

House Bill 127 (COMMITTEE SUBSTITUTE)

By: Representative Squires of the 78th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated,
2 relating to juvenile proceedings, so as to clarify the obligation of the district attorney
3 regarding a petition in juvenile court when the district attorney declines to prosecute certain
4 children in superior court; to change and reorganize provisions so as to divide into separate
5 parts those provisions relating to allegedly deprived children and those provisions relating
6 to allegedly unruly or delinquent children; to conform cross references to such changes and
7 reorganization; to change provisions relating to victim's impact statements, evidence, and
8 continuances; to clarify a provision relating to transfer of legal custody of a child back to a
9 person whose abuse of alcohol or another drug resulted in the child's deprivation; to clarify
10 when the juvenile court shall dismiss petitions alleging delinquency or unruliness; to clarify
11 when the court shall enter orders of disposition; to clarify provisions relating to the duration
12 of disposition orders; to provide for sealing records in cases when petitions alleging
13 delinquency or unruliness have been dismissed or informally adjusted; to repeal conflicting
14 laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

17 Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
18 juvenile proceedings, is amended in Part 3, relating to jurisdiction and venue, by striking in
19 its entirety subparagraph (b)(2)(C) of Code Section 15-11-28, relating to the jurisdiction of
20 juvenile court, and inserting in lieu thereof the following:

21 "(C) Before indictment, the district attorney may, after investigation and for
22 extraordinary cause, decline prosecution in the superior court of a child 13 to 17 years
23 of age alleged to have committed an offense specified in subparagraph (A) of this
24 paragraph. Upon declining such prosecution in the superior court, the district attorney
25 shall immediately ~~withdraw the case and lodge it~~ cause a petition to be filed in the
26 appropriate juvenile court for adjudication. Any case transferred by the district attorney

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1 to the juvenile court pursuant to this subparagraph shall be subject to the designated
 2 felony provisions of Code Section 15-11-63 and the transfer of the case from superior
 3 court to juvenile court shall constitute notice to the child that such case is subject to the
 4 designated felony provisions of Code Section 15-11-63."

5 SECTION 2.

6 Said article is further amended in Part 4, relating to commencement and conduct of
 7 proceedings, by striking in its entirety subsection (a) of Code Section 15-11-39, relating to
 8 the time for the hearing, summons, waiver of service of the summons, and judicial order to
 9 the child's parents, guardian, or custodian, and inserting in lieu thereof the following:

10 "(a) After the petition has been filed the court shall ~~fix a time for~~ set a hearing thereon,
 11 which, if the child is in detention, shall not be later than ten days after the filing of the
 12 petition. In the event the child is not in detention, the court shall ~~fix a time for~~ set a hearing
 13 thereon which shall be not later than 60 days from the date of the filing of the petition."

14 SECTION 3.

15 Said part of said article is further amended by striking in its entirety Code Section 15-11-41,
 16 relating to the conduct of hearings, recordation, conduct of delinquency proceedings by the
 17 district attorney, victim impact statements, and deprivation findings, and inserting in lieu
 18 thereof the following:

19 "15-11-41.

20 (a) All hearings shall be conducted by the court without a jury. Any hearing may be
 21 adjourned from time to time within the discretion of the court as set forth in subsection ~~(d)~~
 22 (b) of Code Section 15-11-56.

23 ~~(b) Unless waived by the child and the child's parent, guardian, or attorney, the~~ The
 24 proceedings shall be recorded by stenographic notes or by electronic, mechanical, or other
 25 appropriate means, unless such recording is waived by the child and the child's parent,
 26 guardian, or attorney.

27 (c) In any proceeding before the juvenile court, the judge, upon the court's own motion,
 28 may request the assistance of the district attorney or a member of the district attorney's
 29 staff to conduct the proceedings on behalf of the petitioner. If for any reason the district
 30 attorney is unable to assist, the judge may appoint legal counsel for such purpose.

