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Short Title: Div. of Juvenile Justice Mods.-AB

(Public)

Sponsors:

Referred to:

February 27, 2023

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE TRANSFER PROCESS FOR JUVENILES WHO ALLEGEDLY COMMITTED CERTAIN FELONIES, TO MODIFY THE CONFIDENTIALITY OF CERTAIN INFORMATION CONCERNING JUVENILES UNDER INVESTIGATION, TO MODIFY THE INTERROGATION PROCEDURES FOR CERTAIN JUVENILES, TO MODIFY THE SERVICE OF SUMMONS FOR JUVENILE PETITIONS, TO CLARIFY THE PROCESS FOR COURT-ORDERED EVALUATIONS FOR JUVENILES, TO CLARIFY MINORITY SENSITIVITY TRAINING FOR LAW ENFORCEMENT PERSONNEL, TO CLARIFY JUVENILE DETENTION TRANSFER, AND TO MAKE VARIOUS TECHNICAL AND CONFORMING CHANGES, AS RECOMMENDED BY THE DEPARTMENT OF PUBLIC SAFETY, DIVISION OF JUVENILE JUSTICE.

The General Assembly of North Carolina enacts:

PART I. TRANSFER PROCESS

SECTION 1.(a) G.S. 7B-2200.5 reads as rewritten:

"§ 7B-2200.5. Transfer of jurisdiction of a juvenile at least 16 years of age to superior court.

(a) If a juvenile was 16 years of age or older at the time the juvenile allegedly committed an offense that would be a Class A, B1, B2, C, D, E, F, or G felony if committed by an adult, the court shall transfer jurisdiction over the juvenile to superior court for trial as in the case of adults unless the prosecutor declines to prosecute in superior court as provided in subsection (a1) of this section after either of the following:

(1) Notice to the juvenile ~~and a finding by the court that a bill of indictment has been returned against the juvenile charging the commission of an offense that constitutes a Class A, B1, B2, C, D, E, F, or G felony if committed by an adult.~~ of the return of a true bill of indictment as provided in G.S. 15A-630.

(2) Notice, hearing, and a finding of probable cause that the juvenile committed an offense that constitutes a Class A, B1, B2, C, D, E, F, or G felony if committed by an adult.

(a1) The prosecutor may decline to prosecute in superior court a matter that would otherwise be subject to mandatory transfer pursuant to subsection (a) of this section if the juvenile has allegedly committed an offense that would be a Class D, E, F, or G felony if committed by an adult. If the prosecutor declines to prosecute the matter in superior court, jurisdiction over the



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1 juvenile shall remain in juvenile court following a finding of probable cause pursuant to
2 G.S. 7B-2202. Prior to adjudication, the prosecutor may choose to transfer the matter pursuant
3 to subsection (a) of this section if the juvenile has allegedly committed an offense that would be
4 a Class D, E, F, or G felony if committed by an adult.

5 (b) If the juvenile was 16 years of age or older at the time the juvenile allegedly
6 committed an offense that would be a Class H or I felony if committed by an adult, after notice,
7 hearing, and a finding of probable cause, the court may, upon motion of the prosecutor or the
8 juvenile's attorney or upon its own motion, transfer jurisdiction over a juvenile to superior court
9 pursuant to G.S. 7B-2203.

10 (c) A probable cause hearing conducted pursuant to subdivision (2) of subsection (a) of
11 this section shall be conducted within 90 days of the date of the juvenile's first appearance. The
12 court may continue the hearing for good cause.

13 (d) In any case where jurisdiction over a juvenile has been transferred to superior court,
14 upon joint motion of the prosecutor and the juvenile's attorney, the superior court shall remand
15 the case to district court. The prosecutor shall provide the chief court counselor or his or her
16 designee with a copy of the joint motion prior to submitting the motion to the court. The superior
17 court shall expunge the superior court record in accordance with G.S. 15A-145.8 at the time of
18 remand, and, if the juvenile meets the criteria established in G.S. 7B-1903, may issue an order
19 for secure custody upon the request of a prosecutor. The prosecutor shall provide a copy of any
20 secure custody order issued to the chief court counselor or his or her designee, as soon as possible
21 and no more than 24 hours after the order is issued."

