

House Bill 662

By: Representatives Oliver of the 83rd, Forster of the 3rd, Abrams of the 84th, and Benfield of the 85th

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, so as to change certain provisions relating to detention of unruly
3 children and status offenders; to change the definition of unruly; to change provisions
4 relating to when detention of a child is permitted; to change provisions relating to place of
5 detention; to change provisions relating to dispositional hearings for delinquent or unruly
6 children; to change provisions relating to disposition of unruly children; to provide for
7 related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile
11 proceedings, is amended by revising Code Section 15-11-2, relating to definitions, as follows:

12 "(12) 'Unruly child' means a child who:

13 (A) While subject to compulsory school attendance is habitually and without
14 justification truant from school;

15 (B) Is habitually disobedient of the reasonable and lawful commands of his or her
16 parent, guardian, or other custodian and is ungovernable;

17 (C) Has committed an offense applicable only to a child;

18 (D) Without just cause and without the consent of his or her parent or legal custodian
19 deserts his or her home or place of abode;

20 (E) Wanders or loiters about the streets of any city, or in or about any highway or any
21 public place, between the hours of 12:00 Midnight and 5:00 A.M.;

22 (F) Disobeys the terms of supervision contained in a court order which has been
23 directed to such child, who has been adjudicated unruly; or

24 (G) Patronizes any bar where alcoholic beverages are being sold, unaccompanied by
25 such child's parents, guardian, or custodian, or possesses alcoholic beverages; and

26 (H) In any of the foregoing, is in need of supervision, treatment, or rehabilitation; ~~or~~

1 ~~(F) Has committed a delinquent act and is in need of supervision, but not of treatment~~
 2 ~~or rehabilitation."~~

3 SECTION 2.

4 Said chapter is further amended by revising subsection (e) of Code Section 15-11-48, relating
 5 to place of detention, as follows:

6 ~~"(e) Allegation of unruliness. A child unruly or alleged to be unruly who has not been~~
 7 ~~released from custody as provided in subsection (e) of Code Section 15-11-47 may be~~
 8 ~~detained or placed in shelter care only in the facilities stated in paragraphs (1) and (2) of~~
 9 ~~subsection (a) of this Code section or in a secure juvenile detention facility for a period not~~
 10 ~~to exceed 72 hours; provided, however, upon written order of the judge having jurisdiction~~
 11 ~~of the case and upon good cause shown, a child alleged to be unruly may be detained for~~
 12 ~~one additional period not to exceed 48 hours; provided, further, that no child alleged to be~~
 13 ~~or found to be unruly who has not previously been adjudicated unruly may be detained in~~
 14 ~~a secure juvenile detention facility unless such child is alleged to be under the court's~~
 15 ~~jurisdiction as provided in subparagraph (D) of paragraph (12) of Code Section 15-11-2~~
 16 ~~and then shall be detained in that facility only so long as is required to effect the child's~~
 17 ~~return home or to ensure the child's presence at a scheduled court appearance when the~~
 18 ~~child has previously failed to appear for a scheduled court appearance. In the event a child~~
 19 ~~alleged to be unruly comes within the purview of the Interstate Compact on Juveniles and~~
 20 ~~the proper authorities of a demanding state have made an official return request to the~~
 21 ~~proper authorities of this state, the Interstate Compact on Juveniles shall apply to the child.~~

22 (1) A child with no prior adjudications of unruliness or delinquency shall not be held in
 23 a secure juvenile detention facility for any period of time.

24 (2) A child who is alleged to be unruly, but who has no prior adjudications of unruliness
 25 or delinquency, may be held in a secure juvenile detention facility for up to 24 hours,
 26 excluding weekends and legal holidays; provided, however, that if the court finds at a
 27 probable cause hearing held within such 24 hour period that the child has violated the
 28 conditions of an existing court order and that:

29 (A) The child has a record of willful failure to appear at juvenile court proceedings;

30 (B) The child has a record of violent conduct resulting in physical injury to self or
 31 others; or

32 (C) The child has a record of leaving a court ordered placement, other than secure
 33 detention, without permission,

34 the court may detain the child pending a hearing to determine if such child has violated
 35 an existing court order, but in no event shall a child's total detention prior to the hearing
 36 exceed 72 hours, excluding weekends and legal holidays.

1 (3) Before detaining an unruly child, the judge presiding over a probable cause hearing
 2 shall determine if the child has violated an existing court order.

3 (4) At the hearing, the judge shall also obtain and review a written report prepared by an
 4 independent public agency that reviews the alleged unruly child's behavior and the
 5 circumstances under which such child was brought before the court and made subject to
 6 a court order, that addresses the reasons for the child's behavior, and that determines
 7 whether all nonsecure disposition options have been exhausted or are clearly
 8 inappropriate."

9 SECTION 3.

10 Said chapter is further amended by revising paragraph (2) of subsection (c) of Code Section
 11 15-11-49, relating to release of child where detention not warranted, as follows:

12 ~~"(2) If a child alleged to be unruly is not so released, the informal detention hearing shall~~
 13 ~~be held promptly and not later than 72 hours after the child is placed in detention or~~
 14 ~~shelter care as provided in subsection (e) of Code Section 15-11-48 Reserved."~~

15 SECTION 4.

16 Said chapter is further amended by revising subsection (a) of Code Section 15-11-65, relating
 17 to dispositional hearing for delinquent or unruly child, as follows:

18 *"(a) Dispositional hearing for delinquent ~~or unruly~~ child. If the court finds on proof*
 19 *beyond a reasonable doubt that the child committed the acts by reason of which he or she*
 20 *is alleged to be delinquent ~~or unruly~~, it shall proceed immediately or at a later time to*
 21 *conduct a dispositional hearing for the purpose of hearing evidence as to whether the child*
 22 *is in need of treatment, rehabilitation, or supervision and shall make and file its findings*
 23 *thereon. If the court finds that the allegations of ~~delinquency or unruly~~ delinquent conduct*
 24 *have not been established, it shall dismiss the petition and order the child discharged from*
 25 *any detention or other restriction theretofore ordered in relation to the allegations. If the*
 26 *child is to be held in custody at a detention facility between the adjudicatory hearing and*
 27 *the dispositional hearing, the court shall conduct the dispositional hearing within 30 days*
 28 *of the adjudicatory hearing unless the court makes and files written findings of fact*
 29 *explaining the need for the delay. In the absence of evidence to the contrary, evidence*
 30 *sufficient to warrant a finding that acts have been committed which constitute a felony is*
 31 *also sufficient to sustain a finding that the child is in need of treatment or rehabilitation. If*
 32 *the court finds that the child is not in need of treatment, rehabilitation, or supervision, it*
 33 *shall dismiss the proceeding and discharge the child from any detention or other restriction*
 34 *theretofore ordered."*

SECTION 5.

Said chapter is further amended by revising Code Section 15-11-67, relating to disposition of unruly child, as follows:

"15-11-67.

If the child is found to be unruly, the court may make any disposition authorized for a delinquent child except that, if ~~commitment to the Department of Juvenile Justice is ordered,~~ the court orders the child placed in any secure detention or correction facility, the court shall first:

(1) Find ~~find~~ that the child is not amenable to treatment or rehabilitation pursuant to paragraph (1), (2), or (3) of subsection (a) of Code Section 15-11-66;

(2) Find that such child violated an existing court order; and

(3) Obtain and review an independent public agency report in accordance with paragraph (4) of subsection (e) of Code Section 15-11-48 which concludes that nonsecure placement options have been exhausted or are clearly inappropriate."

SECTION 6.

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