

House Bill 272 (RULES COMMITTEE SUBSTITUTE)

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 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 effective dates; to provide for related matters; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 272 (SUB)

PART I
SECTION 1-1.

14
15
16 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile
17 Code, is amended in Article 1, relating to general provisions, by adding a new Code section
18 to read as follows:

19 "15-11-42.

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

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

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

25 (2) The commissioner of the Department of Juvenile Justice;

26 (3) The president of the Georgia Sheriffs' Association;

27 (4) The executive director of the Prosecuting Attorneys' Council of the State of Georgia;

28 (5) The executive director of the Georgia Association of Criminal Defense Lawyers;

29 (6) The executive director of the Criminal Justice Coordinating Council;

30 (7) The director of the Governor's Office of Planning and Budget; and

31 (8) The president of the Council of Juvenile Court Judges.

32 (c) The committee may confer with any appropriate subject matter experts, state agency
33 and advisory members to the committees as selected by the chair, including the president
34 of the Council of Juvenile Court Judges, the president of the Georgia Association of Chiefs
35 of Police, the executive director of the Georgia Public Safety Training Center, attorneys
36 who regularly practice in the juvenile courts, the Association of Juvenile Court
37 Administrators on matters relating to implementing raising the juvenile age, including
38 equipment, security, and technological aspects in connection to raising the age of juvenile
39 offenders regarding:

- 40 (1) Standards and practices of other jurisdictions;
 41 (2) The most recent standards promulgated by national standard-setting bodies; and
 42 (3) The views of interested persons, government officials, and entities.
 43 (e) The committee shall commence no later than May 1, 2021, and shall stand abolished
 44 on December 31, 2021."

45 **PART II**

46 **SECTION 2-1.**

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

- 49 "(10) 'Child' means any individual who is:
 50 (A) Under the age of 18 years;
 51 ~~(B) Under the age of 17 years when alleged to have committed a delinquent act;~~
 52 ~~(C)~~(B) Under the age of 22 years and in the care of DFCS as a result of being
 53 adjudicated dependent before reaching 18 years of age;
 54 ~~(D)~~(C) Under the age of 23 years and eligible for and receiving independent living
 55 services through DFCS as a result of being adjudicated dependent before reaching 18
 56 years of age; or
 57 ~~(E)~~(D) Under the age of 21 years who committed an act of delinquency before reaching
 58 the age of ~~17~~ 18 years and who has been placed under the supervision of the court or
 59 on probation to the court for the purpose of enforcing orders of the court."

60 **SECTION 2-2.**

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

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

70 **SECTION 2-3.**

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

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

78 **SECTION 2-4.**

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

81 "15-11-560.

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

- 87 (b) The superior court shall have exclusive original jurisdiction over the trial of any
88 child 13 to ~~17~~ 18 years of age who is alleged to have committed any of the following
89 offenses:
- 90 (1) Murder;
 - 91 (2) Murder in the second degree;
 - 92 (3) Voluntary manslaughter;
 - 93 (4) Rape;
 - 94 (5) Aggravated sodomy;
 - 95 (6) Aggravated child molestation;
 - 96 (7) Aggravated sexual battery;
 - 97 (8) Armed robbery if committed with a firearm;
 - 98 (9) Aggravated assault if committed with a firearm upon a public safety officer as such
99 acts are prohibited under subsection (c) of Code Section 16-5-21; or
 - 100 (10) Aggravated battery upon a public safety officer as such acts are prohibited under
101 subsection (c) of Code Section 16-5-24.
- 102 (c) The granting of bail or pretrial release of a child charged with an offense enumerated
103 in subsection (b) of this Code section shall be governed by the provisions of Code
104 Section 17-6-1.
- 105 (d) At any time before indictment, the district attorney may, after investigation and for
106 cause, decline prosecution in the superior court of a child 13 to ~~17~~ 18 years of age alleged
107 to have committed an offense specified in subsection (b) of this Code section. Upon
108 declining such prosecution in the superior court, the district attorney shall cause a petition
109 to be filed in the appropriate juvenile court for adjudication within 72 hours if the child is
110 in detention or 30 days if the child is not in detention. Except as provided in paragraph (8)
111 of subsection (b) of Code Section 15-11-602, any case transferred by the district attorney
112 to the juvenile court pursuant to this subsection shall be subject to the class A designated
113 felony act provisions of Code Section 15-11-602, and the transfer of the case from superior

114 court to juvenile court shall constitute notice to such child that such case is subject to the
115 class A designated felony act provisions of Code Section 15-11-602.

