

The House Committee on Juvenile Justice offers the following substitute to HB 272:

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 enact the "Raise the Age Act"; to provide a short title; to provide for
3 an implementation committee; to provide for the powers, composition, and appointment of
4 such committee; to change the jurisdiction of the juvenile court to include children who are
5 under 18 years of age; to amend Title 16 of the Official Code of Georgia Annotated, relating
6 to crimes and offenses, so as to change the jurisdiction of the juvenile court to include
7 children who are under 18 years of age; to amend Title 42 of the Official Code of Georgia
8 Annotated, relating to penal institutions, so as to clarify provisions regarding juveniles; to
9 amend Chapter 4A of Title 49 of the Official Code of Georgia Annotated, relating to the
10 Department of Juvenile Justice, so as to clarify provisions regarding juveniles; to provide for
11 an effective date; to provide for related matters; to repeal conflicting laws; and for other
12 purposes.

13 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 in Article 1, relating to general provisions, by adding a new Code section to read as follows:

"15-11-42.

(a) This Code section shall be known and may be cited as the 'Raise the Age Act.'

(b) There shall be an implementation committee that shall consist of ten members as follows:

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

(2) The president of the Council of Juvenile Court Judges of Georgia or his or her designee;

(3) The director of the Council of Juvenile Court Clerks or his or her designee;

(4) The president of the Georgia Sheriffs' Association or his or her designee;

(5) The commissioner of the Department of Juvenile Justice or his or her designee;

(6) The executive director of the Prosecuting Attorneys' Council of the State of Georgia or his or her designee;

(7) The executive director of the Georgia Public Defender Council or his or her designee;

(8) The executive director of the Administrative Office of the Courts;

(9) The director of the Governor's Office of Planning and Budget or his or her designee;

and

(10) The president of the Georgia Council of Court Administrators or his or her designee.

(c) The committee may confer with any appropriate state agency and advisory members to the committees as selected by the chair, including the president of the Council of Juvenile Court Clerks, or his or her designee, attorneys who regularly practice in the

40 juvenile courts, the Association of Juvenile Court Administrators on matters relating to
41 implementing raising the juvenile age, including equipment, security, and technological
42 aspects in connection to raising the age of juvenile offenders regarding:

43 (1) Standards and practices of other jurisdictions;

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

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

46 (e) The committee shall commence no later than May 1, 2021, and shall stand abolished
47 on December 31, 2021."

48 **PART II**

49 **SECTION 2-1.**

50 Said chapter is further amended by revising paragraph (10) of Code Section 15-11-2, relating
51 to definitions, as follows:

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

53 (A) Under the age of 18 years;

54 (B) Under the age of ~~17~~ 18 years when alleged to have committed a delinquent act;

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

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

60 (E) Under the age of 21 years who committed an act of delinquency before reaching
61 the age of ~~17~~ 18 years and who has been placed under the supervision of the court or
62 on probation to the court for the purpose of enforcing orders of the court."

63 **SECTION 2-2.**

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

66 "(a) The juvenile court shall have jurisdiction to act as a court of inquiry with all the
67 powers and rights allowed courts of inquiry in this state and to examine or investigate into
68 the circumstances or causes of any conduct or acts of any person ~~17~~ 18 or more years of
69 age that may be in violation of the laws of this state whenever such person is brought
70 before the court in the course of any proceeding instituted under this chapter. The court
71 shall cause the person to be apprehended and brought before it upon either a writ of
72 summons, a warrant duly issued, or by arrest."

73 **SECTION 2-3.**

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

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

81 **SECTION 2-4.**

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

84 "15-11-560.

85 (a) Except as provided in subsection (b) of this Code section, the court shall have
86 concurrent jurisdiction with the superior court over a child who is alleged to have
87 committed a delinquent act which would be considered a crime if tried in a superior court

88 and for which an adult may be punished by loss of life, imprisonment for life without
89 possibility of parole, or confinement for life in a penal institution.

