



**SENATE BILL 257:
Appropriations Act of 2017, Sec. 16D.4:
Juvenile Justice Reinvestment Act**

2017-2018 General Assembly

Committee:		Date:	September 13, 2017
Introduced by:		Prepared by:	Tawanda N. Foster Staff Attorney
Analysis of:	Sec. 16D.4 of S.L. 2017-57		

OVERVIEW: *Section 16D.4 of S.L. 2017-57 does the following:*

- 1) *raises the age of juvenile jurisdiction to include 16 and 17 year olds, except in the case of A-G felonies;*
- 2) *provides a victim an opportunity to request review of a decision not to file a juvenile petition;*
- 3) *increases the information available on juveniles to law enforcement and for court proceedings;*
- 4) *authorizes school-justice partnerships statewide to reduce school based referrals to the juvenile court system;*
- 5) *requires regular juvenile justice training for law enforcement officers;*
- 6) *provides for gang assessments and enhanced sentencing for offenses committed as part of criminal gang activity; and*
- 7) *establishes the Juvenile Jurisdiction Advisory Committee.*

This section has various effective dates. Please see the full summary for more detail.

CURRENT LAW & BILL ANALYSIS:

INCREASE THE AGE OF JUVENILE JURISDICTION, EXCEPT FOR CERTAIN FELONIES

Section 16D.4.(a) modifies the definition of delinquent juvenile to add juveniles ages 16-18 years old who commit a crime, infraction, indirect contempt, or violate State law, or local ordinances.

- Violations of motor vehicle law are excluded from juvenile jurisdiction for juveniles ages 16-18.
- Adds a definition for victim as it relates to crimes or violations committed by a juvenile.

Section 16D.4.(b) amends the current law to include original jurisdiction over juveniles under age 18 at the time of the alleged offense and provides jurisdictional limitations for 16 and 17 year olds. The specific limits are as follows:

- If the juvenile is less than 16 years old, the jurisdiction will continue until terminated by the court or the juvenile reaches age 18.
- If the juvenile is more than 16, but less than 17 years old, the jurisdiction will continue until terminated by the court or until the juvenile reaches age 19.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

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- If the juvenile is at least 17 years old, the jurisdiction will continue until terminated by the court or until the juvenile reaches age 20.
- When delinquency proceedings for a juvenile who was at least 16 years old when the alleged delinquent act occurred cannot be concluded prior to the juvenile reaching 18 years of age the court retains jurisdiction for the sole purposes of probable cause and transfer hearings, transferring the case to superior court for trial as an adult, or dismissing the petition.
- When delinquency proceedings for a juvenile who was 16-17 years old when the alleged delinquent act occurred cannot be concluded prior to the juvenile reaching 19 years of age the court retains jurisdiction for the sole purposes of probable cause and transfer hearings, transferring the case to superior court for trial as an adult, or dismissing the petition.
- When delinquency proceedings for a juvenile who was at least 17 years old when the alleged delinquent act occurred cannot be concluded prior to the juvenile reaching 20 years of age the court retains jurisdiction for the sole purposes of probable cause and transfer hearings, transferring the case to superior court for trial as an adult, or dismissing the petition.
- When a court has not obtained jurisdiction over a juvenile before he reaches the age of 18 for felony acts and related misdemeanors committed between the ages of 13-16, the court has jurisdiction for the sole purposes of probable cause and transfer hearings, transferring the case to superior court for trial as an adult, or dismissing the petition.
- When a court has not obtained jurisdiction over a juvenile before he reaches the age of 19 for felony acts and related misdemeanors committed between the ages of 16-17, the court has jurisdiction for the sole purposes of probable cause and transfer hearings, transferring the case to superior court for trial as an adult, or dismissing the petition.
- When a court has not obtained jurisdiction over a juvenile before he reaches the age of 20 for felony acts and related misdemeanors committed between the ages of 17-18, the court has jurisdiction for the sole purposes of probable cause and transfer hearings, transferring the case to superior court for trial as an adult, or dismissing the petition.
- The Court also has jurisdiction over the following:
 - Delinquent juveniles in the custody of the Division of Juvenile Justice of the Department of Public Safety and over proceedings to determine if a juvenile has violated the terms of post-release supervision.
 - Persons 18 years of age or older who are under extended jurisdiction of the court.
 - The parent, guardian, or custodian of a juvenile who is under the jurisdiction of the court.

