

House Bill 1100

By: Representatives Oliver of the 82<sup>nd</sup>, Willard of the 51<sup>st</sup>, Abrams of the 89<sup>th</sup>, Efstration of the 104<sup>th</sup>, Wilkerson of the 38<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the  
2 Juvenile Code, so as to change the jurisdiction of the juvenile court to include children who  
3 are under the age of 18 years; to provide for related matters; to repeal conflicting laws; and  
4 for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile  
8 Code, is amended by revising paragraph (10) of Code Section 15-11-2, relating to definitions,  
9 as follows:

10 "(10) 'Child' means any individual who is:

11 (A) Under the age of 18 years;

12 (B) Under the age of ~~17~~ 18 years when alleged to have committed a delinquent act;

13 (C) Under the age of 22 years and in the care of DFCS as a result of being adjudicated  
14 dependent before reaching 18 years of age;

15 (D) Under the age of 23 years and eligible for and receiving independent living  
16 services through DFCS as a result of being adjudicated dependent before reaching 18  
17 years of age; or

18 (E) Under the age of 21 years who committed an act of delinquency before reaching  
19 the age of ~~17~~ 18 years and who has been placed under the supervision of the court or  
20 on probation to the court for the purpose of enforcing orders of the court."

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

22 Said chapter is further amended by revising subsection (a) of Code Section 15-11-7, relating  
23 to court of inquiry, as follows:

24 "(a) The juvenile court shall have jurisdiction to act as a court of inquiry with all the  
25 powers and rights allowed courts of inquiry in this state and to examine or investigate into

26 the circumstances or causes of any conduct or acts of any person ~~17~~ 18 or more years of  
 27 age that may be in violation of the laws of this state whenever such person is brought  
 28 before the court in the course of any proceeding instituted under this chapter. The court  
 29 shall cause the person to be apprehended and brought before it upon either a writ of  
 30 summons, a warrant duly issued, or by arrest."

31 **SECTION 3.**

32 Said chapter is further amended by revising paragraph (2) of Code Section 15-11-10, relating  
 33 to exclusive original jurisdiction, as follows:

34 "(2) Concerning any individual under the age of ~~17~~ 18 years alleged to have committed  
 35 a juvenile traffic offense as defined in Code Section 15-11-630; or"

36 **SECTION 4.**

37 Said chapter is further amended by revising subsection (e) of Code Section 15-11-504,  
 38 relating to place of detention, as follows:

39 "(e) The official in charge of a jail or other facility for the detention of adult offenders or  
 40 persons charged with a crime shall inform the court or the juvenile court intake officer  
 41 immediately when a child who appears to be under the age of ~~17~~ 18 years is received at  
 42 such facility and shall deliver such child to the court upon request or transfer such child to  
 43 the facility designated by the juvenile court intake officer or the court."

44 **SECTION 5.**

45 Said chapter is further amended by revising Code Section 15-11-560, relating to concurrent  
 46 and original jurisdiction of superior court, as follows:

47 "15-11-560.

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

53 (b) The superior court shall have exclusive original jurisdiction over the trial of any child  
 54 13 to ~~17~~ 18 years of age who is alleged to have committed any of the following offenses:

55 (1) Murder;

56 (2) Murder in the second degree;

57 (3) Voluntary manslaughter;

58 (4) Rape;

59 (5) Aggravated sodomy;

60 (6) Aggravated child molestation;

61 (7) Aggravated sexual battery; or

62 (8) Armed robbery if committed with a firearm.

63 (c) The granting of bail or pretrial release of a child charged with an offense enumerated  
64 in subsection (b) of this Code section shall be governed by the provisions of Code Section  
65 17-6-1.

66 (d) At any time before indictment, the district attorney may, after investigation and for  
67 cause, decline prosecution in the superior court of a child 13 to ~~17~~ 18 years of age alleged  
68 to have committed an offense specified in subsection (b) of this Code section. Upon  
69 declining such prosecution in the superior court, the district attorney shall cause a petition  
70 to be filed in the appropriate juvenile court for adjudication within 72 hours if the child is  
71 in detention or 30 days if the child is not in detention. Except as provided in paragraph (8)  
72 of subsection (b) of Code Section 15-11-602, any case transferred by the district attorney  
73 to the juvenile court pursuant to this subsection shall be subject to the class A designated  
74 felony act provisions of Code Section 15-11-602, and the transfer of the case from superior  
75 court to juvenile court shall constitute notice to such child that such case is subject to the  
76 class A designated felony act provisions of Code Section 15-11-602.

77 (e)(1) After indictment, the superior court may after investigation transfer to the juvenile  
78 court any case involving a child 13 to ~~17~~ 18 years of age alleged to have committed  
79 voluntary manslaughter, aggravated sodomy, aggravated child molestation, or aggravated  
80 sexual battery. In considering the transfer of such case, the court shall consider the  
81 criteria set forth in Code Section 15-11-562. Any such transfer shall be appealable by the  
82 State of Georgia pursuant to Code Section 5-7-1. Upon such a transfer by the superior  
83 court, jurisdiction shall vest in the juvenile court and jurisdiction of the superior court  
84 shall terminate.