22 **SECTION 1.(b)** G.S. 7B-2200 reads as rewritten:

23 **"§ 7B-2200. Transfer of jurisdiction of a juvenile under the age of 16 to superior court.**

24 Except as otherwise provided in G.S. 7B-2200.5, after notice, hearing, and a finding of
25 probable cause the court may, upon motion of the prosecutor or the juvenile's attorney or upon
26 its own motion, transfer jurisdiction over a juvenile to superior court if the juvenile was at least
27 13 years of age but less than 16 years of age at the time the juvenile allegedly committed an
28 offense that would be a felony if committed by an adult. ~~If the alleged felony constitutes a Class~~
29 ~~A felony and the court finds probable cause, the court shall transfer the case to the superior court~~
30 ~~for trial as in the case of adults.~~ The court shall transfer the case to superior court for trial as in
31 the case of adults if the felony the juvenile allegedly committed constitutes a Class A felony and
32 (i) the court finds probable cause or (ii) upon notice of the return of a true bill of indictment as
33 provided in G.S. 15A-630."

34 **SECTION 1.(c)** G.S. 7B-2202(a) reads as rewritten:

35 "(a) Except as otherwise provided in G.S. 7B-2200 and G.S. 7B-2200.5(a)(1), the court
36 shall conduct a hearing to determine probable cause in all felony cases in which a juvenile was
37 13 years of age or older when the offense was allegedly committed. Except as otherwise provided
38 in G.S. 7B-2200.5(c), the hearing shall be conducted within 15 days of the date of the juvenile's
39 first appearance. The court may continue the hearing for good cause."

40 **PART II. CONFIDENTIALITY, "LYRIC AND DEVIN'S LAW"**

41 **SECTION 2.** Article 31 of Subchapter II of Chapter 7B of the General Statutes is
42 amended by adding a new section to read:

43 **"§ 7B-3103. Disclosure of information about juveniles for public safety reasons.**

44 (a) Notwithstanding G.S. 7B-2102(d) or any other provision of law to the contrary, a
45 court may order the Division or any law enforcement agency within the State to release to the
46 public the information contained in subsection (b) of this section if a court makes all of the
47 following findings in a written order:

48 (1) A petition has been filed alleging that the juvenile has committed at least one
49 offense that would subject the juvenile to transfer to superior court pursuant
50 to G.S. 7B-2200 or G.S. 7B-2200.5.
51

1 (2) There is a judicial determination, based on the juvenile's record or the nature
 2 of the alleged offense or offenses, that the juvenile presents a danger to self or
 3 others.

4 (3) There is a judicial determination that good cause exists for the disclosure.
 5 (b) The following information about a juvenile subject to a public disclosure under
 6 subsection (a) of this section may be released to the public:

7 (1) The juvenile's first name, last name, and photograph.

8 (2) Any offense in a juvenile petition alleged to have been committed by the
 9 juvenile.

10 (3) Whether a secure custody order has been issued for the juvenile.

11 (4) A statement, based on the juvenile's record or the nature of the alleged offense
 12 and the level of concern of the Division or law enforcement agency, as to the
 13 juvenile's threat to self or others.

14 (c) If a juvenile who is the subject of an order entered under subsection (a) of this section
 15 is taken into custody before the required disclosure is made to the public, the Division or law
 16 enforcement agency shall not make the disclosure. If the juvenile who is the subject of an order
 17 entered under subsection (a) of this section or a disclosure pursuant to subsection (e) of this
 18 section is taken into custody, then all released information must be removed from any publicly
 19 available law enforcement agency or Division website or social media account controlled by the
 20 law enforcement agency or Division.

