

The House Committee on Judiciary Non-Civil offers the following substitute to HB 116:

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 upon a peace officer or correctional officer involving the
4 use of a firearm and aggravated battery upon a peace officer or correctional officer; to allow
5 a superior court the discretion to transfer such cases back to juvenile court; to clarify the
6 definitions of a class A or class B designated felony act in light of the jurisdictional changes;
7 to add aggravated assault upon an emergency health worker as a class A designated felony;
8 to provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **PART I**

11 **SECTION 1-1.**

12 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile
13 Code, is amended by revising subsection (b) and paragraph (1) of subsection (e) of Code
14 Section 15-11-560, relating to concurrent and original jurisdiction of superior court, and by
15 adding a new subsection to read as follows:

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

- 18 (1) Murder;
- 19 (2) Murder in the second degree;
- 20 (3) Voluntary manslaughter;
- 21 (4) Rape;
- 22 (5) Aggravated sodomy;
- 23 (6) Aggravated child molestation;
- 24 (7) Aggravated sexual battery; or
- 25 (8) Armed robbery if committed with a firearm;

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26 (9) Aggravated assault if committed with a firearm upon a peace officer or correctional
 27 officer as such acts are defined and prohibited under subsection (d) or (f) of Code Section
 28 16-5-21; or

29 (10) Aggravated battery upon a peace officer or correctional officer as such acts are
 30 defined and prohibited under subsection (c) or (e) of Code Section 16-5-24."

31 "(e)(1) After indictment, the superior court may after investigation transfer to the juvenile
 32 court any case involving a child 13 to 17 years of age alleged to have committed
 33 ~~voluntary manslaughter, aggravated sodomy, aggravated child molestation, or aggravated~~
 34 ~~sexual battery~~ any act described in paragraph (3), (5), (6), (7), (9), or (10) of subsection
 35 (b) of Code Section 15-11-560. In considering the transfer of such case, the court shall
 36 consider the criteria set forth in Code Section 15-11-562. Any such transfer shall be
 37 appealable by the State of Georgia pursuant to Code Section 5-7-1. Upon such a transfer
 38 by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction of the
 39 superior court shall terminate."

40 "(h) As used in this Code section, the term 'firearm' means a handgun, rifle, shotgun, or
 41 other weapon which will or can be converted to expel a projectile by the action of an
 42 explosive or electrical charge."

43 **PART II**

44 **SECTION 2-1.**

45 Said chapter is further amended by revising subparagraphs (A) and (B) of paragraph (12) of
 46 Code Section 15-11-2, relating to definitions, as follows:

47 "(A)(i) Aggravated assault in violation of paragraph ~~(1)~~, (3), or ~~(4)~~ of subsection (b)
 48 or of Code Section 16-5-21;

49 (ii) Aggravated assault in violation of paragraph (1) or (4) of subsection (b) of Code
 50 Section 16-5-21 other than upon a peace officer or correctional officer as such acts are
 51 defined and prohibited under subsection (d) or (f) of Code Section 16-5-21, not
 52 involving a firearm;

53 (iii) Aggravated assault upon an individual or situation described in subsection ~~(d)~~,
 54 (e), ~~(f)~~, (j), or (m), or (n) of Code Section 16-5-21; or

55 (iv) Aggravated assault involving an assault with a deadly weapon or with any object,
 56 device, or instrument which, when used offensively against a person, actually does
 57 result in serious bodily injury, provided that such deadly weapon is not a firearm; and
 58 provided, further, that such injured person is not a peace officer or correctional officer
 59 as defined and prohibited under subsection (d) or (f) of Code Section 16-5-21;

60 (B) Aggravated battery not upon a peace officer or correctional officer as such acts are
 61 defined and prohibited under subsection (c) or (e) of Code Section 16-5-24;"

62 **SECTION 2-2.**

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

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

69 (1) There is probable cause to believe that a child committed the alleged offense;

70 (2) Such child is not committable to an institution for the developmentally disabled or
 71 mentally ill; and

72 (3) The petition alleges that such child:

73 (A) Was at least 15 years of age at the time of the commission of the offense and
 74 committed an act which would be a felony if committed by an adult; or

75 (B) Was 13 or 14 years of age and either committed an act for which the punishment
 76 is loss of life or confinement for life in a penal institution or committed aggravated
 77 battery resulting in serious bodily injury to a an alleged victim who is not a peace
 78 officer or correctional officer, as such term is defined in Code Section 16-5-24."

79 **SECTION 2-3.**

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

82 "(a) The criteria that the juvenile court shall consider in determining whether to transfer
 83 an alleged delinquent child as set forth in subsection (a) of Code Section 15-11-561 to
 84 superior court and the criteria that the superior court shall consider in determining whether
 85 to transfer any case involving a child 13 to 17 years of age alleged to have committed
 86 ~~voluntary manslaughter, aggravated sodomy, aggravated child molestation, or aggravated~~
 87 ~~sexual battery~~ any act described in paragraph (3), (5), (6), (7), (9), or (10) of subsection (b)
 88 of Code Section 15-11-560 to juvenile court as set forth in subsection (e) of Code Section
 89 15-11-560 includes, but shall not be limited to:

90 (1) The age of such child;

91 (2) The seriousness of the alleged offense, especially if personal injury resulted;

92 (3) Whether the protection of the community requires transfer of jurisdiction;

93 (4) Whether the alleged offense involved violence or was committed in an aggressive or
 94 premeditated manner;

- 95 (5) The impact of the alleged offense on the alleged victim, including the permanence
96 of any physical or emotional injury sustained, health care expenses incurred, and lost
97 earnings suffered;
- 98 (6) The culpability of such child including such child's level of planning and
99 participation in the alleged offense;
- 100 (7) Whether the alleged offense is a part of a repetitive pattern of offenses which
101 indicates that such child may be beyond rehabilitation in the juvenile justice system;
- 102 (8) The record and history of such child, including experience with the juvenile justice
103 system, other courts, supervision, commitments to juvenile institutions, and other
104 placements;
- 105 (9) The sophistication and maturity of such child as determined by consideration of his
106 or her home and environmental situation, emotional condition, and pattern of living;
- 107 (10) The program and facilities available to the juvenile court in considering disposition;
108 and
- 109 (11) Whether or not a child can benefit from the treatment or rehabilitative programs
110 available to the juvenile court."

111

PART III

112

SECTION 3-1.

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