

Senate Bill 299

By: Senators Jones of the 10th, Grant of the 25th, Jackson of the 2nd, Sims of the 12th,
Golden of the 8th and others

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 pre-hearing detentions via a standing order of the court; to change provisions
5 relating to the designated felony act; to amend Code Section 16-11-127.1 of the Official
6 Code of Georgia Annotated, relating to carrying weapons within school safety zones, at
7 school 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:

11 style="text-align:center">**SECTION 1.**

12 Part 5 of Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated,
13 relating to arrest and detention, is amended by adding a new Code section to read as follows:
14 "15-11-46.2.
15 Notwithstanding the provisions of Code Section 15-11-45, 15-11-46, or 15-11-46.1, a child
16 may not be detained or placed in shelter care prior to the hearing on the petition by virtue
17 of a standing court order."

18 style="text-align:center">**SECTION 2.**

19 Part 7 of Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated,
20 relating to delinquent and unruly children, is amended by revising paragraph (2) of
21 subsection (a) of Code Section 15-11-63, relating to designated felony acts, as follows:
22 "(2) 'Designated felony act' means an act which:
23 (A) Constitutes a second or subsequent offense under subsection (b) of Code Section
24 16-11-132 if committed by a child 13 to 17 years of age;
25 (B) If done by an adult, would be one or more of the following crimes:

- 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 together with an assault;
- 55 (ii) A firearm as defined in paragraph (2) of subsection (a) of Code Section
- 56 16-11-131; or
- 57 (iii) A dangerous weapon or machine gun as defined in Code Section 16-11-121;
- 58 (D) Constitutes an offense within the exclusive jurisdiction of the superior court
- 59 pursuant to subparagraph (b)(2)(A) of Code Section 15-11-28 which is transferred by
- 60 the superior court to the juvenile court for adjudication pursuant to subparagraph
- 61 (b)(2)(B) of Code Section 15-11-28 or which is transferred by the district attorney to

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

67 **SECTION 3.**

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

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

85 **SECTION 4.**

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