Section 16D.4.(c) increases juvenile court jurisdiction to the date a juvenile reaches the age of 18 even if the juvenile is already under the jurisdiction of the juvenile court. Emancipated juveniles are prosecuted as adults for criminal offenses. Also provides a juvenile who (i) is transferred to and convicted in superior court or (ii) has previously been convicted as an adult shall be prosecuted as an adult for any criminal offense the juvenile commits after the district or superior court conviction.

Section 16D.4.(d) makes conforming changes to the conditions for transfer of jurisdiction of a juvenile between the ages of 13-16 who is alleged to have committed a felony.

Section 16D.4.(e) adds a new section to the law providing the conditions for transfer of jurisdiction of a juvenile at least 16 years of age.

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- Jurisdiction will automatically be transferred for juveniles at least 16 years of age who are alleged to have committed a Class A-Class G felony upon notice, hearing, and a finding of probable cause or an indictment being obtained by the District Attorney.
- Jurisdiction may be transferred for a juvenile 16 years or older who is alleged to have committed a Class H or Class I felony by motion of the prosecutor, motion of the juvenile's attorney, or motion of the court.

Section 16D.4.(f) makes conforming changes to the probable cause hearing requirements.

Section 16D.4.(g) makes conforming changes to the dispositional alternatives for delinquent juveniles to reflect the increased age of juvenile court jurisdiction.

Section 16D.4.(h) provides points for prior convictions in adult court when determining delinquency history levels.

Section 16D.4.(i) makes conforming changes to commitment terms of delinquent juveniles committed to the Division of Juvenile Justice.

Section 16D.4.(j) makes changes to the notice requirements for extended commitment or treatment plans.

Section 16D.4.(k) amends the law that requires a juvenile be considered for pretrial release and requires that any detention of a juvenile pending release must be conducted in accordance with the requirements of pretrial release or detention in current law.

Section 16D.4.(l) makes a conforming change to the current law requiring the juvenile court counselor to provide notice to the principal of the school the juvenile attends when the court transfers jurisdiction to superior court.

Section 16D.4.(m) makes a conforming change to the current law on contempt by a juvenile to include juveniles up to 18 years of age.

Section 16D.4.(n) makes a conforming change to the current law on criminal and civil contempt as it applies to minors.

Section 16D.4.(o) makes a conforming change to the current law requiring sex offender registration for juveniles convicted of a sexually violent offense or offense against a minor.

Section 16D.4.(p) makes a conforming change to the criminal offense of contributing to delinquency or neglect of a minor to apply to persons over age 18.

Section 16D.4.(q) makes a conforming change to the confidentiality requirements of juvenile court information when used by schools.

Section 16D.4.(r) amends the definition of delinquent juvenile in the current law governing the Division of Juvenile Justice to include juveniles under age 18.

Section 16D.4.(s) requires the Division of Juvenile Justice to provide transportation to and from any State or local juvenile facility for persons under the juvenile courts' jurisdiction.

VICTIM REQUEST/REVIEW OF DECISION NOT TO FILE A PETITION

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Section 16D.4.(t) requires juvenile court counselors notify the victim, if the complainant is not the victim, of a decision not to file a juvenile petition and clarifies the information that must be shared with the complainant and the victim.

Section 16D.4.(u) adds the victim, if the complainant is not the victim, to persons who can request review by the prosecutor of the juvenile court counselor's decision not to file a petition.

Section 16D.4.(v) provides for the prosecutor's review of a decision not to file a petition.

Section 16D.4.(w) requires the Division of Juvenile Justice to develop and administer a system to provide status information and results of pending juvenile complaints to complainants and victims.

INCREASE INFORMATION AVAILABLE ON JUVENILES TO LAW ENFORCEMENT AND FOR COURT PROCEEDINGS

Section 16D.4.(x) requires juvenile court counselors' records on juveniles include the juvenile's delinquency record and consultations with law enforcement that did not result in the filing of a complaint and to require juvenile court counselors to share their record with law enforcement officers investigating an incident that could result in the filing of a complaint.