31 ~~(d) In any delinquency proceeding in which a petition has been filed, the district attorney~~
 32 ~~or a member of the district attorney's staff shall conduct the proceedings on behalf of the~~
 33 ~~state if requested to do so by the juvenile court if the state is not otherwise represented by~~
 34 ~~a solicitor of the juvenile court. Notwithstanding any other provisions of law to the~~
 35 ~~contrary, in any delinquency proceedings conducted by the district attorney or a member~~

~~of the district attorney's staff, the district attorney or staff member shall be entitled to complete access to all court files, probation files, hearing transcripts, delinquency reports, and any other juvenile court records which may be of assistance to the district attorney or staff member in the conduct of such delinquency proceedings. It shall be the duty of the clerk and probation officers of the juvenile court to assist the district attorney or staff member in obtaining any such files, transcripts, reports, or records, or copies thereof, as may be requested by the district attorney or staff member. In any such case, the petition shall be dismissed by the court upon the motion of the district attorney setting forth that there is not sufficient evidence to warrant the further conduct of the proceeding.~~

~~(e)(1) In any delinquency proceeding in which a petition has been filed, the juvenile court shall notify any victim of a delinquent child's alleged offense that the victim may submit a victim impact statement if:~~

~~(A) The delinquent child, in committing a felony, caused physical, psychological, or economic injury to the victim; or~~

~~(B) The delinquent child, in committing a misdemeanor, caused serious physical injury or death to the victim.~~

~~(2) A victim impact statement submitted by a victim shall be attached to the case file and may be used by the district attorney or the judge during any stage of the proceedings against the child involving predisposition, disposition, or determination of restitution.~~

~~(3) A victim impact statement shall:~~

~~(A) Identify the victim of the offense and the perpetrator;~~

~~(B) Itemize any economic loss suffered by the victim as a result of the offense;~~

~~(C) Identify any physical injury suffered by the victim as a result of the offense along with its seriousness and permanence;~~

~~(D) Describe any change in the victim's personal welfare or familial relationships as a result of the offense;~~

~~(E) Identify any request for psychological services initiated by the victim or the victim's family as a result of the offense; and~~

~~(F) Contain any other information related to the impact of the offense upon the victim that the court requires.~~

~~(4) The victim may complete the victim impact statement form and submit such form to the juvenile court. If the victim is unable to do so because of such victim's mental, emotional, or physical incapacity, or because of such victim's age, the victim's attorney or a family member may complete the victim impact statement form on behalf of the victim.~~

~~(5) The court shall, in the manner prescribed by rule of court, provide the child with a copy of the victim impact statement within a reasonable time prior to any hearing at~~

1 ~~which it is to be considered and allow the child to have the opportunity to rebut the~~
 2 ~~victim's written statements.~~

3 ~~(6) No disposition of the child shall be invalidated because of failure to comply with the~~
 4 ~~provisions of this Code section. This Code section shall not be construed to create any~~
 5 ~~cause of action or any right of appeal on behalf of any person.~~

6 ~~(f) At any hearing on a petition alleging deprivation of a child, the court shall make and~~
 7 ~~file its findings as to whether the child is a deprived child, as defined in paragraph (8) of~~
 8 ~~Code Section 15-11-2, and whether such deprivation is found to have been the result of~~
 9 ~~alcohol or other drug abuse."~~

10 SECTION 4.

11 Said article is further amended in Part 6, relating to deprivation, by inserting a new Code
 12 section to be designated Code Section 15-11-54 to read as follows:

13 "15-11-54.

14 (a) *Findings.* After hearing the evidence on any petition alleging deprivation, the court
 15 shall make and file its findings as to whether the child is a deprived child. If the court finds
 16 that the child is not a deprived child, it shall dismiss the petition and order the child
 17 discharged from any detention or other restriction theretofore ordered in the proceeding.

18 (b) *Findings with regard to result of alcohol abuse or drug abuse.* If the court finds that
 19 a child is deprived, the court shall also make and file a finding as to whether such
 20 deprivation is the result of alcohol abuse or drug abuse by a parent or guardian.

21 (c) *Disposition.* The court shall proceed immediately or at a postponed hearing to make
 22 a proper disposition of the case in accordance with Code Section 15-11-55 if the court finds
 23 from clear and convincing evidence that the child is deprived."

24 SECTION 5.

25 Said part of said article is further amended in Code Section 15-11-55, relating to the
 26 disposition of a deprived child, by striking in its entirety subsection (e) and inserting in lieu
 27 thereof the following:

28 "(e) If a child is found to be a deprived child and the deprivation is found to have been the
 29 result of alcohol or other drug abuse by a parent or guardian, as specified in subsection (f)
 30 (b) of Code Section ~~15-11-41~~ 15-11-54, and the court orders transfer of temporary legal
 31 custody of the child, as provided in paragraph (2) of subsection (a) of this Code section, the
 32 court is authorized to further order that legal custody of the child may not be transferred
 33 back to the ~~person having custody of the child when the deprivation occurred~~ child's
 34 custodian or guardian whose abuse of alcohol or another drug resulted in the child's
 35 deprivation unless such person undergoes substance abuse treatment and random substance

1 abuse screenings and those screenings remain negative for a period of no less than six
2 consecutive months."

