

The Senate Committee on Judiciary offered 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 for an implementation
3 committee; to provide for the powers, composition, and appointment of such committee; to
4 change the jurisdiction of the juvenile court to include children who are 17 years of age; to
5 amend Titles 15, 16, 17, 27, 37, 42, and 49 of the Official Code of Georgia Annotated,
6 relating to courts, crimes and offenses, criminal procedure, game and fish, mental health,
7 penal institutions, and social services, respectively, so as to make conforming
8 cross-references; to provide for effective dates; to provide for related matters; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **PART I**
12 **SECTION 1-1.**

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

16 "15-11-42.

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

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

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

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

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

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

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

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

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

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

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

36 (1) Standards and practices of other jurisdictions;

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

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

39 (d) The committee shall commence no later than May 15, 2021, and shall stand abolished
40 on December 31, 2022."

PART II**SECTION 2-1.**

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

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

46 (A) Under the age of 18 years;

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

48 ~~(C)~~(B) Between 18 and 21 years of age and receiving extended care youth services
49 from DFCS; or

50 ~~(D)~~(C) Under the age of 21 years who committed an act of delinquency before
51 reaching the age of ~~17~~ 18 years and who has been placed under the supervision of the
52 court or on probation to the court for the purpose of enforcing orders of the court."

SECTION 2-2.

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

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

63

SECTION 2-3.

64 Said chapter is further amended by revising subparagraph (E) of paragraph (1) of Code
65 Section 15-11-10, relating to exclusive original jurisdiction, as follows:

66 "(E) Has been placed under the supervision of the court or on probation to the court;
67 provided, however, that such jurisdiction shall be for the purpose of completing,
68 effectuating, and enforcing such supervision or a probation begun either prior to such
69 child's ~~seventeenth~~ eighteenth birthday if the order is entered as a disposition for an
70 adjudication for delinquency or prior to such child's eighteenth birthday if the order is
71 entered for an adjudication for a child in need of services;"

72

SECTION 2-4.

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

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

80

SECTION 2-5.

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

83 "15-11-560.

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

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

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

92 (1) Murder;

93 (2) Murder in the second degree;

94 (3) Voluntary manslaughter;

95 (4) Rape;

96 (5) Aggravated sodomy;

97 (6) Aggravated child molestation;

98 (7) Aggravated sexual battery;

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

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

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

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

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

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

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

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

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

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

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

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

150 **SECTION 2-6.**

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

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

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

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

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

164 "(d) No child, either before or after reaching ~~17~~ 18 years of age, shall be prosecuted in
 165 superior court for an offense committed before the child turned ~~17~~ 18, unless the case has
 166 been transferred as provided in this part. In addition, no child shall be subject to criminal

167 prosecution at any time for an offense arising out of a criminal transaction for which the
168 juvenile court retained jurisdiction in its transfer order."

169 **SECTION 2-7.**

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

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

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

191 (8) The record and history of such child, including experience with the juvenile justice
 192 system, other courts, supervision, commitments to juvenile institutions, and other
 193 placements;

194 (9) The sophistication and maturity of such child as determined by consideration of his
 195 or her home and environmental situation, emotional condition, and pattern of living;

196 (10) The program and facilities available to the juvenile court in considering disposition;
 197 and

198 (11) Whether or not a child can benefit from the treatment or rehabilitative programs
 199 available to the juvenile court."

200 **SECTION 2-8.**

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

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

206 **PART III**

207 **SECTION 3-1.**

208 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
 209 subsection (a) of Code Section 15-6-36, relating to notice of student's felony conviction to
 210 school superintendent, as follows:

211 "(a) For the purposes of this Code section, 'conviction' means any felony conviction of a
 212 person who is at least ~~17~~ 18 years of age."

213

SECTION 3-2.

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

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

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

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

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

239

SECTION 3-3.

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

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

252

SECTION 3-4.

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

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

258

SECTION 3-5.

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

261 "(b) A person ~~17~~ 18 years of age or over commits the offense of obscene telephone contact
262 with a child if that person has telephone contact with an individual whom that person
263 knows or should have known is a child, and that contact involves any aural matter

264 containing explicit verbal descriptions or narrative accounts of sexually explicit nudity,
265 sexual conduct, sexual excitement, or sadomasochistic abuse which is intended to arouse
266 or satisfy the sexual desire of either the child or the person, provided that no conviction
267 shall be had for this offense on the unsupported testimony of the victim."