21 (d) Before the information contained in subsection (b) of this section is released to the
 22 public, the Division or law enforcement agency shall make a reasonable effort to notify a parent,
 23 legal guardian, or custodian of the juvenile.

24 (e) Notwithstanding subsections (a) and (d) of this section, when exigent circumstances
 25 exist, the Division or any law enforcement agency within the State may release the information
 26 contained in subsection (b) of this section. If information is released pursuant to this subsection,
 27 the releasing party must seek an order as provided by subsection (a) of this section as soon as
 28 reasonably practicable, but no later than the first available session of a court in the county after
 29 the release of information. If a court does not issue an order as provided by subsection (a) of this
 30 section at the next available session of court, all released information must be removed from any
 31 publicly available law enforcement agency or Division website or social media account
 32 controlled by the law enforcement agency or Division."

33 34 **PART III. INTERROGATION PROCEDURES**

35 **SECTION 3.** G.S. 7B-2101 reads as rewritten:

36 "**§ 7B-2101. Interrogation procedures.**

37 (a) Any juvenile-juvenile, who is less than 16 years of age, in custody must be advised of
 38 all of the following prior to questioning:

39 (1) That the juvenile has a right to remain ~~silent~~;silent.

40 (2) That any statement the juvenile does make can be and may be used against the
 41 juvenile;juvenile.

42 (3) That the juvenile has a right to have a parent, guardian, or custodian present
 43 during ~~questioning~~;andquestioning.

44 (4) That the juvenile has a right to consult with an attorney and that one will be
 45 appointed for the juvenile if the juvenile is not represented and wants
 46 representation.

47 (a1) Any juvenile, who is 16 years of age or older, in custody must be advised of all of the
 48 following prior to questioning:

49 (1) That the juvenile has a right to remain silent.

50 (2) That any statement the juvenile does make can be and may be used against the
 51 juvenile.

1 (3) That the juvenile has a right to have a parent, guardian, custodian, or caretaker
2 present during questioning.

3 (4) That the juvenile has a right to consult with an attorney and that one will be
4 appointed for the juvenile if the juvenile is not represented and wants
5 representation.

6 (a2) If a juvenile, who is 16 years of age or older, requests that a parent, guardian, or
7 custodian be present during questioning, law enforcement shall make a reasonable effort to
8 contact the parent, guardian, or custodian. If the parent, guardian, or custodian is not available, a
9 caretaker can be present during questioning.

10 (b) When the juvenile is less than 16 years of age, no in-custody admission or confession
11 resulting from interrogation may be admitted into evidence unless the confession or admission
12 was made in the presence of the juvenile's parent, guardian, custodian, or attorney. If an attorney
13 is not present, the parent, guardian, or custodian as well as the juvenile must be advised of the
14 juvenile's rights as set out in subsection (a) of this section; however, a parent, guardian, or
15 custodian may not waive any right on behalf of the juvenile.

16 (c) If the juvenile indicates in any manner and at any stage of questioning pursuant to this
17 section that the juvenile does not wish to be questioned further, the officer shall cease
18 questioning.

19 (d) Before admitting into evidence any statement resulting from custodial interrogation,
20 the court shall find that the juvenile knowingly, willingly, and understandingly waived the
21 juvenile's rights.

22 (e) For the purposes of this section, "caretaker" means any person other than a parent,
23 guardian, or custodian who has responsibility for the health and welfare of a juvenile in a
24 residential setting. A person responsible for a juvenile's health and welfare means a stepparent, a
25 foster parent, an adult member of the juvenile's household, an adult entrusted with the juvenile's
26 care, a potential adoptive parent during a visit or trial placement with a juvenile in the custody of
27 a department, any person such as a house parent or cottage parent who has primary responsibility
28 for supervising a juvenile's health and welfare in a residential child care facility or residential
29 educational facility, or any employee or volunteer of a division, institution, or school operated
30 by the Department of Health and Human Services."

