

The House Committee on Judiciary Non-civil offers the following substitute to HB 662:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile proceedings, so as to change certain provisions relating to detention of unruly children and status offenders; to change the definition of unruly; to change provisions relating to when detention of a child is permitted; to change provisions relating to place of detention; to change provisions relating to dispositional hearings for delinquent or unruly children; to change provisions relating to disposition of unruly children; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

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

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

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

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

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

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

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

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

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

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

SECTION 2.

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

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

(1) A child who is alleged to be unruly with no prior adjudications of unruliness shall not be held in a secure juvenile detention facility for any period of time; provided, however, that a child alleged to be an unruly child in violation of subparagraph (D) of paragraph (12) of Code Section 15-11-2 shall be detained, but only for as long as is required to effect the child's return to his or her home or place of abode and for no longer than 24 hours.

(2) A child who is alleged to be unruly, but who has prior adjudications of unruliness, may be held in a secure juvenile detention facility for up to 24 hours, excluding weekends and legal holidays, prior to an initial court appearance and for an additional 24 hours, excluding weekends and legal holidays, following an initial court appearance.

(3) If the court finds at a probable cause hearing held within such 24 hour period that the child has violated the conditions of an existing court order and that:

(A) The child has a record of or there is evidence of willful failure to appear at juvenile court proceedings;

1 (B) The child has a record of or there is evidence of violent conduct resulting in
 2 physical injury to self or others; or

3 (C) The child has a record of or there is evidence of leaving a court ordered placement,
 4 other than secure detention, without permission,

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

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

14 SECTION 3.

15 Said chapter is further amended by revising paragraph (2) of subsection (c) of Code Section
 16 15-11-49, relating to release of child where detention not warranted, as follows:

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

20 SECTION 4.

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

23 "(a)(1) Dispositional hearing for delinquent ~~or unruly~~ child. If the court finds on proof
 24 beyond a reasonable doubt that the child committed the acts by reason of which he or she
 25 is alleged to be delinquent ~~or unruly~~, it shall proceed immediately or at a later time to
 26 conduct a dispositional hearing for the purpose of hearing evidence as to whether the
 27 child is in need of treatment, rehabilitation, or supervision and shall make and file its
 28 findings thereon. If the court finds that the allegations of ~~delinquency or unruly~~
 29 delinquent conduct have not been established, it shall dismiss the petition and order the
 30 child discharged from any detention or other restriction theretofore ordered in relation to
 31 the allegations. If the child is to be held in custody at a detention facility between the
 32 adjudicatory hearing and the dispositional hearing, the court shall conduct the
 33 dispositional hearing within 30 days of the adjudicatory hearing unless the court makes
 34 and files written findings of fact explaining the need for the delay. In the absence of
 35 evidence to the contrary, evidence sufficient to warrant a finding that acts have been

committed which constitute a felony is also sufficient to sustain a finding that the child is in need of treatment or rehabilitation. If the court finds that the child is not in need of treatment, rehabilitation, or supervision, it shall dismiss the proceeding and discharge the child from any detention or other restriction theretofore ordered.

(2) Dispositional hearing for unruly child. If the court finds by proof beyond a reasonable doubt that the child committed the acts for which he or she is alleged to be unruly, it may proceed immediately or at a later time to conduct a dispositional hearing for the purpose of hearing evidence as to whether the child is in need of treatment, rehabilitation, or supervision and shall make and file written findings of fact and conclusions of law. If the court finds that the allegations of unruly conduct have not been established, it shall dismiss the petition and order the child discharged from any detention or other restriction ordered in relation to the allegations. If the child is to be held in custody between the adjudicatory hearing and dispositional hearing in a licensed foster home, a home approved by the court, or a facility operated by a licensed child welfare agency, the court may conduct the dispositional hearing within 30 days of the adjudicatory hearing unless the court makes and files written findings of fact explaining the need for delay."

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 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 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.