The House Committee on Juvenile Justice offers the following substitute to HB 440:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile Code, so as to change the jurisdiction of the juvenile court to include children who are under 18 years of age; to establish a Juvenile Jurisdiction Advisory Committee; to provide for a uniform citation form for certain juvenile offenses; to amend Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, so as to clarify provisions regarding juveniles; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

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

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

(A) Under the age of 18 years;

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

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

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

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

H. B. 440 (SUB)
SECTION 1-2.

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

“(a) The juvenile court shall have jurisdiction to act as a court of inquiry with all the powers and rights allowed courts of inquiry in this state and to examine or investigate into the circumstances or causes of any conduct or acts of any person 18 or more years of age that may be in violation of the laws of this state whenever such person is brought before the court in the course of any proceeding instituted under this chapter. The court shall cause the person to be apprehended and brought before it upon either a writ of summons, a warrant duly issued, or by arrest.”

SECTION 1-3.

Said chapter is further amended by adding new Code sections to read as follows:

“15-11-482.

(a)(1) There is established the Juvenile Jurisdiction Advisory Committee.

(2) The Department of Juvenile Justice shall provide administrative support for the work of the advisory committee. The commissioner of juvenile justice, or his or her designee who shall be an employee of the Department of Juvenile Justice, shall serve as secretary of the advisory committee.

(3) The advisory committee shall terminate on December 31, 2021.

(4) The advisory committee may apply for, receive, and accept grants of funds from sources other than the appropriation of state funds to assist in the performance of its duties.

(b) The Juvenile Jurisdiction Advisory Committee shall:

(1) Be responsible for developing a specific plan for the implementation of changes in the juvenile justice system to extend jurisdiction in delinquency matters and proceedings to include persons 17 years of age within the juvenile justice system. The plan shall include cost estimates for each portion of the plan, including, but not limited to, capital, operating, and staffing costs. The advisory committee shall monitor and review the implementation of the expansion and shall make recommendations to the General Assembly as necessary;

(2) By December 31, 2020, submit an interim report containing the specific plan and the estimates for capital, operating, and staffing costs for the implementation of changing the juvenile justice system to include persons 17 years of age to the Governor's office and the General Assembly;
(3) By January 1, 2021, submit additional interim reports with updates on the planning
transition steps completed toward implementation, including any legislative, administrative, and
funding recommendations;
(4) Submit a final report on the implementation of changing the juvenile justice system
to include persons 17 years of age and its findings and recommendations, including
legislative, administrative, and funding recommendations, to the Governor, President of
the Senate, Speaker of the House of Representatives, and General Assembly; and
(5) Develop a uniform citation form for misdemeanor offenses and a complaint form for
use by all law enforcement officials who are empowered to arrest persons under 18 years
of age for criminal offenses.

(c) The Juvenile Jurisdiction Advisory Committee shall consist of 14 members, who shall
serve as ex officio members, as follows:
(1) The commissioner of juvenile justice;
(2) The president of the Council of Juvenile Court Judges;
(3) A representative from the Georgia Association of Chiefs of Police;
(4) A representative from the Georgia Sheriffs’ Association;
(5) The commissioner of behavioral health and developmental disabilities;
(6) The State School Superintendent;
(7) Two members of the Senate to be appointed by the President of the Senate;
(8) Two members of the House of Representatives to be appointed by the Speaker of the
House of Representatives;
(9) A representative from the Georgia Association of Criminal Defense Lawyers;
(10) A district attorney appointed by the Prosecuting Attorneys’ Council; and
(11) Two members of the General Assembly to be appointed by the Governor, one of
whom shall be designated by the Governor to serve as cochairperson. The President Pro
Tempore of the Senate and the Speaker of the House of Representatives shall also each
designate one member to serve as cochairperson of the advisory committee. The
cochairpersons shall call the initial meeting of the advisory committee on or before
August 1, 2020.
(d) The Juvenile Jurisdiction Advisory Committee shall:
(1) Meet upon such notice and in such manner as its members determine. A majority of
the members of the committee shall constitute a quorum;
(2) Consult with appropriate state departments and agencies on issues related to juvenile
justice administration;
(3) Call upon any department, agency, institution, or officer of the state or any political
subdivision thereof for facilities, data, or other assistance; and
(4) Fill a vacancy in the advisory committee in the same manner in which the original appointment was made.

15-11-483.

(a) On and after July 1, 2021, the uniform citation form provided for in paragraph (5) of subsection (b) of Code Section 15-11-482 shall serve as the citation, summons, accusation, or other instrument of prosecution of the offense or offenses for which the accused is charged and as the record of the disposition of the matter by the juvenile court before which the accused is brought. Each such form shall have a unique identifying number which shall serve as the docket number for the court having jurisdiction of the accused. The Juvenile Jurisdiction Advisory Committee established pursuant to Code Section 15-11-482 shall promulgate rules and regulations for each class of court for the use of such citations.

(b) A uniform citation shall not be issued for any offense that, if committed by an adult, would be a felony violation; any offense provided for in subsection (b) of Code Section 15-11-560; or any offense provided for in Code Sections 16-15-3 and 16-15-4."

SECTION 1-4.

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

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

SECTION 1-5.

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

"(d) No child, either before or after reaching 18 years of age, shall be prosecuted in superior court for an offense committed before the child turned 18, unless the case has been transferred as provided in this part. In addition, no child shall be subject to criminal prosecution at any time for an offense arising out of a criminal transaction for which the juvenile court retained jurisdiction in its transfer order."
SECTION 1-6.

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

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

PART II

SECTION 2-1.

Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended by revising subsection (b) of Code Section 42-5-52, relating to classification and separation of inmates generally and placement of juvenile offenders, as follows:

“(b) The department may establish separate correctional or similar institutions for the separation and care of juvenile offenders. The commissioner may transfer any juvenile under 17 years of age from the penal institution in which he or she is serving to the Department of Juvenile Justice, provided that the transfer is approved thereby. The juvenile may be returned to the custody of the commissioner when the commissioner of juvenile justice determines that the juvenile is unsuited to be dealt with therein. The commissioner may accept a juvenile for transfer into a penal institution upon the request of the commissioner of juvenile justice if such juvenile is 16 years of age or older and has been committed to the Department of Juvenile Justice for a class A designated felony act or class B designated felony act, as defined by Code Section 15-11-2, and such juvenile's behavior presents a substantial danger to any person at or within a Department of Juvenile Justice facility. In the event of such transfer, the department shall have the same authority over and responsibility for such juvenile as the Department of Juvenile Justice has for such juvenile and shall maintain sight and sound separation as set forth in paragraph (5) of subsection (c) of Code Section 15-11-504."

SECTION 2-2.

Said title is further amended by revising subsection (b) of Code Section 42-8-35.4, relating to confinement in probation detention center, as follows:

“(b) The court shall determine that the defendant is at least 17 years of age at the time of sentencing."
SECTION 2-3.

Said title is further amended by revising paragraph (4) of Code Section 42-12-3, relating to definitions for the "Prison Litigation Reform Act of 1996," as follows:

"(4) 'Prisoner' means a person 17 years of age or older who has been convicted of a crime and is presently incarcerated or is being held in custody awaiting trial or sentencing."

PART III

SECTION 3-1.

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