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

93 (1) Murder;

94 (2) Murder in the second degree;

95 (3) Voluntary manslaughter;

96 (4) Rape;

97 (5) Aggravated sodomy;

98 (6) Aggravated child molestation;

99 (7) Aggravated sexual battery;

100 (8) Armed robbery if committed with a firearm;

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

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

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

108 (d) At any time before indictment, the district attorney may, after investigation and for
109 cause, decline prosecution in the superior court of a child 13 to ~~17~~ 18 years of age alleged
110 to have committed an offense specified in subsection (b) of this Code section. Upon
111 declining such prosecution in the superior court, the district attorney shall cause a petition
112 to be filed in the appropriate juvenile court for adjudication within 72 hours if the child is
113 in detention or 30 days if the child is not in detention. Except as provided in paragraph (8)
114 of subsection (b) of Code Section 15-11-602, any case transferred by the district attorney

115 to the juvenile court pursuant to this subsection shall be subject to the class A designated
116 felony act provisions of Code Section 15-11-602, and the transfer of the case from superior
117 court to juvenile court shall constitute notice to such child that such case is subject to the
118 class A designated felony act provisions of Code Section 15-11-602.

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

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

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

139 (g) Within 30 days of any proceeding in which a child 13 to ~~17~~ 18 years of age is
140 convicted of certain offenses over which the superior court has original jurisdiction as
141 provided in subsection (b) of this Code section or adjudicated as a delinquent child on the

142 basis of conduct which if committed by an adult would constitute such offenses, the
143 superior court shall provide written notice to the school superintendent or his or her
144 designee of the school in which such child is enrolled or, if the information is known, of
145 the school in which such child plans to be enrolled at a future date. Such notice shall
146 include the specific criminal offense that such child committed. The local school system
147 to which such child is assigned may request further information from the court's file.

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

151 **SECTION 2-5.**

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

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

159 **SECTION 2-6.**

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

162 "15-11-562.

163 (a) The criteria that the juvenile court shall consider in determining whether to transfer an
164 alleged delinquent child as set forth in subsection (a) of Code Section 15-11-561 to
165 superior court and the criteria that the superior court shall consider in determining whether
166 to transfer any case involving a child 13 to ~~17~~ 18 years of age alleged to have committed

167 any act described in paragraph (3), (5), (6), (7), (9), or (10) of subsection (b) of Code
168 Section 15-11-560 to juvenile court as set forth in subsection (e) of Code
169 Section 15-11-560 includes, but shall not be limited to:

- 170 (1) The age of such child;
- 171 (2) The seriousness of the alleged offense, especially if personal injury resulted;
- 172 (3) Whether the protection of the community requires transfer of jurisdiction;
- 173 (4) Whether the alleged offense involved violence or was committed in an aggressive or
174 premeditated manner;
- 175 (5) The impact of the alleged offense on the alleged victim, including the permanence
176 of any physical or emotional injury sustained, health care expenses incurred, and lost
177 earnings suffered;
- 178 (6) The culpability of such child including such child's level of planning and
179 participation in the alleged offense;
- 180 (7) Whether the alleged offense is a part of a repetitive pattern of offenses which
181 indicates that such child may be beyond rehabilitation in the juvenile justice system;
- 182 (8) The record and history of such child, including experience with the juvenile justice
183 system, other courts, supervision, commitments to juvenile institutions, and other
184 placements;
- 185 (9) The sophistication and maturity of such child as determined by consideration of his
186 or her home and environmental situation, emotional condition, and pattern of living;
- 187 (10) The program and facilities available to the juvenile court in considering disposition;
188 and
- 189 (11) Whether or not a child can benefit from the treatment or rehabilitative programs
190 available to the juvenile court."

191 **SECTION 2-7.**

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

194 "(b) After the entry of a judgment ordering transfer, a child shall be detained only in those
195 places authorized for the detention of a child until such child, as set forth in Code
196 Section 15-11-34, reaches ~~17~~ 18 years of age."