3 **SECTION 6.**

4 Said part of said article is further amended by striking in its entirety Code Section 15-11-56,
5 relating to court findings, disposition, evidence, continuances, and scheduling, and inserting
6 in lieu thereof the following:

7 "15-11-56.

8 ~~(a) *Findings.* After hearing the evidence on any petition alleging delinquency, unruliness,~~
9 ~~or deprivation, the court shall make and file its findings as to whether the child is a~~
10 ~~deprived child or, if the petition alleges that the child is delinquent or unruly, after hearing~~
11 ~~the evidence the court shall make and file its findings as to whether the acts ascribed to the~~
12 ~~child were committed by the child. If the court finds that the child is not a deprived child~~
13 ~~or that the allegations of delinquency or unruly conduct have not been established, it shall~~
14 ~~dismiss the petition and order the child discharged from any detention or other restriction~~
15 ~~theretofore ordered in the proceeding.~~

16 ~~(b) *Disposition.* The court shall proceed immediately or at a postponed hearing to make~~
17 ~~a proper disposition of the case if the court finds from clear and convincing evidence that~~
18 ~~the child:~~

19 ~~(1) Is deprived;~~

20 ~~(2) Is in need of treatment or rehabilitation as a delinquent child; or~~

21 ~~(3) Is in need of treatment or rehabilitation or supervision as an unruly child.~~

22 ~~(c)(a) *Evidence.* In dispositional hearings under subsection (b) (c) of this Code section~~
23 ~~Section 15-11-54 and in all proceedings involving custody of a child, all information~~
24 ~~helpful in determining the questions presented, including oral and written reports, may be~~
25 ~~received by the court and relied upon to the extent of its probative value even though not~~
26 ~~otherwise competent in the hearing on the petition. The parties or their counsel shall be~~
27 ~~afforded an opportunity upon request to examine and controvert written reports so received~~
28 ~~and to cross-examine individuals making the reports, except that portions of such reports~~
29 ~~not relied on by the court in reaching its decision which, if revealed, would be prejudicial~~
30 ~~to the interests of the child or any party to the proceeding may be withheld in the court's~~
31 ~~discretion. Confidential sources of information need not be disclosed.~~

32 ~~(d)(b) *Continuances; scheduling.* On its own motion or that of a party, the court may~~
33 ~~continue the hearings under subsection (c) of this Code section Section 15-11-54 for a~~
34 ~~reasonable period to receive reports and other evidence bearing on the disposition ~~or the~~~~
35 ~~child's need for treatment or rehabilitation of a child.~~ In this event, the court shall make
36 an appropriate order for detention protection of the child ~~or for the child's release from~~

1 ~~detention subject to supervision of the court~~ during the period of the continuance. In
 2 scheduling investigations and hearings, the court shall give priority to proceedings in which
 3 a child ~~is in detention or has otherwise~~ has been removed from his or her home before an
 4 order of disposition has been made."

5 **SECTION 7.**

6 Said part of said article is further amended in Code Section 15-11-58, relating to family
 7 reunification, reports and plans, custody orders, duration of orders, review of determinations,
 8 hearings, and supplemental orders, by striking in its entirety paragraph (2) of subsection (n)
 9 and inserting in lieu thereof the following:

10 "(2) Reasonable notice of the factual basis of the motion and of the hearing and
 11 opportunity to be heard are given to the parties affected, ~~including~~ and to the foster
 12 parents, if any, of a child and any preadoptive parent or relative providing care for the
 13 child. ~~except that this~~ This provision shall not be construed to require that any foster
 14 parent, preadoptive parent, or relative providing care for the child be made a party to such
 15 a review or hearing solely on the basis of such notice and opportunity to be heard; and".

16 **SECTION 8.**

17 Said part of said article is further amended by striking in their entirety subsections (o), (p),
 18 and (q) of Code Section 15-11-58, relating to family reunification, reports and plans, custody
 19 orders, duration of orders, review of determinations, hearings, and supplemental orders, and
 20 inserting in lieu thereof the following:

21 "15-11-58.1.

