

House Bill 116

By: Representatives Reeves of the 34th, Powell of the 32nd, Trammell of the 132nd, Strickland of the 111th, Setzler of the 35th, 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 provide the superior court with exclusive original jurisdiction for
3 cases involving aggravated assault involving the use of a firearm and aggravated battery
4 upon certain individuals; to allow a superior court the discretion to transfer such cases back
5 to juvenile court; to clarify the definitions of a class A or class B designated felony act in
6 light of the jurisdictional changes; to add aggravated assault upon an emergency health
7 worker as a class A designated felony; to provide for related matters; to repeal conflicting
8 laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile
12 Code, is amended by revising subparagraphs (A) and (B) of paragraph (12) and subparagraph
13 (A) of paragraph (13) of Code Section 15-11-2, relating to definitions, as follows:

14 "(A)(i) Aggravated assault ~~not involving a firearm~~;

15 (ii) Aggravated assault in violation of paragraph ~~(1)~~, (3), ~~or (4)~~ of subsection (b) ~~or~~
16 of Code Section 16-5-21;

17 (iii) Aggravated assault in violation of paragraph (1) of subsection (b) of Code
18 Section 16-5-21, not involving a firearm;

19 (iv) Aggravated assault in violation of subsection (d), (e), (f), (j), ~~or (m)~~, ~~or (n)~~ of
20 Code Section 16-5-21 ~~not involving a firearm~~; or

21 (v) Aggravated assault involving an assault with a deadly weapon or with any object,
22 device, or instrument which, when used offensively against a person, actually does
23 result in serious bodily injury, ~~provided that such deadly weapon is not a firearm~~;

24 (B) Aggravated battery ~~not involving a violation of subsection (c) or (d) of Code~~
25 Section 16-5-24;"

26 "(A)(i) Aggravated assault in violation of subsection (g), (h), or (k) of Code Section
 27 16-5-21 not involving a firearm; or
 28 (ii) Aggravated assault involving an assault with a deadly weapon or with any object,
 29 device, or instrument which, when used offensively against a person, would be likely
 30 to result in serious bodily injury but which did not result in serious bodily injury,
 31 provided that such deadly weapon is not a firearm;"

32 SECTION 2.

33 Said chapter is further amended by revising subsection (b) and paragraph (1) of subsection
 34 (e) of Code Section 15-11-560, relating to concurrent and original jurisdiction of superior
 35 court, as follows:

36 "(b) The superior court shall have exclusive original jurisdiction over the trial of any child
 37 13 to 17 years of age who is alleged to have committed any of the following offenses:

- 38 (1) Murder;
- 39 (2) Murder in the second degree;
- 40 (3) Voluntary manslaughter;
- 41 (4) Rape;
- 42 (5) Aggravated sodomy;
- 43 (6) Aggravated child molestation;
- 44 (7) Aggravated sexual battery; ~~or~~
- 45 (8) Armed robbery if committed with a firearm;
- 46 (9) Aggravated assault if committed with a firearm; or
- 47 (10) Aggravated battery in violation of subsection (c) or (d) of Code Section 16-5-24."

48 "(e)(1) After indictment, the superior court may after investigation transfer to the juvenile
 49 court any case involving a child 13 to 17 years of age alleged to have committed
 50 voluntary manslaughter, aggravated sodomy, aggravated child molestation, ~~or~~ aggravated
 51 sexual battery, aggravated assault if committed with a firearm, or aggravated battery in
 52 violation of subsection (c) or (d) of Code Section 16-5-24. In considering the transfer of
 53 such case, the court shall consider the criteria set forth in Code Section 15-11-562. Any
 54 such transfer shall be appealable by the State of Georgia pursuant to Code Section 5-7-1.
 55 Upon such a transfer by the superior court, jurisdiction shall vest in the juvenile court and
 56 jurisdiction of the superior court shall terminate."

57 SECTION 3.

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

60 "(a) After a petition alleging delinquency has been filed but before the adjudication
 61 hearing, on its own motion or on a motion by a prosecuting attorney, the court may
 62 convene a hearing to determine whether to transfer the offense to the appropriate superior
 63 court for criminal trial if the court determines that:

- 64 (1) There is probable cause to believe that a child committed the alleged offense;
 65 (2) Such child is not committable to an institution for the developmentally disabled or
 66 mentally ill; and
 67 (3) The petition alleges that such child:
 68 (A) Was at least 15 years of age at the time of the commission of the offense and
 69 committed an act which would be a felony if committed by an adult; or
 70 (B) Was 13 or 14 years of age and either committed an act for which the punishment
 71 is loss of life or confinement for life in a penal institution or committed aggravated
 72 battery resulting in serious bodily injury to a an alleged victim who is not a peace
 73 officer nor 65 years of age or older."

74 **SECTION 4.**

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

77 "(a) The criteria that the juvenile court shall consider in determining whether to transfer
 78 an alleged delinquent child as set forth in subsection (a) of Code Section 15-11-561 to
 79 superior court and the criteria that the superior court shall consider in determining whether
 80 to transfer any case involving a child 13 to 17 years of age alleged to have committed
 81 voluntary manslaughter, aggravated sodomy, aggravated child molestation, ~~or~~ aggravated
 82 sexual battery, aggravated assault if committed with a firearm, or aggravated battery in
 83 violation of subsection (c) or (d) of Code Section 16-5-24 to juvenile court as set forth in
 84 subsection (e) of Code Section 15-11-560 includes, but shall not be limited to:

- 85 (1) The age of such child;
 86 (2) The seriousness of the alleged offense, especially if personal injury resulted;
 87 (3) Whether the protection of the community requires transfer of jurisdiction;
 88 (4) Whether the alleged offense involved violence or was committed in an aggressive or
 89 premeditated manner;
 90 (5) The impact of the alleged offense on the alleged victim, including the permanence
 91 of any physical or emotional injury sustained, health care expenses incurred, and lost
 92 earnings suffered;
 93 (6) The culpability of such child including such child's level of planning and
 94 participation in the alleged offense;

- 95 (7) Whether the alleged offense is a part of a repetitive pattern of offenses which
96 indicates that such child may be beyond rehabilitation in the juvenile justice system;
97 (8) The record and history of such child, including experience with the juvenile justice
98 system, other courts, supervision, commitments to juvenile institutions, and other
99 placements;
100 (9) The sophistication and maturity of such child as determined by consideration of his
101 or her home and environmental situation, emotional condition, and pattern of living;
102 (10) The program and facilities available to the juvenile court in considering disposition;
103 and
104 (11) Whether or not a child can benefit from the treatment or rehabilitative programs
105 available to the juvenile court."

106

SECTION 5.

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