

House Bill 272

By: Representatives Ballinger of the 23rd, Hogan of the 179th, Gaines of the 117th, Rich of the 97th, Burchett of the 176th, 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 18 years of age; to amend Title 42 of the Official Code of Georgia Annotated,
4 relating to penal institutions, so as to clarify provisions regarding juveniles; to amend
5 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
6 agencies, so as to provide for a uniform misdemeanor citation for certain juvenile offenses;
7 to provide for implementation; to provide for implementation committee; to provide for the
8 powers, composition, and appointment of such committee; to provide for related matters; to
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**PART I**
12 style="text-align:center">**SECTION 1-1.**

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

H. B. 272

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

45 **SECTION 1-4.**

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

48 "15-11-560.

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

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

- 57 (1) Murder;
- 58 (2) Murder in the second degree;
- 59 (3) Voluntary manslaughter;
- 60 (4) Rape;
- 61 (5) Aggravated sodomy;
- 62 (6) Aggravated child molestation;
- 63 (7) Aggravated sexual battery;
- 64 (8) Armed robbery if committed with a firearm;

65 (9) Aggravated assault if committed with a firearm upon a public safety officer as such
66 acts are prohibited under subsection (c) of Code Section 16-5-21; or

67 (10) Aggravated battery upon a public safety officer as such acts are prohibited under
68 subsection (c) of Code Section 16-5-24.

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

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

83 (e)(1) After indictment, the superior court may after investigation transfer to the juvenile
84 court any case involving a child 13 to ~~17~~ 18 years of age alleged to have committed any
85 act described in paragraph (3), (5), (6), (7), (9), or (10) of subsection (b) of this Code
86 section. In considering the transfer of such case, the court shall consider the criteria set
87 forth in Code Section 15-11-562. Any such transfer shall be appealable by the State of
88 Georgia pursuant to Code Section 5-7-1. Upon such a transfer by the superior court,
89 jurisdiction shall vest in the juvenile court and jurisdiction of the superior court shall
90 terminate.

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

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

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

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

115 **SECTION 1-5.**

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

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

123 **SECTION 1-6.**

124 Said chapter is further amended by revising subsection (a) of Code section 15-11-562,
125 relating to transfer criteria and written reports, as follows:

126 "15-11-562.

127 (a) The criteria that the juvenile court shall consider in determining whether to transfer an
128 alleged delinquent child as set forth in subsection (a) of Code Section 15-11-561 to
129 superior court and the criteria that the superior court shall consider in determining whether
130 to transfer any case involving a child 13 to ~~17~~ 18 years of age alleged to have committed
131 any act described in paragraph (3), (5), (6), (7), (9), or (10) of subsection (b) of Code
132 Section 15-11-560 to juvenile court as set forth in subsection (e) of Code
133 Section 15-11-560 includes, but shall not be limited to:

- 134 (1) The age of such child;
135 (2) The seriousness of the alleged offense, especially if personal injury resulted;
136 (3) Whether the protection of the community requires transfer of jurisdiction;
137 (4) Whether the alleged offense involved violence or was committed in an aggressive or
138 premeditated manner;

- 139 (5) The impact of the alleged offense on the alleged victim, including the permanence
140 of any physical or emotional injury sustained, health care expenses incurred, and lost
141 earnings suffered;
- 142 (6) The culpability of such child including such child's level of planning and
143 participation in the alleged offense;
- 144 (7) Whether the alleged offense is a part of a repetitive pattern of offenses which
145 indicates that such child may be beyond rehabilitation in the juvenile justice system;
- 146 (8) The record and history of such child, including experience with the juvenile justice
147 system, other courts, supervision, commitments to juvenile institutions, and other
148 placements;
- 149 (9) The sophistication and maturity of such child as determined by consideration of his
150 or her home and environmental situation, emotional condition, and pattern of living;
- 151 (10) The program and facilities available to the juvenile court in considering disposition;
152 and
- 153 (11) Whether or not a child can benefit from the treatment or rehabilitative programs
154 available to the juvenile court."

155 **SECTION 1-7.**

156 Said chapter is further amended by revising subsection (b) of Code Section 15-11-565,
157 relating to places authorized for detention of child before and after transfer order, as follows:
158 "(b) After the entry of a judgment ordering transfer, a child shall be detained only in those
159 places authorized for the detention of a child until such child, as set forth in Code
160 Section 15-11-34, reaches ~~17~~ 18 years of age."

161 **SECTION 1-8.**

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

165 "(b) The department may establish separate correctional or similar institutions for the
166 separation and care of juvenile offenders. The commissioner may transfer any juvenile
167 under ~~17~~ 18 years of age from the penal institution in which he or she is serving to the
168 Department of Juvenile Justice, provided that the transfer is approved thereby. The
169 juvenile may be returned to the custody of the commissioner when the commissioner of
170 juvenile justice determines that the juvenile is unsuited to be dealt with therein. The
171 commissioner may accept a juvenile for transfer into a penal institution upon the request
172 of the commissioner of juvenile justice if such juvenile is 16 years of age or older and has
173 been committed to the Department of Juvenile Justice for a class A designated felony act
174 or class B designated felony act, as defined by Code Section 15-11-2, and such juvenile's
175 behavior presents a substantial danger to any person at or within a Department of Juvenile
176 Justice facility. In the event of such transfer, the department shall have the same authority
177 over and responsibility for such juvenile as the Department of Juvenile Justice has for such
178 juvenile and shall maintain sight and sound separation as set forth in paragraph (5) of
179 subsection (c) of Code Section 15-11-504."

