

Senate Bill 362

By: Senators Lucas of the 26th, Fort of the 39th, Jones of the 10th, James of the 35th, Henson of the 41st and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 9 of Article 6 of Chapter 11 of Title 15 of the Official Code of Georgia
2 Annotated, relating to transfers of juvenile cases involving delinquency, so as to remove the
3 exclusive jurisdiction of the superior courts over certain juvenile offenses; to provide for
4 related matters; to provide an effective date; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 9 of Article 6 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated,
9 relating to transfers of juvenile cases involving delinquency, is amended by revising Code
10 Section 15-11-560, relating to concurrent and original jurisdiction of superior court, as
11 follows:

12 "15-11-560.

13 ~~(a) Except as provided in subsection (b) of this Code section, the~~ The court shall have
14 concurrent jurisdiction with the superior court over a child who is alleged to have
15 committed a delinquent act which would be considered a crime if tried in a superior court
16 and for which an adult may be punished by loss of life, imprisonment for life without
17 possibility of parole, or confinement for life in a penal institution.

18 ~~(b) The superior court shall have exclusive original jurisdiction over the trial of any child~~
19 ~~13 to 17 years of age who is alleged to have committed any of the following offenses:~~

- 20 ~~(1) Murder;~~
- 21 ~~(2) Voluntary manslaughter;~~
- 22 ~~(3) Rape;~~
- 23 ~~(4) Aggravated sodomy;~~
- 24 ~~(5) Aggravated child molestation;~~
- 25 ~~(6) Aggravated sexual battery; or~~
- 26 ~~(7) Armed robbery if committed with a firearm.~~

27 ~~(c) The granting of bail or pretrial release of a child charged with an offense enumerated~~
28 ~~in subsection (b) of this Code section shall be governed by the provisions of Code~~
29 ~~Section 17-6-1.~~

30 ~~(d) At any time before indictment, the district attorney may, after investigation and for~~
31 ~~cause, decline prosecution in the superior court of a child 13 to 17 years of age alleged to~~
32 ~~have committed an offense specified in subsection (b) of this Code section. Upon declining~~
33 ~~such prosecution in the superior court, the district attorney shall cause a petition to be filed~~
34 ~~in the appropriate juvenile court for adjudication within 72 hours if the child is in detention~~
35 ~~or 30 days if the child is not in detention. Except as provided in paragraph (8) of~~
36 ~~subsection (b) of Code Section 15-11-602, any case transferred by the district attorney to~~
37 ~~the juvenile court pursuant to this subsection shall be subject to the class A designated~~
38 ~~felony act provisions of Code Section 15-11-602, and the transfer of the case from superior~~
39 ~~court to juvenile court shall constitute notice to such child that such case is subject to the~~
40 ~~class A designated felony act provisions of Code Section 15-11-602.~~

41 ~~(e) After indictment, the superior court may after investigation and for extraordinary cause~~
42 ~~transfer to the juvenile court any case involving a child 13 to 17 years of age alleged to~~
43 ~~have committed voluntary manslaughter, aggravated sodomy, aggravated child molestation,~~
44 ~~or aggravated sexual battery. Any such transfer shall be appealable by the State of Georgia~~
45 ~~pursuant to Code Section 5-7-1. Upon such a transfer by the superior court, jurisdiction~~
46 ~~shall vest in the juvenile court and jurisdiction of the superior court shall terminate. Except~~
47 ~~as provided in paragraph (8) of subsection (b) of Code Section 15-11-602, any case~~
48 ~~transferred by the superior court to the juvenile court pursuant to this subsection shall be~~
49 ~~subject to the class A designated felony act provisions of Code Section 15-11-602, and the~~
50 ~~transfer of the case from superior court to juvenile court shall constitute notice to such child~~
51 ~~that such case is subject to the class A designated felony act provisions of Code Section~~
52 ~~15-11-602.~~

53 ~~(f) The superior court may transfer any case involving a child 13 to 17 years of age alleged~~
54 ~~to have committed any offense enumerated in subsection (b) of this Code section and~~
55 ~~convicted of a lesser included offense not included in subsection (b) of this Code section~~
56 ~~to the juvenile court of the county of such child's residence for disposition. Upon such a~~
57 ~~transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction~~
58 ~~of the superior court shall terminate.~~

59 ~~(g) Within 30 days of any proceeding in which a child 13 to 17 years of age is convicted~~
60 ~~of certain offenses over which the superior court has original jurisdiction as provided in~~
61 ~~subsection (b) of this Code section or adjudicated as a delinquent child on the basis of~~
62 ~~conduct which if committed by an adult would constitute such offenses, the superior court~~
63 ~~shall provide written notice to the school superintendent or his or her designee of the school~~

64 ~~in which such child is enrolled or, if the information is known, of the school in which such~~
65 ~~child plans to be enrolled at a future date. Such notice shall include the specific criminal~~
66 ~~offense that such child committed. The local school system to which such child is assigned~~
67 ~~may request further information from the court's file."~~

68 **SECTION 2.**

69 Said part is further amended by repealing Code Section 15-11-562, relating to transfer
70 criteria and probation officer written report contents, and by designating said Code section
71 as reserved.

72 **SECTION 3.**

73 Said part is further amended by revising subsection (a) of Code Section 15-11-567, relating
74 to transfers to juvenile court, as follows:

75 "(a) Except in those cases in which ~~the superior court has exclusive original jurisdiction~~
76 ~~or~~ juvenile court jurisdiction has been terminated and the child has been transferred to
77 superior court, if it appears to any court in a criminal proceeding or a quasi-criminal
78 proceeding that the accused is a child, the case shall forthwith be transferred to the juvenile
79 court together with a copy of the indictment, special presentment, accusation, or citation
80 and all other papers, documents, and transcripts of testimony relating to the case."

81 **SECTION 4.**

82 This Act shall become effective upon its approval by the Governor or upon its becoming law
83 without such approval.

84 **SECTION 5.**

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