22 ~~(o)~~(a) Except as otherwise provided by law, any other order of disposition in a proceeding
 23 involving ~~delinquency, unruliness, or~~ deprivation, except in an order involving the
 24 appointment of a guardian of the person or property of a child, continues in force for not
 25 more than two years. The court may sooner terminate its order or extend its duration for
 26 further periods. An order of extension may be made if:

27 (1) A hearing is held prior to the expiration of the order upon motion of a party or on the
 28 court's own motion;

29 (2) Reasonable notice of the factual basis of the motion and of the hearing and
 30 opportunity to be heard are given to the parties affected;

31 (3) The court finds that the extension is necessary to accomplish the purposes of the
 32 order extended; and

33 (4) The extension does not exceed two years from the expiration of the prior order.

34 ~~(p)~~(b) ~~Except as provided in Code Section 15-11-70, the~~ The court may terminate an order
 35 of disposition of a child adjudicated as deprived or an extension of such a disposition order

1 prior to its expiration, on or without an application of a party, if it appears to the court that
 2 the purposes of the order have been accomplished.

3 ~~(c)~~(c) Unless otherwise provided by law, when ~~the~~ a child who has been adjudicated as
 4 deprived reaches 21 years of age all orders affecting him or her then in force terminate and
 5 he or she is discharged from further obligation or control."

6 SECTION 9.

7 Said article is further amended in Part 7, relating to delinquency and unruliness, by inserting
 8 two new Code sections to be designated Code Sections 15-11-64.1 and 15-11-64.2 to read
 9 as follows:

10 "15-11-64.1.

11 In any delinquency proceeding in which a petition has been filed, the district attorney or
 12 a member of the district attorney's staff shall conduct the proceedings on behalf of the state
 13 if requested to do so by the juvenile court if the state is not otherwise represented by a
 14 solicitor of the juvenile court. Notwithstanding any other provisions of law to the contrary,
 15 in any delinquency proceedings conducted by the district attorney or a member of the
 16 district attorney's staff, the district attorney or staff member shall be entitled to complete
 17 access to all court files, probation files, hearing transcripts, delinquency reports, and any
 18 other juvenile court records which may be of assistance to the district attorney or staff
 19 member in the conduct of such delinquency proceedings. It shall be the duty of the clerk
 20 and probation officers of the juvenile court to assist the district attorney or staff member
 21 in obtaining any such files, transcripts, reports, or records, or copies thereof, as may be
 22 requested by the district attorney or staff member. In any such case, the petition shall be
 23 dismissed by the court upon the motion of the district attorney setting forth that there is not
 24 sufficient evidence to warrant the further conduct of the proceeding.

25 15-11-64.2.

26 (a) In any delinquency proceeding in which a petition has been filed, the juvenile court
 27 shall notify any victim of a delinquent child's alleged offense that the victim may submit
 28 a victim impact statement if:

29 (1) The allegedly delinquent child, in conduct which would constitute a felony if
 30 committed by an adult, caused physical, psychological, or economic injury to the victim;
 31 or

32 (2) The allegedly delinquent child, in conduct which would constitute a misdemeanor if
 33 committed by an adult, caused serious physical injury or death to the victim.

1 (b) A victim impact statement submitted by a victim shall be attached to the case file and
 2 may be used by the district attorney or the judge during any stage of the proceedings
 3 against the child involving predisposition, disposition, or determination of restitution.

4 (c) A victim impact statement shall:

5 (1) Identify the victim of the offense and the perpetrator;

6 (2) Itemize any economic loss suffered by the victim as a result of the offense;

7 (3) Identify any physical injury suffered by the victim as a result of the offense along
 8 with its seriousness and permanence;

9 (4) Describe any change in the victim's personal welfare or familial relationships as a
 10 result of the offense;

11 (5) Identify any request for psychological services initiated by the victim or the victim's
 12 family as a result of the offense; and

13 (6) Contain any other information related to the impact of the offense upon the victim
 14 that the court requires.

15 (d) The victim may complete the victim impact statement form and submit such form to
 16 the juvenile court. If the victim is unable to do so because of such victim's mental,
 17 emotional, or physical incapacity, or because of such victim's age, the victim's attorney or
 18 a family member may complete the victim impact statement form on behalf of the victim.