85 (2) Except as provided in paragraph (8) of subsection (b) of Code Section 15-11-602, any  
86 case transferred by the superior court to the juvenile court pursuant to this subsection  
87 shall be subject to the class A designated felony act provisions of Code Section  
88 15-11-602, and the transfer of the case from superior court to juvenile court shall  
89 constitute notice to such child that such case is subject to the class A designated felony  
90 act provisions of Code Section 15-11-602.

91 (f) The superior court may transfer any case involving a child 13 to ~~17~~ 18 years of age  
92 alleged to have committed any offense enumerated in subsection (b) of this Code section  
93 and convicted of a lesser included offense not included in subsection (b) of this Code  
94 section to the juvenile court of the county of such child's residence for disposition. Upon  
95 such a transfer by the superior court, jurisdiction shall vest in the juvenile court and  
96 jurisdiction of the superior court shall terminate.

97 (g) Within 30 days of any proceeding in which a child 13 to ~~17~~ 18 years of age is  
 98 convicted of certain offenses over which the superior court has original jurisdiction as  
 99 provided in subsection (b) of this Code section or adjudicated as a delinquent child on the  
 100 basis of conduct which if committed by an adult would constitute such offenses, the  
 101 superior court shall provide written notice to the school superintendent or his or her  
 102 designee of the school in which such child is enrolled or, if the information is known, of  
 103 the school in which such child plans to be enrolled at a future date. Such notice shall  
 104 include the specific criminal offense that such child committed. The local school system  
 105 to which such child is assigned may request further information from the court's file."

#### 106 **SECTION 6.**

107 Said chapter is further amended by revising subsection (d) of Code Section 15-11-561,  
 108 relating to waiver of juvenile court jurisdiction and transfer to superior court, as follows:

109 "(d) No child, either before or after reaching ~~17~~ 18 years of age, shall be prosecuted in  
 110 superior court for an offense committed before the child turned ~~17~~ 18, unless the case has  
 111 been transferred as provided in this part. In addition, no child shall be subject to criminal  
 112 prosecution at any time for an offense arising out of a criminal transaction for which the  
 113 juvenile court retained jurisdiction in its transfer order."

#### 114 **SECTION 7.**

115 Said chapter is further amended by revising subsection (a) of Code Section 15-11-562,  
 116 relating to transfer criteria, as follows:

117 "(a) The criteria that the juvenile court shall consider in determining whether to transfer  
 118 an alleged delinquent child as set forth in subsection (a) of Code Section 15-11-561 to  
 119 superior court and the criteria that the superior court shall consider in determining whether  
 120 to transfer any case involving a child 13 to ~~17~~ 18 years of age alleged to have committed  
 121 voluntary manslaughter, aggravated sodomy, aggravated child molestation, or aggravated  
 122 sexual battery to juvenile court as set forth in subsection (e) of Code Section 15-11-560  
 123 includes, but shall not be limited to:

- 124 (1) The age of such child;
- 125 (2) The seriousness of the alleged offense, especially if personal injury resulted;
- 126 (3) Whether the protection of the community requires transfer of jurisdiction;
- 127 (4) Whether the alleged offense involved violence or was committed in an aggressive or  
 128 premeditated manner;
- 129 (5) The impact of the alleged offense on the alleged victim, including the permanence  
 130 of any physical or emotional injury sustained, health care expenses incurred, and lost  
 131 earnings suffered;

- 132 (6) The culpability of such child, including such child's level of planning and  
133 participation in the alleged offense;
- 134 (7) Whether the alleged offense is a part of a repetitive pattern of offenses which  
135 indicates that such child may be beyond rehabilitation in the juvenile justice system;
- 136 (8) The record and history of such child, including experience with the juvenile justice  
137 system, other courts, supervision, commitments to juvenile institutions, and other  
138 placements;
- 139 (9) The sophistication and maturity of such child as determined by consideration of his  
140 or her home and environmental situation, emotional condition, and pattern of living;
- 141 (10) The program and facilities available to the juvenile court in considering disposition;  
142 and
- 143 (11) Whether or not a child can benefit from the treatment or rehabilitative programs  
144 available to the juvenile court."

145 **SECTION 8.**

146 Said chapter is further amended by revising subsection (b) of Code Section 15-11-565,  
147 relating to places authorized for detention of child before and after transfer order, as follows:

148 "(b) After the entry of a judgment ordering transfer, a child shall be detained only in those  
149 places authorized for the detention of a child until such child, as set forth in Code Section  
150 15-11-34, reaches ~~17~~ 18 years of age."

151 **SECTION 9.**

152 Said chapter is further amended by revising subsection (a) of Code Section 15-11-630,  
153 relating to juvenile traffic offenses, as follows:

154 "(a) As used in this Code section, the term 'child' means an individual under ~~17~~ 18 years  
155 of age."

156 **SECTION 10.**

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