

House Bill 740

By: Representative Franklin of the 17th

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 proceedings, incompetency, and dependency, so as to remove the provisions relating to
3 juvenile traffic offenses; to provide that juveniles shall be subject to the traffic laws and
4 enforcement thereof of the courts which have jurisdiction over traffic offenses; to amend
5 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,
6 so as to remove references to a juvenile being adjudicated delinquent for a traffic offense in
7 juvenile court; to provide for related matters; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to proceedings,
12 incompetency, and dependency, is amended in Code Section 15-11-2, relating to definitions,
13 by striking paragraph (6) and inserting in its place the following:

14 "(6) 'Delinquent act' means:

15 (A) An act designated a crime by the laws of this state, or by the laws of another state
16 if the act occurred in that state, under federal laws, or by local ordinance, and the crime
17 does not fall under subparagraph (C) of paragraph (12) of this Code section ~~and is not~~
18 ~~a juvenile traffic offense as defined in Code Section 15-11-73;~~

19 (B) The act of disobeying the terms of supervision contained in a court order which has
20 been directed to a child who has been adjudged to have committed a delinquent act; or

21 (C) Failing to appear as required by a citation issued with regard to a violation of Code
22 Section 3-3-23."

23 SECTION 2.

24 Said chapter is further amended by striking and reserving Code Section 15-11-22, relating
25 to appointment and compensation of associate juvenile court traffic judges:

1 "15-11-22.

2 ~~(a) The judge may appoint one or more persons to serve at the pleasure of the judge as~~
 3 ~~associate juvenile court traffic judges on a full-time or part-time basis. An associate~~
 4 ~~juvenile court traffic judge shall be a member of the State Bar of Georgia or shall be~~
 5 ~~otherwise qualified by experience and training. The compensation of the associate juvenile~~
 6 ~~court traffic judges shall be fixed by the judge with the approval of the governing authority~~
 7 ~~of the county and shall be paid in equal monthly installments from county funds, unless~~
 8 ~~otherwise provided by law.~~

9 ~~(b) The court may direct that any case or class of cases arising under Code Section 15-11-~~
 10 ~~73 shall be heard in the first instance by an associate juvenile court traffic judge who shall~~
 11 ~~conduct the hearing in accordance with Code Section 15-11-73. Upon the conclusion of the~~
 12 ~~hearing, the associate juvenile court traffic judge shall file an order of the court with a copy~~
 13 ~~thereof to the child and other parties to the proceedings. Reserved.~~

14 **SECTION 3.**

15 Said chapter is further amended in Code Section 15-11-28, relating to jurisdiction of juvenile
 16 court, by striking paragraph (1) of subsection (a) of said Code section and inserting in its
 17 place the following:

18 "(1) Concerning any child:

19 (A) Who is alleged to be delinquent;

20 (B) Who is alleged to be unruly;

21 (C) Who is alleged to be deprived;

22 (D) Who is alleged to be in need of treatment or commitment as a mentally ill or
 23 mentally retarded child; or

24 ~~(E) Who is alleged to have committed a juvenile traffic offense as defined in Code~~
 25 ~~Section 15-11-73; or~~

26 ~~(F)~~ (E) Who has been placed under the supervision of the court or on probation to the
 27 court; provided, however, that such jurisdiction shall be for the sole purpose of
 28 completing, effectuating, and enforcing such supervision or a probation begun prior to
 29 the child's seventeenth birthday; or"

30 **SECTION 4.**

31 Said chapter is further amended in Code Section 15-11-28, relating to jurisdiction of juvenile
 32 court, by adding a new subsection (a.1) to read as follows:

33 "(a.1) The juvenile court shall not have jurisdiction over traffic offenses. A juvenile who
 34 is alleged to have committed any traffic offense shall be subject to the traffic laws and the

1 enforcement thereof and the jurisdiction of the courts which have jurisdiction to try and
2 dispose of traffic offenses."

3 **SECTION 5.**

4 Said chapter is further amended in Code Section 15-11-35, relating to commencement of
5 proceedings, by striking said Code section and inserting in its place the following:

6 "15-11-35.

7 A proceeding under this article may be commenced:

8 (1) By transfer of a case from another court as provided in Code Section 15-11-30.4;

9 ~~(2) As provided in Code Section 15-11-73 in a proceeding charging a juvenile traffic~~
10 ~~offense;~~

11 ~~(3)~~ (2) By the court accepting jurisdiction as provided in Code Section 15-11-88 or
12 accepting supervision of a child as provided in Code Section 15-11-90;

13 ~~(4)~~ (3) In other cases of alleged delinquency, unruliness, or deprivation by the filing of
14 a petition as provided in this article. The petition and all other documents in the
15 proceeding shall be entitled 'In the interest of _____, a child,' except upon
16 appeal, in which event the anonymity of the child shall be preserved by appropriate use
17 of initials; or

18 ~~(5)~~ (4) In other cases as provided by law."