268 **SECTION 3-6.**

269 Said title is further amended by revising subsection (k) of Code Section 16-13-30, relating
270 to purchase, possession, manufacture, distribution, or sale of controlled substances or
271 marijuana, and penalties, as follows:

272 "(k) It shall be unlawful for any person to hire, solicit, engage, or use an individual under
273 the age of ~~17~~ 18 years, in any manner, for the purpose of manufacturing, distributing, or
274 dispensing, on behalf of the solicitor, any controlled substance, counterfeit substance, or
275 marijuana unless the manufacturing, distribution, or dispensing is otherwise allowed by
276 law. Any person who violates this subsection shall be guilty of a felony and, upon
277 conviction thereof, shall be punished by imprisonment for not less than five years nor more
278 than 20 years or by a fine not to exceed \$20,000.00, or both."

279 **SECTION 3-7.**

280 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
281 amended by revising Code Section 17-9-3, relating to recommendations for mercy in capital
282 cases other than those of homicide, and effect of no recommendation for mercy in capital
283 cases generally and where defendant under age of 17 at time of commission of offense, as
284 follows:

285 "17-9-3.

286 In all capital cases, other than those of homicide, when the verdict is 'guilty,' with a
287 recommendation for mercy, it shall be legal and shall mean imprisonment for life. When
288 the verdict is 'guilty,' without a recommendation for mercy, it shall be legal and shall mean

289 that the convicted person shall be sentenced to death. When it is shown that a person
290 convicted of a capital offense without a recommendation for mercy had not reached his or
291 her seventeenth eighteenth birthday at the time of the commission of the offense, the
292 punishment of such person shall not be death but shall be imprisonment for life."

293 **SECTION 3-8.**

294 Said title is further amended by revising Code Section 17-10-14, relating to committal of
295 person under 17 convicted of felony, as follows:

296 "17-10-14.

297 (a) Notwithstanding any other provisions of this article and except as otherwise provided
298 in subsection (b) of this Code section, in any case where a person under the age of ~~17~~ 18
299 years is convicted of a felony and sentenced as an adult to life imprisonment or to a certain
300 term of imprisonment, such person shall be committed to the Department of Juvenile
301 Justice to serve such sentence in a detention center of such department until such person
302 is ~~17~~ 18 years of age at which time such person shall be transferred to the Department of
303 Corrections to serve the remainder of the sentence. This Code section shall apply to any
304 person convicted on or after July 1, 1987, and to any person convicted prior to such date
305 who has not been committed to an institution operated by the Department of Corrections.

306 (b) If a child is transferred to superior court pursuant to Code Section 15-11-561 and
307 convicted of aggravated assault as defined in Chapter 5 of Title 16, the court may sentence
308 such child to the Department of Corrections. Such child shall be housed in a designated
309 youth confinement unit until such person is ~~17~~ 18 years of age, at which time such person
310 may be housed in any other unit designated by the Department of Corrections."

311 **SECTION 3-9.**

312 Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended by
313 revising paragraph (1) of subsection (b) of Code Section 27-3-63, relating to general offenses
314 and penalties, as follows:

315 "(1) For the first offense, the offender shall be fined not less than \$100.00, except that
316 this minimum fine shall not apply to the offender if he or she is ~~17~~ 18 years of age or
317 younger;"

318 **SECTION 3-10.**

319 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by
320 revising paragraph (4) of Code Section 37-3-1, relating to definitions, as follows:

321 "(4) 'Court' means:

322 (A) In the case of an individual who is ~~17~~ 18 years of age or older, the probate court
323 of the county of residence of the patient or the county in which such patient is found.
324 Notwithstanding Code Section 15-9-13, in any case in which the judge of such court is
325 unable to hear a case brought under this chapter within the time required for such
326 hearing or is unavailable to issue the order specified in subsection (b) of Code
327 Section 37-3-41, such judge shall appoint a person to serve and exercise all the
328 jurisdiction of the probate court in such case. Any person so appointed shall be a
329 member of the State Bar of Georgia and shall be otherwise qualified for his or her
330 duties by training and experience. Such appointment may be made on a case-by-case
331 basis or by making a standing appointment of one or more persons. Any person
332 receiving such standing appointment shall serve at the pleasure of the judge making the
333 appointment or his or her successor in office to hear such cases if and when necessary.
334 The compensation of a person so appointed shall be as agreed upon by the judge who
335 makes the appointment and the person appointed with the approval of the governing
336 authority of the county for which such person is appointed and shall be paid from the

337 county funds of said county. All fees collected for the services of such appointed person
338 shall be paid into the general funds of the county served; or
339 (B) In the case of an individual who is under the age of ~~17~~ 18 years, the juvenile court
340 of the county of residence of the patient or the county in which such patient is found."