Section 16D.4.(y) requires the Administrative Office of Courts (AOC) to expand access to the automated electronic information management system (JWise) to include access to juvenile delinquency information by prosecutors and attorneys representing juveniles.

Section 16D.4.(z) requires AOC to develop statewide inquiry access for JWise users with access to juvenile court records.

SCHOOL-JUSTICE PARTNERSHIPS TO REDUCE SCHOOL-BASED REFERRALS TO JUVENILE COURTS

Section 16D.4.(aa) amends the duties of the Director of AOC to include prescribing policies and procedures for chief district court judges to establish school-justice partnerships with the goal of reducing in-school arrests, out-of-school suspensions, and expulsions.

JUVENILE JUSTICE TRAINING FOR LAW ENFORCEMENT OFFICERS

Section 16D.4.(bb) requires the North Carolina Criminal Justice Education and Training Standards Commission to require all law enforcement officers receive education and training on juvenile justice issues as a minimum standard for entry level employment and in-service training.

Section 16D.4.(cc) requires under the North Carolina Sheriff's Education and Training Standards Commission to require all law enforcement officers receive education and training on juvenile justice issues as a minimum standard for entry level employment and in-service training.

Section 16D.4.(dd) requires the North Carolina Criminal Justice Education and Training Standards Commission, the North Carolina Sheriffs' Education and Training Standards Commission and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety work together to develop and implement the education and training required by this section.

JUVENILE GANG SUPPRESSION

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Section 16D.4.(ee) adds a requirement that the juvenile court counselor conduct a gang assessment when determining if a complaint should be filed as a petition.

Section 16D.4.(ff) requires the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to develop a gang assessment instrument to be used in Section 16D.4.(ee).

Section 16D.4.(gg) requires a juvenile to receive a disposition one level higher than would otherwise be provided for the class of offence and delinquency history level if the offense was committed as a part of criminal gang activities.

Section 16D.4.(hh) adds a new section to the current law to provide definitions related to criminal gangs, criminal gang activity, and criminal gang members.

Section 16D.4.(ii) requires the chief court counselor to include the results of the gang assessment in the juvenile court counselor's record.

ESTABLISH JUVENILE JURISDICTION ADVISORY COMMITTEE

Section 16D.4.(kk) establishes the Advisory Committee within the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The Division must provide clerical and professional staff, supplies, and meeting space.

Section 16D.4.(ll) provides there will be 21 members of the Committee and establishes the appointing authority for the members.

Section 16D.4.(mm) establishes the co-chairs will be designated by the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

Section 16D.4.(oo) states the Advisory Committee may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

Section 16D.4.(pp) provides the duties of the Advisory Committee. This section also requires the Committee to develop a specific plan for the implementation of any changes in the juvenile justice system that would be required in order to extend jurisdiction in delinquency matters and proceedings to include 16- and 17- year- old persons within the juvenile justice system.

Section 16D.4.(rr) provides the Advisory Committee must report as follows:

- Must submit an interim report by March 1, 2018 to the General Assembly with copies to the Joint Legislative Oversight Committee on Justice and Public Safety and to the Appropriations Committees on Justice and Public Safety of both houses.
- Additional interim reports must be submitted annually by January 15th of each year.
- The Committee must submit a final report by January 15, 2023 and must terminate on February 1, 2023 or upon the filing of its final report, whichever occurs earlier.

Section 16D.4.(ss) allows the Advisory Committee to apply for, receive, and accept grants of non-State funds or other contributions.

EFFECTIVE DATE:

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- Sections 16D.4.(a) through 16D.4.(s) of this act become effective December 1, 2019, and apply to offenses committed on or after that date.
- Sections 16D.4.(t) through 16D.4.(x) of this act become effective October 1, 2017, and Sections 16D.4.(t) through 16D.4.(w) apply to all complaints filed on or after that date.
- Except as otherwise provided in this act, the remainder of this act is effective when it becomes law.
- Prosecutions or delinquency proceedings initiated for offenses committed before any particular section of this section becomes effective are not abated or affected by this act, and the statutes that are in effect on the dates the offenses are committed remain applicable to those prosecutions.