31 32 **PART IV. OTHER JUVENILE JUSTICE MODIFICATIONS**

33 **SECTION 4.(a)** G.S. 7B-1806 reads as rewritten:

34 "**§ 7B-1806. Service of summons.**

35 The summons and petition shall be personally served upon the parent, the guardian, or
36 custodian and the juvenile not less than five days prior to the date of the scheduled hearing. The
37 time for service may be waived in the discretion of the court. A juvenile court counselor or any
38 other person authorized by law may serve and complete juvenile process under this section, and
39 as provided in G.S. 143B-831. A defense of lack of personal jurisdiction or insufficiency of
40 service of process is waived if a parent, guardian, or custodian and juvenile avail themselves to
41 the court and an objection is not raised at the initial court appearance.

42 If the parent, guardian, or custodian entitled to receive a summons cannot be found by a
43 diligent effort, the court may authorize service of the summons and petition by mail or by
44 publication. The cost of the service by publication shall be advanced by the petitioner and may
45 be charged as court costs as the court may direct.

46 The court may issue a show cause order for contempt against a parent, guardian, or custodian
47 who is personally served and fails without reasonable cause to appear and to bring the juvenile
48 before the court.

49 The provisions of G.S. 15A-301(a), (c), (d), and (e) relating to criminal process apply to
50 juvenile process; provided the period of time for return of an unserved summons is 30 days."

51 **SECTION 4.(b)** G.S. 7B-2502 reads as rewritten:

1 **"§ 7B-2502. Evaluation and treatment of undisciplined and delinquent juveniles.**

2 (a) In any case, the court may order that the juvenile be examined by a physician,
3 psychiatrist, psychologist, or other qualified expert as may be needed for the court to determine
4 the needs of the juvenile. Upon the completion of the examination, the court may conduct a
5 hearing to determine whether the juvenile is in need of medical, surgical, psychiatric,
6 psychological, or other evaluation or treatment and the court may order the juvenile to comply
7 with any evaluation or treatment recommended by the examination.

8 (a1) In the case of a juvenile adjudicated delinquent for committing an offense that
9 involves the possession, use, sale, or delivery of alcohol or a controlled substance, the court shall
10 require the juvenile to be tested for the use of controlled substances or alcohol within 30 days of
11 the adjudication. In the case of any juvenile adjudicated delinquent, the court may, if it deems it
12 necessary, require the juvenile to be tested for the use of controlled substances or alcohol. The
13 results of these initial tests conducted pursuant to this subsection shall be used for evaluation and
14 treatment purposes only. In placing a juvenile in out-of-home care under this section, the court
15 shall also consider whether it is in the juvenile's best interest to remain in the juvenile's
16 community of residence.

17 (a2) In the case of a juvenile who has been identified with a suspected mental illness,
18 illness through the use of a validated screening instrument or other evidence presented to the
19 court, or a suspected developmental disability, disability or intellectual disability-disability, that
20 has been adjudicated delinquent, the court shall order that the Division of Juvenile Justice of the
21 Department of Public Safety make a referral for a comprehensive clinical assessment or
22 equivalent mental health assessment, unless the court finds a comprehensive clinical assessment
23 or equivalent mental health assessment has been conducted within the last ~~45-90~~ days before the
24 ~~adjudication-disposition~~ hearing. An assessment ordered by a court under this subsection shall
25 evaluate the developmental, emotional, behavioral, and mental health needs of the juvenile.