341 **SECTION 3-11.**

342 Said title is further amended by revising paragraph (5) of Code Section 37-4-2, relating to
343 definitions, as follows:

344 "(5) 'Court' means:

345 (A) In the case of an individual who is ~~17~~ 18 years of age or older, the probate court
346 of the county of residence of the client or the county in which such client is found.
347 Notwithstanding Code Section 15-9-13, in any case in which the judge of said probate
348 court is unable to hear a case brought under this chapter within the time required for
349 such hearing, said judge shall appoint a person to serve and exercise all the jurisdiction
350 of the probate court in such case. Any person so appointed shall be a member of the
351 State Bar of Georgia and shall be otherwise qualified for his or her duties by training
352 and experience. Such appointment may be made on a case-by-case basis or by making
353 a standing appointment of one or more persons. Any person receiving such standing
354 appointment shall serve at the pleasure of the judge making the appointment or the
355 judge's successor in office to hear such cases if and when necessary. The compensation
356 of a person so appointed shall be as agreed upon by the judge who makes the
357 appointment and the person appointed with the approval of the governing authority of
358 the county for which such person is appointed and shall be paid from the county funds
359 of said county. All fees collected for the services of such appointed person shall be paid
360 into the general funds of the county served; or

361 (B) In the case of an individual who is under the age of ~~17~~ 18 years, the juvenile court
362 of the county of residence of the client or the county in which such client is found."

363

SECTION 3-12.

364 Said title is further amended by revising paragraph (7) of Code Section 37-7-1, relating to
365 definitions, as follows:

366 "(7) 'Court' means:

367 (A) In the case of an individual who is ~~17~~ 18 years of age or older, the probate court
368 for the county of residence of the patient or the county in which such patient is found.
369 Notwithstanding Code Section 15-9-13, in any case in which the judge of the probate
370 court is unable to hear a case brought under this chapter within the time required for
371 such hearing or is unavailable to issue the order specified in subsection (b) of Code
372 Section 37-7-41, the judge shall appoint a person to serve and exercise all the
373 jurisdiction of the probate court in such case. Any person so appointed shall be a
374 member of the State Bar of Georgia and be otherwise qualified for his or her duties by
375 training and experience. Such appointment may be made on a case-by-case basis or by
376 making a standing appointment of one or more persons. Any person receiving such a
377 standing appointment shall serve at the pleasure of the judge making the appointment
378 or his or her successor in office to hear such cases if and when necessary. The
379 compensation of a person so appointed shall be as agreed upon by the judge who makes
380 the appointment and the person appointed and as approved by the governing authority
381 of the county for which such person is appointed and shall be paid from the county
382 funds of the county. All fees collected for the services of such appointed person shall
383 be paid into the general funds of the county served; or

384 (B) In the case of an individual who is under the age of ~~17~~ 18 years, the juvenile court
385 of the county of residence of the patient or the county in which the patient is found."

386

SECTION 3-13.

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

390 "(b) The department may establish separate correctional or similar institutions for the
391 separation and care of juvenile offenders. The commissioner may transfer any juvenile
392 under ~~17~~ 18 years of age from the penal institution in which he or she is serving to the
393 Department of Juvenile Justice, provided that the transfer is approved thereby. The
394 juvenile may be returned to the custody of the commissioner when the commissioner of
395 juvenile justice determines that the juvenile is unsuited to be dealt with therein. The
396 commissioner may accept a juvenile for transfer into a penal institution upon the request
397 of the commissioner of juvenile justice if such juvenile is 16 years of age or older and has
398 been committed to the Department of Juvenile Justice for a class A designated felony act
399 or class B designated felony act, as defined by Code Section 15-11-2, and such juvenile's
400 behavior presents a substantial danger to any person at or within a Department of Juvenile
401 Justice facility. In the event of such transfer, the department shall have the same authority
402 over and responsibility for such juvenile as the Department of Juvenile Justice has for such
403 juvenile and shall maintain sight and sound separation as set forth in paragraph (5) of
404 subsection (c) of Code Section 15-11-504."

