

The Senate Education and Youth Committee offered the following substitute to SB 299:

A BILL TO BE ENTITLED
AN ACT

1 To amend Parts 5 and 7 of Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia
2 Annotated, relating to arrest and detention and delinquent and unruly children, respectively,
3 so as to change provisions relating to the zero tolerance policy on weapons in schools; to
4 prohibit prehearing detentions via a standing order of the court; to change provisions relating
5 to the designated felony act; to amend Code Section 16-11-127.1 of the Official Code of
6 Georgia Annotated, relating to carrying weapons within school safety zones, at school
7 functions, or on school property, so as to change a provision relating to handling cases
8 involving children; to provide for related matters; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

11 Part 5 of Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated,
12 relating to arrest and detention, is amended by adding a new Code section to read as follows:

13 "15-11-46.2.

14 Notwithstanding the provisions of Code Section 15-11-45, 15-11-46, or 15-11-46.1, a child
15 may not be detained or placed in shelter care prior to the informal detention hearing by
16 virtue of a standing court order."
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SECTION 2.

18 Part 7 of Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated,
19 relating to delinquent and unruly children, is amended by revising paragraph (2) of
20 subsection (a) of Code Section 15-11-63, relating to designated felony acts, as follows:

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 years of age;

24 (B) If done by an adult, would be one or more of the following crimes:
25

- 26 (i) Kidnapping or arson in the first degree, if done by a child 13 or more years of age;
- 27 (ii) Aggravated assault, arson in the second degree, aggravated battery, robbery,
- 28 armed robbery not involving a firearm, or battery in violation of Code Section
- 29 16-5-23.1 if the victim is a teacher or other school personnel, if done by a child 13 or
- 30 more years of age;
- 31 (iii) Attempted murder or attempted kidnapping, if done by a child 13 or more years
- 32 of age;
- 33 (iv) ~~The carrying or possession of a weapon in violation of subsection (b) of Code~~
- 34 ~~Section 16-11-127.1~~ Reserved;
- 35 (v) Hijacking a motor vehicle, if done by a child 13 or more years of age;
- 36 (vi) Any violation of Code Section 16-7-82, 16-7-84, or 16-7-86 if done by a child
- 37 13 or more years of age;
- 38 (vii) Any other act which, if done by an adult, would be a felony, if the child
- 39 committing the act has three times previously been adjudicated delinquent for acts
- 40 which, if done by an adult, would have been felonies;
- 41 (viii) Any violation of Code Section 16-13-31, relating to trafficking in cocaine,
- 42 illegal drugs, marijuana, or methamphetamine;
- 43 (ix) Any criminal violation of Code Section 16-14-4, relating to racketeering; or
- 44 (x) Any violation of Code Section 16-10-52, relating to escape, if the child involved
- 45 in the commission of such act has been previously adjudicated to have committed a
- 46 designated felony;
- 47 (C) Constitutes a second or subsequent adjudication of delinquency based upon a
- 48 violation of Code Section 16-7-85 or 16-7-87;
- 49 (C.1) Constitutes any violation of Code Section 16-15-4, relating to criminal street
- 50 gangs;
- 51 (C.2) Constitutes a second or subsequent adjudication of delinquency based on a
- 52 violation of Code Section 16-11-127.1 or is a first violation of Code Section
- 53 16-11-127.1 involving:
- 54 (i) Any weapon, as such term is defined in Code Section 16-11-127.1, together with
- 55 an assault;
- 56 (ii) A firearm as defined in paragraph (2) of subsection (a) of Code Section
- 57 16-11-131; or
- 58 (iii) A dangerous weapon or machine gun as defined in Code Section 16-11-121;
- 59 (D) Constitutes an offense within the exclusive jurisdiction of the superior court
- 60 pursuant to subparagraph (b)(2)(A) of Code Section 15-11-28 which is transferred by
- 61 the superior court to the juvenile court for adjudication pursuant to subparagraph
- 62 (b)(2)(B) of Code Section 15-11-28 or which is transferred by the district attorney to

63 the juvenile court for adjudication pursuant to subparagraph (b)(2)(C) of Code Section
 64 15-11-28; or
 65 (E) Constitutes a second or subsequent violation of Code Sections 16-8-2 through
 66 16-8-9, relating to theft, if the property which was the subject of the theft was a motor
 67 vehicle."

68 SECTION 3.

69 Code Section 16-11-127.1 of the Official Code of Georgia Annotated, relating to carrying
 70 weapons within school safety zones, at school functions, or on school property, is amended
 71 by revising subsection (b) as follows:

72 "(b) Except as otherwise provided in subsection (c) of this Code section, it shall be
 73 unlawful for any person to carry to or to possess or have under such person's control while
 74 within a school safety zone or at a school building, school function, or school property or
 75 on a bus or other transportation furnished by the school any weapon or explosive
 76 compound, other than fireworks the possession of which is regulated by Chapter 10 of Title
 77 25. Any person who violates this subsection shall be guilty of a felony and, upon
 78 conviction thereof, be punished by a fine of not more than \$10,000.00, by imprisonment
 79 for not less than two nor more than ten years, or both; provided, however, that upon
 80 conviction of a violation of this subsection involving a firearm as defined in paragraph (2)
 81 of subsection (a) of Code Section 16-11-131, or a dangerous weapon or machine gun as
 82 defined in Code Section 16-11-121, such person shall be punished by a fine of not more
 83 than \$10,000.00 or by imprisonment for a period of not less than five nor more than ten
 84 years, or both. A child who violates this subsection ~~shall~~ may be subject to the provisions
 85 of Code Section 15-11-63."

86 SECTION 4.

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