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

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

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

136 (g) Within 30 days of any proceeding in which a child 13 to ~~17~~ 18 years of age is
137 convicted of certain offenses over which the superior court has original jurisdiction as
138 provided in subsection (b) of this Code section or adjudicated as a delinquent child on the
139 basis of conduct which if committed by an adult would constitute such offenses, the
140 superior court shall provide written notice to the school superintendent or his or her

141 designee of the school in which such child is enrolled or, if the information is known, of
142 the school in which such child plans to be enrolled at a future date. Such notice shall
143 include the specific criminal offense that such child committed. The local school system
144 to which such child is assigned may request further information from the court's file.

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

148 **SECTION 2-5.**

149 Said chapter is further amended by revising paragraph (3) of subsection (a) and
150 subsection (d) of Code Section 15-11-561, relating to waiver of juvenile court jurisdiction
151 and transfer to superior court, as follows:

152 "(3) The petition alleges that such child:

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

155 (B) Was 13 or 14 years of age and either committed an act for which the punishment
156 is loss of life or confinement for life in a penal institution or committed aggravated
157 battery resulting in serious bodily injury to an alleged victim who is not a public safety
158 officer as such term is defined in Code Section 16-5-19; or

159 (C) Was 17 years of age at the time of participating in criminal gang activity, as
160 defined in subparagraphs (A) through (G) and (J) of paragraph (1) of Code
161 Section 16-15-3, in violation of Code Section 16-15-4."

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

167 **SECTION 2-6.**

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

170 "15-11-562.

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

- 178 (1) The age of such child;
- 179 (2) The seriousness of the alleged offense, especially if personal injury resulted;
- 180 (3) Whether the protection of the community requires transfer of jurisdiction;
- 181 (4) Whether the alleged offense involved violence or was committed in an aggressive or
182 premeditated manner;
- 183 (5) The impact of the alleged offense on the alleged victim, including the permanence
184 of any physical or emotional injury sustained, health care expenses incurred, and lost
185 earnings suffered;
- 186 (6) The culpability of such child including such child's level of planning and
187 participation in the alleged offense;
- 188 (7) Whether the alleged offense is a part of a repetitive pattern of offenses which
189 indicates that such child may be beyond rehabilitation in the juvenile justice system;
- 190 (8) The record and history of such child, including experience with the juvenile justice
191 system, other courts, supervision, commitments to juvenile institutions, and other
192 placements;

- 193 (9) The sophistication and maturity of such child as determined by consideration of his
194 or her home and environmental situation, emotional condition, and pattern of living;
195 (10) The program and facilities available to the juvenile court in considering disposition;
196 and
197 (11) Whether or not a child can benefit from the treatment or rehabilitative programs
198 available to the juvenile court."

199 **SECTION 2-7.**

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

205 **PART III**

206 **SECTION 3-1.**

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

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

213 (A) When such assault occurs by the discharge of a firearm by a person who is at
214 least ~~17~~ 18 years of age, such person shall be punished by imprisonment for not less
215 than ten nor more than 20 years and shall be sentenced to a mandatory minimum term
216 of imprisonment of ten years and no portion of the mandatory minimum sentence

217 imposed shall be suspended, stayed, probated, deferred, or withheld by the sentencing
218 court; provided, however, that in the court's discretion, the court may depart from
219 such mandatory minimum sentence when the prosecuting attorney and defendant have
220 agreed to a sentence that is below such mandatory minimum;

221 (B) When such assault does not involve the discharge of a firearm by a person who
222 is at least ~~17~~ 18 years of age, and does not involve only the use of the person's body,
223 such person shall be punished by imprisonment for not less than five nor more than
224 20 years and, for persons who are at least ~~17~~ 18 years of age, shall be sentenced to a
225 mandatory minimum term of imprisonment of three years and no portion of the
226 mandatory minimum sentence imposed shall be suspended, stayed, probated,
227 deferred, or withheld by the sentencing court; provided, however, that in the court's
228 discretion, the court may depart from such mandatory minimum sentence when the
229 prosecuting attorney and defendant have agreed to a sentence that is below such
230 mandatory minimum; or

