

House Bill 470

By: Representatives Benfield of the 56<sup>th</sup>, Post 1, Westmoreland of the 86<sup>th</sup>, Crawford of the 91<sup>st</sup>, Gardner of the 42<sup>nd</sup>, Post 3 and Oliver of the 56<sup>th</sup>, Post 2

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 and parental rights, so as to expand the jurisdiction of the juvenile court  
3 to all persons under the age of 18; to conform provisions relating to juveniles to such  
4 expansion of jurisdiction; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile  
8 proceedings and parental rights, is amended by striking in its entirety paragraph (2) of Code  
9 Section 15-11-2, relating to definitions relative to juvenile proceedings, and inserting in its  
10 place the following:

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

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

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

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

18 style="text-align:center">**SECTION 2.**

19 Said chapter is further amended by striking in their entirety subsections (b) and (d) of Code  
20 Section 15-11-28, relating to jurisdiction of the juvenile court, and inserting in their places  
21 the following:

22 "(b) *Criminal jurisdiction.*

23 (1) Except as provided in paragraph (2) of this subsection, the court shall have  
24 concurrent jurisdiction with the superior court over a child who is alleged to have  
25 committed a delinquent act which would be considered a crime if tried in a superior court

1 and for which the child may be punished by loss of life, imprisonment for life without  
2 possibility of parole, or confinement for life in a penal institution.

3 (2)(A) The superior court shall have exclusive jurisdiction over the trial of any child  
4 13 to ~~17~~ 18 years of age who is alleged to have committed any of the following  
5 offenses:

6 (i) Murder;

7 (ii) Voluntary manslaughter;

8 (iii) Rape;

9 (iv) Aggravated sodomy;

10 (v) Aggravated child molestation;

11 (vi) Aggravated sexual battery; or

12 (vii) Armed robbery if committed with a firearm.

13 (A.1) The granting of bail or pretrial release of a child charged with an offense  
14 enumerated in subparagraph (A) of this paragraph shall be governed by the provisions  
15 of Code Section 17-6-1.

16 (B) After indictment, the superior court may after investigation and for extraordinary  
17 cause transfer any case involving a child 13 to ~~17~~ 18 years of age alleged to have  
18 committed any offense enumerated in subparagraph (A) of this paragraph which is not  
19 punishable by loss of life, imprisonment for life without possibility of parole, or  
20 confinement for life in a penal institution. Any such transfer shall be appealable by the  
21 State of Georgia pursuant to Code Section 5-7-1. Upon such a transfer by the superior  
22 court, jurisdiction shall vest in the juvenile court and jurisdiction of the superior court  
23 shall terminate. Any case transferred by the superior court to the juvenile court pursuant  
24 to this subparagraph shall be subject to the designated felony provisions of Code  
25 Section 15-11-63 and the transfer of the case from superior court to juvenile court shall  
26 constitute notice to the child that such case is subject to the designated felony  
27 provisions of Code Section 15-11-63.

28 (C) Before indictment, the district attorney may, after investigation and for  
29 extraordinary cause, decline prosecution in the superior court of a child 13 to ~~17~~ 18  
30 years of age alleged to have committed an offense specified in subparagraph (A) of this  
31 paragraph. Upon declining such prosecution in the superior court, the district attorney  
32 shall immediately cause a petition to be filed in the appropriate juvenile court for  
33 adjudication. Any case transferred by the district attorney to the juvenile court pursuant  
34 to this subparagraph shall be subject to the designated felony provisions of Code  
35 Section 15-11-63 and the transfer of the case from superior court to juvenile court shall  
36 constitute notice to the child that such case is subject to the designated felony  
37 provisions of Code Section 15-11-63.

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

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

16 "(d) *Age limit for new actions.* The juvenile court shall not have jurisdiction to initiate any  
 17 new action against an individual for acts committed after he or she has reached the age of  
 18 ~~17~~ 18 years. This subsection does not affect the court's jurisdiction to enter extension  
 19 orders pursuant to Code Section 15-11-58."

### 20 SECTION 3.

21 Said chapter is further amended by striking in its entirety subsection (a) of Code Section  
 22 15-11-62, relating to commitment of certain children to the custody of the Department of  
 23 Corrections, and inserting in its place the following:

24 "(a) A child 13 to ~~17~~ 18 years of age convicted of any offense enumerated in subparagraph  
 25 (b)(2)(A) of Code Section 15-11-28 shall be committed to the custody of the Department  
 26 of Corrections; provided, however, that any child in the custody of the Department of  
 27 Corrections shall be housed in a designated youth confinement unit until reaching the age  
 28 of ~~17~~ 18 notwithstanding that such child was tried and convicted as an adult in superior  
 29 court. Any designated youth confinement unit in which a child is housed shall be designed  
 30 to ensure that children are at all times housed separately from any adult offender  
 31 incarcerated in the facility in which such youth confinement unit is located and shall be  
 32 designed to facilitate rehabilitation of such children, which shall mean that a youth  
 33 confinement unit shall be of a nondormitory design whenever possible and whenever such  
 34 facilities become available and staffed by personnel who have received specialized training  
 35 in the field of juvenile justice. All designated youth confinement units shall provide to  
 36 children 13 to ~~17~~ 18 years of age who have been sentenced to such units as a result of a

1 conviction in superior court as an adult of an offense enumerated in subparagraph (b)(2)(A)  
 2 of Code Section 15-11-28 life skills training, academic or vocational training, and  
 3 substance abuse and violence prevention counseling to the extent that appropriations are  
 4 available for such activities."