19 (e) The court shall, in the manner prescribed by rule of court, provide the child with a copy
 20 of the victim impact statement within a reasonable time prior to any hearing at which it is
 21 to be considered and allow the child to have the opportunity to rebut the victim's written
 22 statements.

23 (f) No disposition of the child shall be invalidated because of failure to comply with the
 24 provisions of this subsection. This subsection shall not be construed to create any cause
 25 of action or any right of appeal on behalf of any person."

26 SECTION 10.

27 Said article is further amended in said part by striking in its entirety Code Section 15-11-65,
 28 relating to disposition hearings for delinquent or unruly children and evidence, and inserting
 29 in lieu thereof the following:

30 "15-11-65.

31 (a) *Dispositional hearing for delinquent or unruly child.* If the court finds on proof
 32 beyond a reasonable doubt that the child committed the acts by reason of which he or she
 33 is alleged to be delinquent or unruly, it shall proceed immediately or at a later time to
 34 conduct a dispositional hearing for the purpose of hearing evidence as to whether the child
 35 is in need of treatment, rehabilitation, or supervision and shall make and file its findings
 36 thereon. If the court finds that the allegations of delinquency or unruly conduct have not

1 been established, it shall dismiss the petition and order the child discharged from any
 2 detention or other restriction theretofore ordered in relation to the allegations. If the child
 3 is to be held in custody at a detention facility between the adjudicatory hearing and the
 4 dispositional hearing, the court shall conduct the dispositional hearing within 30 days of
 5 the adjudicatory hearing. ~~If the dispositional hearing is conducted more than 30 days after~~
 6 ~~the adjudicatory hearing, unless~~ the court shall ~~make and file~~ makes and files written
 7 findings of fact explaining the need for the delay. In the absence of evidence to the
 8 contrary, evidence sufficient to warrant a finding that acts have been committed which
 9 constitute a felony is also sufficient to sustain a finding that the child is in need of treatment
 10 or rehabilitation. If the court finds that the child is not in need of treatment, rehabilitation,
 11 or supervision, it shall dismiss the proceeding and discharge the child from any detention
 12 or other restriction theretofore ordered.

13 (b) *Evidence.* In dispositional hearings under subsection (a) of this Code section and in
 14 all proceedings involving custody of a child, all information helpful in determining the
 15 questions presented, including oral and written reports, may be received by the court and
 16 relied upon to the extent of its probative value even though not otherwise competent in the
 17 hearing on the petition. The parties or their counsel shall be afforded an opportunity upon
 18 request to examine and controvert written reports so received and to cross-examine
 19 individuals making the reports, except that portions of such reports not relied on by the
 20 court in reaching its decision which, if revealed, would be prejudicial to the interests of the
 21 child or any party to the proceeding may be withheld in the court's discretion. Confidential
 22 sources of information need not be disclosed.

23 (c) Continuances; scheduling. On its own motion or that of a party, the court may
 24 continue the hearings under this Code section for a reasonable period to receive reports and
 25 other evidence bearing on the disposition or the child's need for treatment or rehabilitation.
 26 In this event, the court shall make an appropriate order for detention of the child or for the
 27 child's release from detention subject to supervision of the court during the period of the
 28 continuance. In scheduling investigations and hearings, the court shall give priority to
 29 proceedings in which a child is in detention or has otherwise been removed from his or her
 30 home before an order of disposition has been made."

31 SECTION 11.

32 Said article is further amended in said part by striking in its entirety Code Section 15-11-66,
 33 relating to disposition of delinquent children, and inserting in lieu thereof the following:

34 "15-11-66.

35 (a) At the conclusion of the ~~adjudicatory hearing~~ dispositional hearing provided in
 36 subsection (a) of Code Section 15-11-65, if the child is found to have committed a

1 delinquent act and is subsequently determined to be in need of treatment or rehabilitation,
2 the court may make any of the following orders of disposition best suited to the child's
3 treatment, rehabilitation, and welfare:

4 (1) Any order authorized by Code Section 15-11-55 for the disposition of a deprived
5 child;

6 (2) An order placing the child on probation under conditions and limitations the court
7 prescribes, under the supervision of:

8 (A) The probation officer of the court or the court of another state as provided in Code
9 Section 15-11-89;

10 (B) Any public agency authorized by law to receive and provide care for the child; or

11 (C) The chief executive officer of any community rehabilitation center acknowledging
12 in writing such officer's willingness to accept the responsibility for the supervision of
13 the child;

