26 (ii) Aggravated assault, arson in the second degree, aggravated battery, robbery,  
 27 armed robbery not involving a firearm, or battery in violation of Code Section  
 28 16-5-23.1 if the victim is a teacher or other school personnel, if done by a child 13 or  
 29 more years of age;

30 (iii) Attempted murder or attempted kidnapping, if done by a child 13 or more years  
 31 of age;

32 (iv) The carrying or possession of a weapon in violation of subsection (b) of Code  
 33 Section 16-11-127.1;

34 (v) Hijacking a motor vehicle, if done by a child 13 or more years of age;

35 (vi) Any violation of Code Section 16-7-82, 16-7-84, or 16-7-86 if done by a child  
 36 13 or more years of age;

1 (vii) Any other act which, if done by an adult, would be a felony, if the child  
2 committing the act has three times previously been adjudicated delinquent for acts  
3 which, if done by an adult, would have been felonies;

4 (viii) Any violation of Code Section 16-13-31, relating to trafficking in cocaine,  
5 illegal drugs, marijuana, or methamphetamine;

6 (ix) Any criminal violation of Code Section 16-14-4, relating to racketeering; or

7 (x) Any violation of Code Section 16-10-52, relating to escape, if the child involved  
8 in the commission of such act has been previously adjudicated to have committed a  
9 designated felony;

10 (C) Constitutes a second or subsequent adjudication of delinquency based upon a  
11 violation of Code Section 16-7-85 or 16-7-87;

12 (C.1) Constitutes any violation of Code Section 16-15-4, relating to criminal street  
13 gangs;

14 (D) Constitutes an offense within the exclusive jurisdiction of the superior court  
15 pursuant to subparagraph (b)(2)(A) of Code Section 15-11-28 which is transferred by  
16 the superior court to the juvenile court for adjudication pursuant to subparagraph  
17 (b)(2)(B) of Code Section 15-11-28 or which is transferred by the district attorney to  
18 the juvenile court for adjudication pursuant to subparagraph (b)(2)(C) of Code Section  
19 15-11-28; or

20 (E) Constitutes a second or subsequent violation of Code Sections 16-8-2 through  
21 16-8-9, relating to theft, if the property which was the subject of the theft was a motor  
22 vehicle."

23 **SECTION 8.**

24 All laws and parts of laws in conflict with this Act are repealed.