



HOUSE BILL 593: JCPC/Detention/CAA and Other Fees.

2019-2020 General Assembly

Committee:
Introduced by:
Analysis of: S.L. 2020-83

Date: November 5, 2020
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OVERVIEW: *S.L. 2020-83 does the following:*

- *Makes certain modifications to current law related to Juvenile Crime Prevention Councils.*
- *Clarifies that persons under 18 held in custody must be held in a juvenile detention facility.*
- *Makes conforming changes to current law related to inmates held in the Statewide Misdemeanant Confinement Program and transferred for medical treatment.*
- *Increases the Criminal Court Appointed Counsel Fee.*
- *Increases court costs to support Indigent Defense Services and the Criminal Justice Education and Training Standards Commission.*
- *Modifies deadlines related to the payment of radiological emergency planning fee.*
- *Creates an opportunity for an individual notified to register as a sex offender, to petition a court to review the registration requirement.*
- *Provides additional direction to municipalities and counties regarding the publication of declaration information.*

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

BILL ANALYSIS:

PART I. JUVENILE CRIME PREVENTION COUNCILS.

CURRENT LAW: Part 3 of Article 13 of Chapter 143B of the General Statutes governs the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. Subpart F of this Part creates and governs Juvenile Crime Prevention Councils. The Councils were developed to provide community-based alternatives to youth development centers and to provide community-based delinquency, substance abuse, and gang prevention strategies and programs.

ANALYSIS:

Section 1 makes clarifying changes by substituting "intensive intervention services" for "community programs and multiple purpose group homes." This section also defines intensive intervention services as evidence-based or research-supported community-based or residential services that are necessary for a juvenile to:

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- 1) Prevent the juvenile's commitment to a youth development center or detention facility, or
- 2) Facilitate the juvenile's successful return to the community following commitment.

Section 2 makes technical changes and substitutes a director of the area Local Management Entity/Managed Care Organization (LME/MCO) in place of the director of the area mental health, developmental disabilities, and substance abuse authority as a member of the Council. This section also changes the membership requirement of two people under the age of 18 years, one of whom is a member of the State Youth Council to two persons under the age of 21, or one person under the age of 21 and one member of the public representing the interests of families of at-risk juveniles.

Section 3 modifies the meeting requirement for Councils from bimonthly to six times per year.

Section 4 modifies the annual review conducted by the Council of the needs of juveniles in the county who are at risk of delinquency or who have been adjudicated undisciplined or delinquent and the resources available to address their needs to make it a biennial review. This section also makes a clarifying change to provide Councils may examine joint program development with other counties and judicial districts.

Section 5 recodifies G.S. 143B-1104 as G.S. 143B-853 and requires the Division of Adult Correction and Juvenile Justice rather than the Division of Administration, to develop and implement a funding mechanism for programs that meet the standards developed under Juvenile Crime Prevention Councils. This section also adds to the requirements that the guidelines allow for a two-year funding cycle for programs that meet the requirements of the statute and have been awarded funds in a prior funding cycle, in the discretion of the Division of Adult Correction and Juvenile Justice. This section also makes other technical and conforming changes.

Section 6 provides in the 2019-2021 fiscal biennium funds appropriated to DPS, Division of Adult Correction and Juvenile Justice that are provided to Juvenile Crime Prevention Councils are to be used for alternatives to commitment and Level 2 dispositional alternatives. The funds are to be known as funds for intensive intervention services to be used for the purpose of providing intensive intervention services for juveniles of any disposition level, based on the needs of the juvenile. This section also requires the Division to identify and select the most effective evidence-based or research-supported methods of meeting the needs of juveniles serviced. The Division will determine the number and amount of the awards provided.

Section 7 makes Sections 1, 2, 3, and 4 of this act become effective December 1, 2020. Sections 5, 6, and 7 of this act became effective July 1, 2020.

