

House Bill 259

By: Representatives Powell of the 32<sup>nd</sup>, Reeves of the 34<sup>th</sup>, Lumsden of the 12<sup>th</sup>, Jasperse of the 11<sup>th</sup>, Welch of the 110<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 add to the superior court's exclusive original jurisdiction the trial of  
3 any child 13 to 17 years of age who is alleged to have committed the offense of aggravated  
4 assault or aggravated battery of any nature; to provide that the superior court may transfer  
5 the trial of any such case to the juvenile court upon certain criteria; to clarify the definitions  
6 of a class A or class B designated felony act and waiver of juvenile court jurisdiction in light  
7 of the jurisdictional changes; to provide for related matters; to repeal conflicting laws; and  
8 for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**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) Aggravated assault in violation of paragraph (1), (3), or (4) of subsection (b) or~~  
15 ~~subsection (d), (e), (f), (j), or (m) of Code Section 16-5-21 or assault with a deadly~~  
16 ~~weapon or with any object, device, or instrument which, when used offensively against~~  
17 ~~a person, actually does result in serious bodily injury~~ Reserved;

18 (B) ~~Aggravated battery~~ Reserved;"

19 ~~"(A) Aggravated assault in violation of subsection (g), (h), or (k) of Code Section~~  
20 ~~16-5-21 or assault with a deadly weapon or with any object, device, or instrument~~  
21 ~~which, when used offensively against a person, would be likely to result in serious~~  
22 ~~bodily injury but which did not result in serious bodily injury~~ Reserved;"

23 **SECTION 2.**

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

27 "(b) The superior court shall have exclusive original jurisdiction over the trial of any child  
28 13 to 17 years of age who is alleged to have committed any of the following offenses:

- 29 (1) Murder;  
30 (2) Murder in the second degree;  
31 (3) Voluntary manslaughter;  
32 (4) Rape;  
33 (5) Aggravated sodomy;  
34 (6) Aggravated child molestation;  
35 (7) Aggravated sexual battery; ~~or~~  
36 (8) Armed robbery if committed with a firearm;  
37 (9) Aggravated assault; or  
38 (10) Aggravated battery."

39 "(e)(1) After indictment, the superior court may after investigation transfer to the juvenile  
40 court any case involving a child 13 to 17 years of age alleged to have committed  
41 voluntary manslaughter, aggravated sodomy, aggravated child molestation, ~~or~~ aggravated  
42 sexual battery, aggravated assault, or aggravated battery. In considering the transfer of  
43 such case, the court shall consider the criteria set forth in Code Section 15-11-562. Any  
44 such transfer shall be appealable by the State of Georgia pursuant to Code Section 5-7-1.  
45 Upon such a transfer by the superior court, jurisdiction shall vest in the juvenile court and  
46 jurisdiction of the superior court shall terminate."

47 **SECTION 3.**

48 Said chapter is further amended by revising subparagraph (a)(3)(B) of Code Section  
49 15-11-561, relating to waiver of juvenile court jurisdiction and transfer to superior court, as  
50 follows:

51 "(B) Was 13 or 14 years of age and ~~either~~ committed an act for which the punishment  
52 is loss of life or confinement for life in a penal institution ~~or committed aggravated~~  
53 ~~battery resulting in serious bodily injury to a victim."~~

54 **SECTION 4.**

55 Said chapter is further amended by revising subsection (a) of Code Section 15-11-562,  
56 relating to transfer criteria and written report, as follows:

57 "(a) The criteria that the juvenile court shall consider in determining whether to transfer  
 58 an alleged delinquent child as set forth in subsection (a) of Code Section 15-11-561 to  
 59 superior court and the criteria that the superior court shall consider in determining whether  
 60 to transfer any case involving a child 13 to 17 years of age alleged to have committed  
 61 voluntary manslaughter, aggravated sodomy, aggravated child molestation, ~~or~~ aggravated  
 62 sexual battery, ~~aggravated assault, or aggravated battery~~ to juvenile court as set forth in  
 63 subsection (e) of Code Section 15-11-560 includes, but shall not be limited to:

- 64 (1) The age of such child;
- 65 (2) The seriousness of the alleged offense, especially if personal injury resulted;
- 66 (3) Whether the protection of the community requires transfer of jurisdiction;
- 67 (4) Whether the alleged offense involved violence or was committed in an aggressive or  
 68 premeditated manner;
- 69 (5) The impact of the alleged offense on the alleged victim, including the permanence  
 70 of any physical or emotional injury sustained, health care expenses incurred, and lost  
 71 earnings suffered;
- 72 (6) The culpability of such child including such child's level of planning and  
 73 participation in the alleged offense;
- 74 (7) Whether the alleged offense is a part of a repetitive pattern of offenses which  
 75 indicates that such child may be beyond rehabilitation in the juvenile justice system;
- 76 (8) The record and history of such child, including experience with the juvenile justice  
 77 system, other courts, supervision, commitments to juvenile institutions, and other  
 78 placements;
- 79 (9) The sophistication and maturity of such child as determined by consideration of his  
 80 or her home and environmental situation, emotional condition, and pattern of living;
- 81 (10) The program and facilities available to the juvenile court in considering disposition;  
 82 and
- 83 (11) Whether or not a child can benefit from the treatment or rehabilitative programs  
 84 available to the juvenile court."

85 **SECTION 5.**

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