180 **SECTION 1-9.**

181 Said title is further amended by revising subsection (b) of Code Section 42-8-35.1, relating
182 to probation boot camp unit as special alternative incarceration, as follows:

183 "(b) Before a court may place such condition upon the sentence, an initial investigation
184 shall be completed by the officer which indicates that the probationer is qualified for such
185 treatment in that the individual does not appear to be physically or mentally disabled in a
186 way that would prevent him or her from strenuous physical activity, that the individual has

187 no obvious contagious diseases, that the individual is not less than ~~17~~ 18 years of age nor
188 more than 30 years of age at the time of sentencing, and that the Department of Corrections
189 has granted provisional approval of the placement of the individual in the special
190 alternative incarceration—probation boot camp unit."

191 **SECTION 1-10.**

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

194 "(b) The court shall determine that the defendant is at least ~~17~~ 18 years of age at the time
195 of sentencing."

196 **SECTION 1-11.**

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

199 "(4) 'Prisoner' means a person ~~17~~ 18 years of age or older who has been convicted of a
200 crime and is presently incarcerated or is being held in custody awaiting trial or
201 sentencing."

202 **PART II**

203 **SECTION 2-1.**

204 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
205 agencies, is amended in Article 1 of Chapter 3, relating to general provisions regarding the
206 Georgia Bureau of Investigation, by adding a new Code section to read as follows:

207 "35-3-15.

208 (a) The Georgia Bureau of Investigation shall, effective January 1, 2022, develop a
209 uniform misdemeanor citation and complaint form and shall, effective July 1, 2022,

210 develop a uniform felony citation and complaint form for use by all law enforcement
211 officials who are empowered to arrest persons under 18 years of age for criminal offenses.
212 Such forms shall serve as the citation, summons, accusation, or other instrument of
213 prosecution of the offense or offenses for which the accused is charged and as the record
214 of the disposition of the matter by the juvenile court before which the accused is brought.
215 Each such form shall have a unique identifying number which shall serve as the docket
216 number for the court having jurisdiction of the accused. The board shall promulgate rules
217 and regulations for each class of court for the use of such citations.

218 (b) A law enforcement officer may arrest a person under 18 years of age accused of an
219 offense that, if committed by an adult, would be a misdemeanor violation by the issuance
220 of a citation, provided that such offense was committed in such officer's presence or
221 information constituting a basis for such arrest was received by such officer or an
222 investigating officer from another law enforcement agency or other individual observing
223 or aware of such offense being committed. When an arrest is made for such offense, prior
224 to releasing the accused on citation, the arresting law enforcement officer shall review the
225 accused's criminal record on file with the Federal Bureau of Investigation and the Georgia
226 Crime Information Center within the Georgia Bureau of Investigation and ensure that the
227 accused's fingerprints are obtained.

228 (c) A law enforcement officer may arrest a person under 18 years of age accused of an
229 offense that, if committed by an adult, would be a felony violation, except for those
230 offenses provided for in subsection (b) of Code Section 15-11-560, by the issuance of a
231 citation, provided that such offense was committed in such officer's presence or
232 information constituting a basis for such arrest was received by such officer or an
233 investigating officer from another law enforcement agency or other individual observing
234 or aware of such offense being committed. When an arrest is made for such offense, prior
235 to releasing the accused on citation, the arresting law enforcement officer shall review the
236 accused's criminal record on file with the Federal Bureau of Investigation and the Georgia

237 Crime Information Center within the Georgia Bureau of Investigation and ensure that the
238 accused's fingerprints are obtained.

239 (d) The arresting law enforcement officer shall issue a citation to the accused which shall
240 enumerate the specific charges and the date upon which he or she is to appear and answer
241 the charges or a notation that he or she will be later notified of the date upon which he or
242 she is to appear and answer the charges. When an arresting law enforcement officer makes
243 an arrest concerning the operation of a motor vehicle based on information received from
244 another law enforcement officer who observed the offense being committed, the citation
245 shall list the name of each officer and each officer must be present when the charges
246 against the accused are heard.

247 (e) There shall be a Juvenile Offenders Citation Committee that shall consist of nine
248 members as follows:

249 (1) One member who shall be the chairperson, and is the chairperson of the Juvenile
250 Justice Committee;

251 (2) One member to represent the Council of Juvenile Court Judges of Georgia;

252 (3) One member to represent the Council of Juvenile Court Clerks;

253 (4) One member to represent the Georgia Sheriffs' Association;

254 (5) One member to represent the Prosecuting Attorneys' Council of the State of Georgia;

255 (6) One member to represent the Georgia Public Defender Council;

256 (7) One member to represent the Administrative Office of the Courts;

257 (8) One member to represent the Governor's Office of Planning and Budget; and

258 (9) One member to represent the Association of Juvenile Court Administrators.

259 (f) The Juvenile Offenders Citation Committee shall adopt regulations, standards, and any
260 standards and any standardized forms necessary for the implementation of the use of
261 citations in lieu of arrest for certain juvenile offenders.

262 (g) The Juvenile Offenders Citation Committee may confer with any appropriate state
263 agency on matters relating to equipment, security, and technological aspects regarding the

264 implementation of the use of citations in lieu of arrest for certain juvenile offenders and
265 shall consider when adopting, amending, and repealing its rules, regulations, standards, and
266 standardized forms:

267 (1) Standards and practices of other jurisdictions;

268 (2) The most recent standards promulgated by national standard-setting bodies; and

269 (3) The views of interested persons, government officials, and entities.

270 (h) The Juvenile Offenders Citation Committee shall commence no later than May 1,
271 2021, and shall stand abolished on December 31, 2012."

272

PART III

273

SECTION 3-1.

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