405

SECTION 3-14.

406 Said title is further amended by revising paragraph (7) of Code Section 42-7-2, relating to
407 definitions, as follows:

408 "(7) 'Youthful offender' means any male offender who is at least ~~17~~ 18 but less than 25
409 years of age at the time of conviction and who in the opinion of the department has the
410 potential and desire for rehabilitation."

411 **SECTION 3-15.**

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

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

422 **SECTION 3-16.**

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

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

427 **SECTION 3-17.**

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

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

433

SECTION 3-18.

434 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended
435 by revising paragraph (6) of subsection (b) of Code Section 49-4A-2, relating to the Board
436 of Juvenile Justice created, appointments, terms, vacancies, chairperson, per diem and
437 expenses, and responsibilities and rules, as follows:

438 “(6) Adopt rules and regulations governing the transfer of children who are at least ~~17~~ 18
439 years of age and are released from restrictive custody due to an adjudication for a Class
440 A designated felony act or Class B designated felony act, as such terms are defined in
441 Code Section 15-11-2, to the Department of Community Supervision to ensure balanced
442 attention to the protection of the community, the imposition of accountability, and the
443 development of competencies to enable each child to become a responsible and
444 productive member of the community, taking into consideration a child's level of
445 participation in the department's educational, vocational, and other services prior to such
446 release.”

447

SECTION 3-19.

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

451 “(e) Any child under ~~17~~ 18 years of age who is sentenced in the superior court and
452 committed to the department may be eligible to participate in all juvenile detention facility
453 programs and services including community work programs, sheltered workshops, special
454 state sponsored programs for evaluation and services under the Georgia Vocational
455 Rehabilitation Agency and the Department of Behavioral Health and Developmental
456 Disabilities, and under the general supervision of juvenile detention facility staff at special
457 planned activities outside of the juvenile detention facility. When such a child sentenced
458 in the superior court is approaching his or her ~~seventeenth~~ eighteenth birthday, the

459 department shall notify the court that a further disposition of the child is necessary. The
460 department shall provide the court with information concerning the participation and
461 progress of the child in programs described in this subsection. The court shall review the
462 case and determine if the child, upon becoming ~~17~~ 18 years of age, should be placed on
463 probation, have his or her sentence reduced, be transferred to the Department of
464 Corrections for the remainder of the original sentence, or be subject to any other
465 determination authorized by law."

466

SECTION 3-20.

467 Said title is further amended by revising subsection (q) of Code Section 49-5-12, relating to
468 licensing and inspection of child welfare agencies, standards, revocation or refusal of license,
469 penalties, and violations, as follows:

470 "(q) No person, official, agency, hospital, maternity home, or institution, public or private,
471 in this state shall receive or accept a child under ~~17~~ 18 years of age for placement or
472 adoption or place such a child, either temporarily or permanently, in a home other than the
473 home of the child's relatives without having been licensed or commissioned by the
474 department. Notwithstanding the provisions of Code Section 49-5-12.1, violation of this
475 subsection shall be punishable by a fine of not less than \$500.00 nor exceeding \$1,000.00
476 for each offense. Nothing in this Code section shall be construed to prohibit a properly
477 licensed attorney at law from providing necessary legal services and counsel to parties
478 engaged in or contemplating adoption proceedings. Nothing in this Code section shall be
479 construed to prohibit an individual seeking to:

480 (1) Adopt a child or children from receiving or accepting a child or children in the
481 individual's home in anticipation of filing a petition for adoption under Article 1 of
482 Chapter 8 of Title 19; or

483 (2) Have that individual's child or children placed for adoption from placing that
484 individual's child or children in the home of an individual who is not related to the child

485 or children in anticipation of the individual's initiation of adoption proceedings pursuant
486 to Article 1 of Chapter 8 of Title 19."

487 **SECTION 3-21.**

488 Said title is further amended by revising paragraph (1) of Code Section 49-5-90, relating to
489 definitions, as follows:

490 "(1) 'Child in care' means any person under the age of ~~17~~ 18 years who has been admitted
491 to, is cared for, or resides in a facility."

492 **PART IV**

493 **SECTION 4-1.**

494 This part and Part I of this Act shall become effective upon their approval by the Governor
495 or upon their becoming law without such approval. Parts II and III of this Act shall become
496 effective January 1, 2023.

497 **SECTION 4-2.**

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