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

233 **SECTION 3-2.**

234 Said title is further amended by revising paragraph (1) of subsection (c) of Code Section
235 16-5-24, relating to aggravated battery, as follows:

236 "(c)(1) A person who knowingly commits the offense of aggravated battery upon a public
237 safety officer while the public safety officer is engaged in, or on account of the
238 performance of, his or her official duties shall, upon conviction thereof, be punished by
239 imprisonment for not less than ten nor more than 20 years; provided, however, that for
240 persons who are at least ~~17~~ 18 years of age, a mandatory minimum term of imprisonment
241 of three years shall be imposed and no portion of the mandatory minimum sentence shall
242 be suspended, stayed, probated, deferred, or otherwise withheld by the sentencing court;

243 provided, however, that in the court's discretion, the court may depart from such
244 mandatory minimum sentence when the prosecuting attorney and defendant have agreed
245 to a sentence that is below such mandatory minimum."

246 **SECTION 3-3.**

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

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

252 **SECTION 3-4.**

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

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

262

PART IV.

263

SECTION 4-1.

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

267 "(b) The department may establish separate correctional or similar institutions for the
268 separation and care of juvenile offenders. The commissioner may transfer any juvenile
269 under ~~17~~ 18 years of age from the penal institution in which he or she is serving to the
270 Department of Juvenile Justice, provided that the transfer is approved thereby. The
271 juvenile may be returned to the custody of the commissioner when the commissioner of
272 juvenile justice determines that the juvenile is unsuited to be dealt with therein. The
273 commissioner may accept a juvenile for transfer into a penal institution upon the request
274 of the commissioner of juvenile justice if such juvenile is 16 years of age or older and has
275 been committed to the Department of Juvenile Justice for a class A designated felony act
276 or class B designated felony act, as defined by Code Section 15-11-2, and such juvenile's
277 behavior presents a substantial danger to any person at or within a Department of Juvenile
278 Justice facility. In the event of such transfer, the department shall have the same authority
279 over and responsibility for such juvenile as the Department of Juvenile Justice has for such
280 juvenile and shall maintain sight and sound separation as set forth in paragraph (5) of
281 subsection (c) of Code Section 15-11-504."

282

SECTION 4-2.

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

285 "(b) Before a court may place such condition upon the sentence, an initial investigation
286 shall be completed by the officer which indicates that the probationer is qualified for such

287 treatment in that the individual does not appear to be physically or mentally disabled in a
288 way that would prevent him or her from strenuous physical activity, that the individual has
289 no obvious contagious diseases, that the individual is not less than ~~17~~ 18 years of age nor
290 more than 30 years of age at the time of sentencing, and that the Department of Corrections
291 has granted provisional approval of the placement of the individual in the special
292 alternative incarceration—probation boot camp unit."

293 **SECTION 4-3.**

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

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

298 **SECTION 4-4.**

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

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

304 **PART V**

305 **SECTION 5-1.**

306 Chapter 4A of Title 49 of the Official Code of Georgia Annotated, relating to the Department
307 of Juvenile Justice, is amended by revising paragraph (6) of subsection (b) of Code Section
308 49-4A-2, relating to the Board of Juvenile Justice created, appointments, terms, vacancies,
309 chairperson, per diem and expenses, and responsibilities and rules, as follows:

310 "(6) Adopt rules and regulations governing the transfer of children who are at least 17
311 18 years of age and are released from restrictive custody due to an adjudication for a
312 Class A designated felony act or Class B designated felony act, as such terms are defined
313 in Code Section 15-11-2, to the Department of Community Supervision to ensure
314 balanced attention to the protection of the community, the imposition of accountability,
315 and the development of competencies to enable each child to become a responsible and
316 productive member of the community, taking into consideration a child's level of
317 participation in the department's educational, vocational, and other services prior to such
318 release."

319 **SECTION 5-2.**

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

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

336 Corrections for the remainder of the original sentence, or be subject to any other
337 determination authorized by law."

338 **PART VI**
339 **SECTION 6-1.**

340 Part I of this Act shall become effective upon its approval by the Governor or upon its
341 becoming law without such approval. Parts II, III, IV, and V of this Act shall become
342 effective January 1, 2022.

343 **SECTION 6-2.**

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