14 (3) An order placing the child in an institution, camp, or other facility for delinquent
15 children operated under the direction of the court or other local public authority;

16 (4) An order committing the child to the Department of Juvenile Justice;

17 (5) An order requiring that the child make such restitution as defined in paragraph (7) of
18 Code Section 17-14-2. Such order may remain in force and effect simultaneously with
19 any other order of the court, including, but not limited to, an order of commitment to the
20 Department of Juvenile Justice. While an order requiring restitution is in effect, the
21 enforcement thereof may be transferred to the Department of Juvenile Justice. In the
22 event that the child changes his or her place of residence while the order is still in effect,
23 the court may transfer enforcement of its order to the juvenile court of the county of the
24 child's residence and its probation staff; however, no order of restitution shall be enforced
25 while such child is in placement at a youth development center unless the commissioner
26 of juvenile justice certifies that a restitution program is available at such facility.
27 Payment of funds under this paragraph shall be made by the child or the child's family
28 or employer directly to the clerk of the juvenile court entering the order or another
29 employee of that court designated by the judge, and that court shall disburse such funds
30 in the manner authorized in the order;

31 (6) An order requiring that the child perform community service in a manner prescribed
32 by the court and under the supervision of an individual designated by the court; or

33 (7) An order requiring the child to remit to the general fund of the county a sum not to
34 exceed the maximum applicable to an adult for commission of any of the following
35 offenses: homicide by vehicle, manslaughter resulting from the operation of a motor
36 vehicle, any felony in the commission of which a motor vehicle is used, hit and run or
37 leaving the scene of an accident, racing on highways or streets, using a motor vehicle in

1 fleeing or attempting to elude an officer, fraudulent or fictitious use of a license, driving
2 under the influence of alcohol or drugs, possession of controlled substances or marijuana,
3 driving without proof of minimum required motor vehicle insurance, or any violation of
4 the Code sections contained in Title 40 which is properly adjudicated as a delinquent act.

5 (b) At the conclusion of the ~~adjudicatory hearing~~ dispositional hearing provided in
6 subsection (a) of Code Section 15-11-65, if the child is found to have committed a
7 delinquent act, the court may, in addition to any other treatment or rehabilitation, suspend
8 the driver's license of such child for any period not to exceed the date on which the child
9 becomes 18 years of age or, in the case of a child who does not have a driver's license,
10 prohibit the issuance of a driver's license to such child for any period not to exceed the date
11 on which the child becomes 18 years of age. The court shall retain the driver's license for
12 a period of suspension and return it to the offender at the end of such period. The court
13 shall notify the Department of Public Safety of any such actions taken pursuant to this
14 subsection. If the child is adjudicated for the commission of a delinquent act, the court
15 may in its discretion, in addition to any other treatment or rehabilitation, order the child to
16 serve up to a maximum of 90 days in a youth development center.

17 (b.1) Notwithstanding the provisions of subsections (a) and (b) of this Code section, at the
18 conclusion of the ~~adjudicatory hearing~~ dispositional hearing provided in subsection (a) of
19 Code Section 15-11-65, if the child is found to have committed a delinquent offense which
20 would be a violation of subsection (k) of Code Section 40-6-391 if committed by an adult,
21 the court shall make an order of disposition which, for purposes of the child's
22 rehabilitation, imposes the same penalty, period of confinement, and period of community
23 service provided in Code Section 40-6-391 which are applicable to an adult convicted of
24 violating subsection (k) of Code Section 40-6-391, with any such period of confinement
25 to be served in an institution, camp, or other facility for delinquent children operated under
26 the direction of the court or other local public authority or, if no such facility is available,
27 in a regional youth detention center, provided that such child shall be kept segregated from
28 all children other than those confined for violating subsection (k) of Code Section
29 40-6-391. A previous finding that the child committed such a delinquent offense shall be
30 deemed a previous conviction for purposes of this subsection. The judge shall have the
31 same authority and discretion regarding allowing service of confinement on weekends or
32 during nonworking hours as is provided under subsection (a) of Code Section 17-10-3.1.

33 (c) In any case in which a child who has not achieved a high school diploma or the
34 equivalent is placed on probation, the court may require as a condition of probation that the
35 child pursue a course of study designed to lead to achieving a high school diploma or the
36 equivalent; and, in any case in which such a condition of probation may be imposed, the
37 court shall give express consideration to whether such a condition should be imposed."