197 **PART III**198 **SECTION 3-1.**

199 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
200 amended by revising paragraph (1) of subsection (c) of Code Section 16-5-21, relating to
201 aggravated assault, as follows:

202 "(c)(1) A person who knowingly commits the offense of aggravated assault upon a public
203 safety officer while he or she is engaged in, or on account of the performance of, his or
204 her official duties shall, upon conviction thereof, be punished as follows:

205 (A) When such assault occurs by the discharge of a firearm by a person who is at
206 least ~~17~~ 18 years of age, such person shall be punished by imprisonment for not less
207 than ten nor more than 20 years and shall be sentenced to a mandatory minimum term
208 of imprisonment of ten years and no portion of the mandatory minimum sentence
209 imposed shall be suspended, stayed, probated, deferred, or withheld by the sentencing
210 court; provided, however, that in the court's discretion, the court may depart from
211 such mandatory minimum sentence when the prosecuting attorney and defendant have
212 agreed to a sentence that is below such mandatory minimum;

213 (B) When such assault does not involve the discharge of a firearm by a person who
214 is at least ~~17~~ 18 years of age, and does not involve only the use of the person's body,
215 such person shall be punished by imprisonment for not less than five nor more than

216 20 years and, for persons who are at least ~~17~~ 18 years of age, shall be sentenced to a
217 mandatory minimum term of imprisonment of three years and no portion of the
218 mandatory minimum sentence imposed shall be suspended, stayed, probated,
219 deferred, or withheld by the sentencing court; provided, however, that in the court's
220 discretion, the court may depart from such mandatory minimum sentence when the
221 prosecuting attorney and defendant have agreed to a sentence that is below such
222 mandatory minimum; or

223 (C) When such assault occurs only involving the use of the person's body, by
224 imprisonment for not less than five nor more than 20 years."

225 **SECTION 3-2.**

226 Said title is further amended by revising paragraph (1) of subsection (c) of Code Section
227 16-5-24, relating to aggravated battery, as follows:

228 "(c)(1) A person who knowingly commits the offense of aggravated battery upon a public
229 safety officer while the public safety officer is engaged in, or on account of the
230 performance of, his or her official duties shall, upon conviction thereof, be punished by
231 imprisonment for not less than ten nor more than 20 years; provided, however, that for
232 persons who are at least ~~17~~ 18 years of age, a mandatory minimum term of imprisonment
233 of three years shall be imposed and no portion of the mandatory minimum sentence shall
234 be suspended, stayed, probated, deferred, or otherwise withheld by the sentencing court;
235 provided, however, that in the court's discretion, the court may depart from such
236 mandatory minimum sentence when the prosecuting attorney and defendant have agreed
237 to a sentence that is below such mandatory minimum."

238 **SECTION 3-3.**

239 Said title is further amended by revising paragraph (3) of subsection (a) of Code
240 Section 16-12-1, relating to contributing to the delinquency or dependency of a minor, as
241 follows:

242 "(3) 'Minor' means any individual who is under the age of ~~17~~ 18 years who is alleged to
243 have committed a delinquent act or any individual under the age of ~~18~~ 19 years."

244 **SECTION 3-4.**

245 Said title is further amended by revising subsection (b) of Code Section 16-12-100.3, relating
246 to obscene telephone contact, conviction, and penalties, as follows:

247 "(b) A person ~~17~~ 18 years of age or over commits the offense of obscene telephone contact
248 with a child if that person has telephone contact with an individual whom that person
249 knows or should have known is a child, and that contact involves any aural matter
250 containing explicit verbal descriptions or narrative accounts of sexually explicit nudity,
251 sexual conduct, sexual excitement, or sadomasochistic abuse which is intended to arouse
252 or satisfy the sexual desire of either the child or the person, provided that no conviction
253 shall be had for this offense on the unsupported testimony of the victim."