19 **SECTION 6.**

20 Said chapter is further amended in Code Section 15-11-68, relating to counseling or counsel
21 and advice for children and their parents or guardians, by striking said Code section and
22 inserting in its place the following:

23 "15-11-68.

24 When any child is before a juvenile court and such child is found by the court to have
25 committed a delinquent act; or to be an unruly child, ~~or to have committed a juvenile traffic~~
26 ~~offense as defined in Code Section 15-11-73~~; the court shall be authorized, in addition to
27 any other disposition authorized by this article, to order such child and such child's parents
28 or guardian to participate in counseling or in counsel and advice as determined by the
29 court. Such counseling and counsel and advice may be provided by the court, court
30 personnel, probation officers, professional counselors or social workers, psychologists,
31 physicians, qualified volunteers, or appropriate public, private, or volunteer agencies as
32 directed by the court and shall be designed to assist in deterring future delinquent or unruly
33 acts or other conduct or conditions which would be harmful to the child or society."

1 ~~If the accusation made in the summons, notice to appear, or other designation of a citation~~
2 ~~is denied, an informal hearing shall be held at which the parties shall have the right to~~
3 ~~subpoena witnesses, present evidence, cross-examine witnesses, and appear by counsel.~~
4 ~~The hearing shall be open to the public.~~

5 ~~(g) *Disposition.* If the court finds on the admission of the child or upon the evidence that~~
6 ~~the child committed the offense charged, it may make one or more of the following orders:~~

7 ~~(1) Reprimand, counsel, or warn the child and the child's parents; provided, however,~~
8 ~~that this dispositional order is not available for any offense listed in subsection (c) of this~~
9 ~~Code section;~~

10 ~~(2) As a matter of probation or if the child is committed to the custody of the state, order~~
11 ~~the Department of Motor Vehicle Safety to suspend the child's privilege to drive under~~
12 ~~stated conditions and limitations for a period not to exceed 12 months;~~

13 ~~(3) Require the child to attend a traffic school conducted by the Department of Motor~~
14 ~~Vehicle Safety or a substance abuse clinic or program approved by either the Department~~
15 ~~of Human Resources or the Council of Juvenile Court Judges for a reasonable period of~~
16 ~~time;~~

17 ~~(4) Order the child to remit to the general fund of the county a sum not exceeding the~~
18 ~~maximum applicable to an adult for a like offense;~~

19 ~~(5) Require the child to participate in a program of community service as specified by~~
20 ~~the court;~~

21 ~~(6) Impose any sanction authorized by Code Section 15-11-66, 15-11-67, or 15-11-68;~~
22 ~~or~~

23 ~~(7) Place the child on probation subject to the conditions and limitations imposed by~~
24 ~~Title 40 on probation granted to adults for like offenses, but such probation shall be~~
25 ~~supervised by the court as provided in Code Section 15-11-66.~~

26 ~~(h) *Fines.* If a fine is assessed under paragraph (4) of subsection (g) of this Code section,~~
27 ~~such fine shall be subject to all additions and penalties as specified under this title and Title~~
28 ~~47.~~

29 ~~(i) *Transfer to delinquency calendar.* In lieu of the preceding orders, if the evidence~~
30 ~~indicates the advisability thereof, the court may transfer the case to the delinquency~~
31 ~~calendar of the court and direct the filing and service of a summons and petition in~~
32 ~~accordance with this article. The judge so ordering is disqualified, upon objection, from~~
33 ~~acting further in the case prior to an adjudication that the child committed a delinquent act.~~

34 ~~(j) *Reporting procedure.* Upon finding that the child has committed a juvenile traffic~~
35 ~~offense or a delinquent offense which would be a violation of Title 40 if committed by an~~
36 ~~adult, the court shall forward, within ten days, a report of the final adjudication and~~
37 ~~disposition of the charge to the Department of Motor Vehicle Safety; provided, however,~~

1 ~~that this procedure shall not be applicable to those cases which have been dismissed or in~~
 2 ~~which the child and the child's parents have been reprimanded, counseled, or warned by~~
 3 ~~the court pursuant to paragraph (1) of subsection (g) of this Code section. The Department~~
 4 ~~of Motor Vehicle Safety shall record the adjudication and disposition of the offense on the~~
 5 ~~child's permanent record and such adjudication and disposition shall be deemed a~~
 6 ~~conviction for the purpose of suspending or revoking the individual's driver's license. Such~~
 7 ~~record shall also be available to law enforcement agencies and courts as are the permanent~~
 8 ~~traffic records of adults. Reserved.~~"