26 (a3) If an assessment is ordered by the court under subsection (a2) of this ~~section,~~ section
27 or if an assessment has been conducted within the last 90 days before the disposition hearing, the
28 court shall review the comprehensive clinical assessment or equivalent mental health assessment
29 prior to the ~~date of~~ disposition in the case. If the court finds sufficient evidence that the juvenile
30 has severe emotional disturbance, as defined in G.S. 7B-1501(24a), or a developmental
31 disability, as defined in G.S. 122C-3(12a), or intellectual disability, as defined in
32 G.S. 122C-3(17a), that, in the court's discretion, substantially contributed to the juvenile's
33 delinquent behavior, and the juvenile is eligible for a Juvenile Justice Level 3 disposition and/or
34 is recommended for a Psychiatric Residential Treatment Facility (PRTF) placement, the court
35 shall order a care review team to be convened by the Division of Juvenile Justice of the
36 Department of Public Safety and assigned to the case.

37"

38 **SECTION 4.(c)** G.S. 153A-218 reads as rewritten:

39 **"§ 153A-218. County confinement facilities.**

40 A county may establish, acquire, erect, repair, maintain, and operate local confinement
41 facilities and may for these purposes appropriate funds not otherwise limited as to use by law.
42 Subject to the holdover provisions in G.S. 7B-2204, no person under the age of 18 may be held
43 in a county confinement facility unless there is an agreement between the county confinement
44 facility and the Division of Juvenile Justice allowing the housing of persons under the age of 18
45 at the facility or a portion of the facility that has been approved as a juvenile detention facility by
46 the Division of Juvenile Justice. A juvenile detention facility may be located in the same facility
47 as a county jail provided that the juvenile detention facility meets the requirements of this Article
48 and ~~G.S. 147-33.40.~~ G.S. 143B-819."

49 **SECTION 4.(d)** G.S. 114-12.1 reads as rewritten:

50 **"§ 114-12.1. Minority sensitivity training for law enforcement personnel.**

1 (a) The Department of Justice shall develop guidelines for minority sensitivity training
2 for all law enforcement personnel throughout the State. The Department shall ensure that all
3 persons who work with minority juveniles in the juvenile justice system are taught how to
4 communicate effectively with minority juveniles and how to recognize and address the needs of
5 those juveniles. The Department shall also advise all law enforcement and professionals who
6 work within the juvenile justice system of ways to improve the treatment of minority juveniles
7 so that all juveniles receive equal treatment. Except where local law enforcement or the Division
8 of Juvenile Justice of the Department of Public Safety has existing minority sensitivity training
9 that meets the Department guidelines, the Department shall conduct the minority sensitivity
10 training annually. Prior to the training each year, the Department shall assess whether minorities
11 are receiving fair and equal treatment in the juvenile justice system with regard to the
12 administration of predisposition procedures, of diversion methods, of dispositional alternatives,
13 and of treatment and post-release supervision plans.

14 (b) The Division of Juvenile Justice of the Department of Public Safety shall ensure that
15 all juvenile court counselors and other Division personnel receive the minority sensitivity
16 training specified in subsection (a) of this section. The Division of Juvenile Justice of the
17 Department of Public Safety is responsible for creating, implementing, and evaluating juvenile
18 minority sensitivity and racial and ethnic disparities training annually."

19 **SECTION 4.(e)** G.S. 7B-2204 reads as rewritten:

20 "**§ 7B-2204. Right to pretrial release; detention.**

21 ...

22 (d) Should the juvenile be found guilty, or enter a plea of guilty or no contest to a criminal
23 offense in superior court and receive an active sentence, then immediate transfer to the Division
24 of Prisons of the Department of Adult Correction shall be ordered. Until such time as the juvenile
25 is transferred to the Division of Prisons of the Department of Adult Correction, the juvenile may
26 be detained in a holdover facility. ~~The juvenile may not be detained in a detention facility pending~~
27 ~~transfer to the Division of Prisons of the Department of Adult Correction, unless the facility or~~
28 ~~detention facility is operated by the sheriff pursuant to G.S. 7B-1905(b).~~ approved by the Division
29 of Juvenile Justice of the Department of Public Safety.

30"

31 **PART V. EFFECTIVE DATE**

32 **SECTION 5.** This act becomes effective December 1, 2023, and applies to offenses
33 committed on or after that date.
34