

House Bill 1418

By: Representatives Stephenson of the 60th, Post 1, Randall of the 107th, Mosby of the 59th, Post 3, Sinkfield of the 50th, Hugley of the 113th, and others

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."~~

SECTION 2.

Said chapter is further amended in Code Section 15-11-4, relating to the juvenile court as a court of inquiry and a court of record, and issuance of warrants, by striking subsection (a) in its entirety and inserting in lieu thereof the following:

"(a) *Court of inquiry.* The juvenile court shall have jurisdiction to act as a court of inquiry with all the powers and rights allowed courts of inquiry in this state and to examine or investigate into the circumstances or causes of any conduct or acts of any person ~~17~~ 18 years of age or over that may be in violation of the laws of this state whenever the person is brought before the court in the course of any proceeding instituted under this article. The court shall cause the person to be apprehended and brought before it upon either a writ of summons, a warrant duly issued, or by arrest. Where, after hearing evidence, the court has reasonably ascertained that there is probable cause to believe that the person has committed a misdemeanor or felony as prescribed under the laws of this state, the court shall commit, bind over to the court of proper jurisdiction in this state, or discharge the person. When justice shall require, the court shall cause the person to make the bond or bail as the court shall deem proper under the circumstances, to cause the person to appear before the court of proper jurisdiction in this state to be acted upon as provided by law."

SECTION 3.

Said chapter is further amended in Code Section 15-11-28, relating to the jurisdiction of the juvenile court, by striking in their entirety paragraph (2) of subsection (b) and subsection (d) and inserting in lieu thereof the following:

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

- (i) Murder;
- (ii) Voluntary manslaughter;
- (iii) Rape;
- (iv) Aggravated sodomy;
- (v) Aggravated child molestation;
- (vi) Aggravated sexual battery; or
- (vii) Armed robbery if committed with a firearm.

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

(B) After indictment, the superior court may after investigation and for extraordinary cause transfer any case involving a child 13 to ~~17~~ 18 years of age alleged to have committed any offense enumerated in subparagraph (A) of this paragraph which is not

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 ~~17~~ 18 years. This subsection does not affect the court's jurisdiction to enter extension
2 orders pursuant to Code Section 15-11-58."

3 **SECTION 4.**

4 Said chapter is further amended in Code Section 15-11-30.2, relating to transfer of a child
5 to another court for prosecution, by striking subsection (d) in its entirety and inserting in lieu
6 thereof the following:

7 "(d) No child, either before or after reaching ~~17~~ 18 years of age, shall be prosecuted for an
8 offense previously committed unless the case has been transferred as provided in this Code
9 section."

10 **SECTION 5.**

11 Said chapter is further amended in Code Section 15-11-48, relating to places of detention for
12 children, by striking in its entirety subsection (d) and inserting in lieu thereof the following:

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

30 **SECTION 6.**

31 Said chapter is further amended in Code Section 15-11-62, relating to commitment of certain
32 children to the custody of the Department of Corrections, by striking subsection (a) in its
33 entirety and inserting in lieu thereof the following:

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.