PART II. DETENTION FOR PERSONS UNDER AGE 18

CURRENT LAW: The Juvenile Justice Reinvestment Act, also known as the "Raise the Age" legislation, was included in The Appropriations Act of 2017 (S.L. 2017-57, Section 16D.4). This legislation made changes to certain juvenile delinquency and juvenile justice statutes to accomplish the following:

- 1) raise the age of juvenile jurisdiction to include 16 and 17-year olds, except in the case of A-G felonies;
- 2) provide a victim an opportunity to request review of a decision not to file a juvenile petition;
- 3) increase the information available on juveniles to law enforcement and for court proceedings;
- 4) authorize school-justice partnerships statewide to reduce school-based referrals to the juvenile court system;

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- 5) require regular juvenile justice training for law enforcement officers;
- 6) provide for gang assessments and enhanced sentencing for offenses committed as part of criminal gang activity; and
- 7) establish the Juvenile Jurisdiction Advisory Committee.

The changes in the law that raise the age of juvenile jurisdiction become effective on December 1, 2019.

[Session Law 2019-186](#), Raise the Age Modifications and [Session Law 2019-229](#), Raise the Age Funding were enacted to implement and provide resources for the changes in juvenile jurisdiction.

Sections 8 makes changes to current law to clarify when a person under age 18 is held in custody, they must be held in an approved juvenile detention facility and transported by personnel approved by the Juvenile Justice Section. Once the person in custody reaches age 18, they will be transferred to the custody of the sheriff of the applicable local confinement facility. This section became effective August 1, 2020, and applies to offenses committed and adjudications issued on or after that date.

PART III. STATEWIDE MISDEMEANANT CONFINEMENT PROGRAM TRANSFERS FOR MEDICAL TREATMENT.

Section 9 clarifies medical treatment and medical billing for inmates housed through the Statewide Misdemeanant Confinement Program who are transferred for medical treatment will operate in the same way as medical treatment and medical billing provided in current law for safekeepers. This section became effective July 1, 2020, and applies to all prisoners transferred on or after that date. The remainder of this act is effective when it becomes law.

PART IV. INCREASING CRIMINAL COURT APPOINTED COUNSEL FEE AND COURT COSTS FOR SUPPORT OF INDIGENT DEFENSE SERVICES AND CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION.

Section 10.1 increases court appointed attorney fees in criminal cases and increases court costs to support Indigent Defense Services and the Criminal Justice Education and Training Standards Commission. Subsections (a) and (b) of this section become effective December 1, 2020, and apply to costs assessed on or after that date. Subsection (c) of this section becomes effective December 1, 2020, and applies to all appointed counsel fee application forms submitted on or after that date. The remainder of this section is effective when it becomes law.

PART V. RADIOLOGICAL EMERGENCY PLANNING

Section 11.1 modifies deadlines related to the payment of radiological emergency planning fee. This section became effective July 1, 2020, and applies to fees assessed on or after that date.

PART VI. SEX OFFENDER REGISTRY REQUIREMENT REVIEW

BACKGROUND: May 12, 2020, a federal court judge ordered that certain registered sex offenders be removed from the North Carolina Sex Offender Registry. The court found that the process to determine whether an out-of-state conviction was substantially similar to a conviction which would result in sex offender registration in North Carolina, is a question of law. Currently, the law does not require a judicial determination and does not provide an opportunity to appeal.

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ANALYSIS:

Section 11.5 allows for an individual notified to register as a sex offender, to petition a court to review the registration requirement.

Section 11.5.(a) requires personal service or service in a manner the person has consented to, for the initial notification. This section also schedules the petition to be calendared, rather than heard, at the next regularly scheduled term of court and provides that the petitioner would be advised of the right to counsel at the first setting.

Section 11.5.(c) requires the District Attorney to decide whether to handle each case subject to the court order or have the Attorney General handle each case. If requested by the District Attorney, the Attorney General must take over the case. This section also allows the DA or AG in charge of the case to make a preliminary determination and choose to seek judicial review.

Section 11.8 repeals a technical amendment in House Bill 635 in the event the House concurred on this bill. This language repeals that and makes the desired change in this bill.

This section became effective August 1, 2020, and applies to any individual on the sex offender registry as a result of an out-of-state conviction as provided in G.S. 14-208.6(4)(b) or a federal conviction as provided in G.S. 14-208.6(4)(c), on or after that date.

PART VII. DECLARATION PUBLICATION.

Section 11.7 requires municipalities and counties to publish signed declarations on the municipality or county Web site and notify Emergency Management through the State's crisis management software.

EFFECTIVE DATE: Except as otherwise provided, this act is effective when it becomes law.