The House Committee on Juvenile Justice offers the following substitute to HB 462:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile Code, so as to enact the "Raise the Age Act"; to provide for an implementation committee; to provide for the powers, composition, and appointment of such committee; to change the jurisdiction of the juvenile court to include certain children who are 17 years of age; to amend Titles 15, 16, 17, 27, 37, 42, and 49 of the Official Code of Georgia Annotated, relating to courts, crimes and offenses, criminal procedure, game and fish, mental health, penal institutions, and social services, respectively, so as to make conforming cross-references; to provide for effective dates and automatic repeal under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile Code, is amended 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 12 members as follows:

(1) The chairperson of the House Committee on Juvenile Justice;

(2) The chairperson of the Senate Judiciary Committee;

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

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

(5) The executive director of the Administrative Office of the Courts 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 Association of Criminal Defense Lawyers or his or her designee;

(8) The executive director of the Criminal Justice Coordinating Council or his or her designee;

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

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

(11) The executive director of the Association County Commissioners of Georgia or his or her designee; and

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

The chairperson of the House Committee on Juvenile Justice and the chairperson of the Senate Judiciary Committee shall serve as cochairpersons of the committee. The committee shall meet upon the call of the chairs.

(c) The committee may confer with any appropriate subject matter experts, state agencies and advisory members to the committees as selected by the chairs, including the president of the Georgia Association of Chiefs of Police, the executive director of the Georgia Public Safety Training Center, attorneys who regularly practice in the juvenile courts, and advocates for children and youth, on matters relating to implementing raising the juvenile age, including equipment, security, and technological aspects in connection to raising the age of juvenile offenders regarding:

(1) Standards and practices of other jurisdictions;

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

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

(d) The committee shall commence no later than May 15, 2023, and shall stand abolished on December 31, 2024.

(e) The committee shall provide a detailed written report including all the necessary operational and statutory changes required to include 17 year-old children in the juvenile justice system, including cost estimates for capital outlay, operating expenses, and staffing needs, for each part of the implementation plan. The report shall also include the estimated time required for such proposed implementation as well as any other data, reports, statistical information, and other facts and figures necessary for the successful implementation of such policy. Such report shall be provided to the Governor, the Lieutenant Governor, and the members of the General Assembly not later than December 1, 2023.

(f) This Code Section shall stand repealed in its entirety on January 1, 2025.″

PART II

SECTION 2-1.

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

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

(A) Under the age of 18 years;

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

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

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

SECTION 2-2.

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

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

SECTION 2-3.

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

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

SECTION 2-4.

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

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

SECTION 2-5.

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

"15-11-560.

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

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

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

(1) Murder;

(2) Murder in the second degree;

(3) Voluntary manslaughter;

(4) Rape;

(5) Aggravated sodomy;

(6) Aggravated child molestation;

(7) Aggravated sexual battery;

(8) Armed robbery if committed with a firearm;

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

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

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

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

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

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

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

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

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

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

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

SECTION 2-6.

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

"(3) The petition alleges that such child:

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

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

(C) Was 17 years of age at the time he or she is alleged to have committed criminal gang activity, as defined in subparagraphs (A) through (G) and (J) of paragraph (1) of Code Section 16-15-3, in violation of Code Section 16-15-4; or

(D) Was 17 years of age at the time he or she is alleged to have committed an act which would constitute a second or subsequent commission of a delinquent act for an offense which, if committed by an adult, would constitute a felony offense."

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

SECTION 2-7.

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

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

(1) The age of such child;

(2) The seriousness of the alleged offense, especially if personal injury resulted;

(3) Whether the protection of the community requires transfer of jurisdiction;

(4) Whether the alleged offense involved violence or was committed in an aggressive or premeditated manner;

(5) The impact of the alleged offense on the alleged victim, including the permanence of any physical or emotional injury sustained, health care expenses incurred, and lost earnings suffered;

(6) The culpability of such child including such child's level of planning and participation in the alleged offense;

(7) Whether the alleged offense is a part of a repetitive pattern of offenses which indicates that such child may be beyond rehabilitation in the juvenile justice system;

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

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

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

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

SECTION 2-8.

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

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

PART III

SECTION 3-1.

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

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

SECTION 3-2.

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

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

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

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

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

SECTION 3-3.

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

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

SECTION 3-4.

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

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

SECTION 3-5.

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

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

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

SECTION 3-6.

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

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

SECTION 3-7.

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

"17-9-3.

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

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

SECTION 3-8.

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

"17-10-14.

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

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

SECTION 3-9.

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

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

SECTION 3-10.

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

"(4) 'Court' means:

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

county funds of said county. All fees collected for the services of such appointed person shall be paid into the general funds of the county served; or

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

SECTION 3-11.

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

"(5) 'Court' means:

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

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

SECTION 3-12.

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

″(7) 'Court' means:

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

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

SECTION 3-13.

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

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

SECTION 3-14.

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

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

SECTION 3-15.

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

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

SECTION 3-16.

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

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

SECTION 3-17.

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

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

SECTION 3-18.

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

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

SECTION 3-19.

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

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

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

SECTION 3-20.

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

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

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

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

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

SECTION 3-21.

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

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

PART IV

SECTION 4-1.

This part and Part I of this Act shall become effective upon their approval by the Governor or upon their becoming law without such approval. Parts II and III of this Act shall become effective January 1, 2025, provided that the funds necessary for the implementation of those parts in the 2024-2025 fiscal year are contained in specific line item appropriations in the General Appropriations Act for the 2024-2025 fiscal year. If such specific line item appropriations are not contained in the General Appropriations Act for the 2024-2025 fiscal year, then this Act shall be repealed by operation of law on January 1, 2025. The determination of whether such specific line item appropriations are contained in the General Appropriations Act for the 2024-2025 fiscal year shall be made by the cochairpersons of the implementation committee provided for in Code Section 15-11-42.

SECTION 4-2.

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