254 **PART IV.**

255 **SECTION 4-1.**

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

259 "(b) The department may establish separate correctional or similar institutions for the
260 separation and care of juvenile offenders. The commissioner may transfer any juvenile
261 under ~~17~~ 18 years of age from the penal institution in which he or she is serving to the

262 Department of Juvenile Justice, provided that the transfer is approved thereby. The
263 juvenile may be returned to the custody of the commissioner when the commissioner of
264 juvenile justice determines that the juvenile is unsuited to be dealt with therein. The
265 commissioner may accept a juvenile for transfer into a penal institution upon the request
266 of the commissioner of juvenile justice if such juvenile is 16 years of age or older and has
267 been committed to the Department of Juvenile Justice for a class A designated felony act
268 or class B designated felony act, as defined by Code Section 15-11-2, and such juvenile's
269 behavior presents a substantial danger to any person at or within a Department of Juvenile
270 Justice facility. In the event of such transfer, the department shall have the same authority
271 over and responsibility for such juvenile as the Department of Juvenile Justice has for such
272 juvenile and shall maintain sight and sound separation as set forth in paragraph (5) of
273 subsection (c) of Code Section 15-11-504."

274

SECTION 4-2.

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

277 "(b) Before a court may place such condition upon the sentence, an initial investigation
278 shall be completed by the officer which indicates that the probationer is qualified for such
279 treatment in that the individual does not appear to be physically or mentally disabled in a
280 way that would prevent him or her from strenuous physical activity, that the individual has
281 no obvious contagious diseases, that the individual is not less than ~~17~~ 18 years of age nor
282 more than 30 years of age at the time of sentencing, and that the Department of Corrections
283 has granted provisional approval of the placement of the individual in the special
284 alternative incarceration—probation boot camp unit."

285 **SECTION 4-3.**

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

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

290 **SECTION 4-4.**

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

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

296 **PART V**

297 **SECTION 5-1.**

298 Chapter 4A of Title 49 of the Official Code of Georgia Annotated, relating to the Department
299 of Juvenile Justice, is amended by revising paragraph (6) of subsection (b) of Code Section
300 49-4A-2, relating to the Board of Juvenile Justice created, appointments, terms, vacancies,
301 chairperson, per diem and expenses, and responsibilities and rules, as follows:

302 "(6) Adopt rules and regulations governing the transfer of children who are at least ~~17~~
303 18 years of age and are released from restrictive custody due to an adjudication for a
304 Class A designated felony act or Class B designated felony act, as such terms are defined
305 in Code Section 15-11-2, to the Department of Community Supervision to ensure
306 balanced attention to the protection of the community, the imposition of accountability,
307 and the development of competencies to enable each child to become a responsible and
308 productive member of the community, taking into consideration a child's level of

309 participation in the department's educational, vocational, and other services prior to such
310 release."

311 **SECTION 5-2.**

312 Said chapter is further amended by revising subsection (e) of Code Section 49-4A-9, relating
313 to the sentence of youthful offenders, modification of order, review, and participation in
314 programs, as follows:

315 "(e) Any child under ~~17~~ 18 years of age who is sentenced in the superior court and
316 committed to the department may be eligible to participate in all juvenile detention facility
317 programs and services including community work programs, sheltered workshops, special
318 state sponsored programs for evaluation and services under the Georgia Vocational
319 Rehabilitation Agency and the Department of Behavioral Health and Developmental
320 Disabilities, and under the general supervision of juvenile detention facility staff at special
321 planned activities outside of the juvenile detention facility. When such a child sentenced
322 in the superior court is approaching his or her ~~seventeenth~~ eighteenth birthday, the
323 department shall notify the court that a further disposition of the child is necessary. The
324 department shall provide the court with information concerning the participation and
325 progress of the child in programs described in this subsection. The court shall review the
326 case and determine if the child, upon becoming ~~17~~ 18 years of age, should be placed on
327 probation, have his or her sentence reduced, be transferred to the Department of
328 Corrections for the remainder of the original sentence, or be subject to any other
329 determination authorized by law."

330

PART VI

331

SECTION 6-1.

332 This Act shall become effective January 1, 2022.

333

SECTION 6-2.

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