#### 5 **SECTION 4.**

6 Said chapter is further amended by striking in its entirety subsection (d) of Code Section  
 7 15-11-48, relating to the place and record of detention, capital offenders, and deprived  
 8 children, and inserting in its place the following:

9 "*(d) Notification of court by official of jail.* The official in charge of a jail or other facility  
 10 for the detention of adult offenders or persons charged with crime shall immediately inform  
 11 the juvenile court or a duly authorized officer of the juvenile court if a person who is or  
 12 appears to be under the age of ~~17~~ 18 years is received at the facility and shall bring him or  
 13 her before the court upon request or deliver him or her to a detention or shelter care facility  
 14 designated by the court; provided, however, the official in charge of a jail or other facility  
 15 for the detention of adult offenders or persons charged with a crime shall immediately  
 16 inform the court in which the case is pending or a duly authorized officer of such court if  
 17 a person who is or appears to be 13 to ~~17~~ 18 years of age and who is alleged to have  
 18 committed any offense enumerated in subparagraph (b)(2)(A) of Code Section 15-11-28  
 19 is received at the facility and shall bring him or her before the court upon request or deliver  
 20 him or her to a detention facility designated by the court. Such child shall not be held in the  
 21 jail but may be held in a temporary holding area outside of the jail constructed as such for  
 22 not longer than six hours pending transfer to the detention facility. For purposes of this  
 23 Code section, the term 'jail' shall include not only the cells, but any other secured area of  
 24 the jail adjacent to the cells in which adult offenders are held or through which they are  
 25 transported."

#### 26 **SECTION 5.**

27 Said chapter is further amended by striking in its entirety paragraph (2) of subsection (a) of  
 28 Code Section 15-11-63, relating to designated felony acts, and inserting in its place the  
 29 following:

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

- 31 (A) Constitutes a second or subsequent offense under subsection (b) of Code Section  
 32 16-11-132 if committed by a child 13 to ~~17~~ 18 years of age;  
 33 (B) If done by an adult, would be one or more of the following crimes:  
 34 (i) Kidnapping or arson in the first degree, if done by a child 13 or more years of age;

- 1 (ii) Aggravated assault, arson in the second degree, aggravated battery, robbery,  
2 armed robbery not involving a firearm, or battery in violation of Code Section  
3 16-5-23.1 if the victim is a teacher or other school personnel, if done by a child 13 or  
4 more years of age;
- 5 (iii) Attempted murder or attempted kidnapping, if done by a child 13 or more years  
6 of age;
- 7 (iv) The carrying or possession of a weapon in violation of subsection (b) of Code  
8 Section 16-11-127.1;
- 9 (v) Hijacking a motor vehicle, if done by a child 13 or more years of age;
- 10 (vi) Any violation of Code Section 16-7-82, 16-7-84, or 16-7-86 if done by a child  
11 13 or more years of age;
- 12 (vii) Any other act which, if done by an adult, would be a felony, if the child  
13 committing the act has three times previously been adjudicated delinquent for acts  
14 which, if done by an adult, would have been felonies;
- 15 (viii) Any violation of Code Section 16-13-31, relating to trafficking in cocaine,  
16 illegal drugs, marijuana, or methamphetamine;
- 17 (ix) Any criminal violation of Code Section 16-14-4, relating to racketeering; or  
18 (x) Any violation of Code Section 16-10-52, relating to escape, if the child involved  
19 in the commission of such act has been previously adjudicated to have committed a  
20 designated felony;
- 21 (C) Constitutes a second or subsequent adjudication of delinquency based upon a  
22 violation of Code Section 16-7-85 or 16-7-87;
- 23 (C.1) Constitutes any violation of Code Section 16-15-4, relating to criminal street  
24 gangs;
- 25 (D) Constitutes an offense within the exclusive jurisdiction of the superior court  
26 pursuant to subparagraph (b)(2)(A) of Code Section 15-11-28 which is transferred by  
27 the superior court to the juvenile court for adjudication pursuant to subparagraph  
28 (b)(2)(B) of Code Section 15-11-28 or which is transferred by the district attorney to  
29 the juvenile court for adjudication pursuant to subparagraph (b)(2)(C) of Code Section  
30 15-11-28; or
- 31 (E) Constitutes a second or subsequent violation of Code Sections 16-8-2 through  
32 16-8-9, relating to theft, if the property which was the subject of the theft was a motor  
33 vehicle."



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**SECTION 9.**

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