9 **SECTION 8.**

10 Said chapter is further amended in Code Section 15-11-79, relating to inspection of court
 11 files and records, by striking subsection (b) of said Code section and inserting in its place the
 12 following:

13 "(b) Subject to the requirements of subsection (a) of Code Section 15-11-56, subsection
 14 (b) of Code Section 15-11-65, and Code Section 15-11-79.2, the general public shall be
 15 allowed to inspect ~~court files and records for cases arising under Code Section 15-11-73~~
 16 ~~or~~ any complaint, petition, or order from any case that was open to the public pursuant to
 17 subsection (b) of Code Section 15-11-78. The general public shall be allowed to inspect
 18 court files and records for proceedings involving a legitimation petition under the
 19 jurisdiction of the juvenile court pursuant to paragraph (1) or (2) of subsection (e) of Code
 20 Section 15-11-28."

21 **SECTION 9.**

22 Chapter 5 of Title 40 of the Official Code of Georgia, relating to drivers' licenses, is
 23 amended by striking Code Section 40-5-22.1, relating to reinstatement of the license of a
 24 child under 16 years convicted of driving under influence of alcohol or drugs, and inserting
 25 in its place the following:

26 "40-5-22.1

27 Notwithstanding any other provision of law, if a child under 16 years of age is ~~adjudicated~~
 28 ~~delinquent~~ convicted of driving under the influence of alcohol or drugs or of possession of
 29 marijuana or a controlled substance in violation of Code Section 16-13-30 or of the
 30 unlawful possession of a dangerous drug in violation of Code Section 16-13-72 or
 31 convicted in any other court of such offenses, the court shall order that the privilege of such
 32 child to apply for and be issued a driver's license or learner's permit shall be suspended
 33 and delayed until such child is 17 years of age for a first conviction and until such child is
 34 18 years of age for a second or subsequent such conviction. Upon reaching the required
 35 age, such license privilege shall be reinstated if the child submits proof of completion of

1 a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of
 2 Human Resources or an assessment and intervention program approved by the juvenile
 3 court and pays a fee of \$210.00 to the Department of Motor Vehicle Safety or \$200.00
 4 when such application is processed by mail. The court shall notify the Department of Motor
 5 Vehicle Safety of its order delaying the issuance of such child's license within 15 days of
 6 the date of such order. The Department of Motor Vehicle Safety shall not issue a driver's
 7 license or learner's permit to any person contrary to a court order issued pursuant to this
 8 Code section."

9 **SECTION 10.**

10 Said chapter is further amended in Code Section 40-5-64, relating to limited driving permits
 11 for certain offenders, by striking paragraph (1) of subsection (a) and inserting in its place the
 12 following:

13 "(1) Notwithstanding any contrary provision of Code Section 40-5-57 or 40-5-63 or any
 14 other Code section of this chapter, any person who has not been previously convicted ~~or~~
 15 ~~adjudicated delinquent for~~ of a violation of Code Section 40-6-391 within five years, as
 16 measured from the dates of previous arrests for which convictions were obtained or pleas
 17 of nolo contendere were accepted to the date of the current arrest for which a conviction
 18 is obtained or a plea of nolo contendere is accepted, may apply for a limited driving
 19 permit when and only when that person's driver's license has been suspended in
 20 accordance with paragraph (2) of subsection (a.1) of Code Section 40-5-22, subsection
 21 (d) of Code Section 40-5-57, paragraph (1) of subsection (a) of Code Section 40-5-63, or
 22 paragraph (1) of subsection (a) of Code Section 40-5-67.2."

23 **SECTION 11.**

24 Said chapter is further amended in Code Section 40-5-75, relating to suspension of licenses
 25 by operation of law, by striking subsections (g) and (h) of said Code section and inserting in
 26 their places the following:

27 "(g) Notwithstanding the provisions of Code Section 15-11-72 and except as provided in
 28 subsection (c) of this Code section, an adjudication of a minor child as a delinquent child
 29 or an unruly child for any offense listed in subsection (a) of this Code section for which the
 30 juvenile court has jurisdiction thereof shall be deemed a conviction for purposes of this
 31 Code section.

32 (h) Notwithstanding the provisions of subsection (a) of this Code section, licensed drivers
 33 who are 16 years of age who are adjudicated in a juvenile court for an offense for which
 34 the juvenile court has jurisdiction thereof pursuant to this Code section may, at their option,
 35 complete a DUI Alcohol or Drug Use Risk Reduction Program approved by the

1 Department of Human Resources or an assessment and intervention program approved by
2 the juvenile court."

3 **SECTION 12.**

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