



SENATE BILL 207: Various Raise the Age Changes/JJAC Recs.

2021-2022 General Assembly

Committee:	House Judiciary 1. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	June 30, 2021
Introduced by:	Sens. Britt, Daniel, Mohammed	Prepared by:	Brad Krehely
Analysis of:	PCS to Second Edition S207-CSR-N-21		Committee Co-Counsel

OVERVIEW: *Senate Bill 207 modifies certain provisions of the Juvenile Justice Reinvestment Act, as recommended by the Juvenile Justice Advisory Committee. The Proposed Committee Substitute (PCS) raises the minimum age of a delinquent juvenile and an undisciplined juvenile from age 6 to age 10 by rewriting Part V and addresses juvenile court mental health assessments in Part VI. The PCS also makes technical, clarifying, and conforming changes.*

[As introduced, this bill was identical to H252, as introduced by Reps. McNeill, C. Smith, Richardson, Greene, which is currently in House Judiciary 2.]

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;
- 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 Juvenile Jurisdiction Advisory Committee is tasked with developing a specific plan for the implementation of the changes in the juvenile justice system and submitting reports with updates on the planning steps completed towards implementation, including legislative, administrative, and funding recommendations, annually until 2023, or upon the filing of its final report.

BILL ANALYSIS:

Sections 1(a) through 1(e) makes clarifying and conforming changes to the maximum commitment terms in youth development centers for offenses juveniles committed while they were 16 years or 17 years of age.

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Section 1(f) clarifies the court retains jurisdiction to modify any order or disposition made in the case once a juvenile is found delinquent until the juvenile reaches the maximum term of commitment based on the age of the juvenile at the time of the offense or jurisdiction is terminated by order of the court.

Section 2 allows a juvenile who has received an active sentence to be detained in a holdover or detention facility approved by the Juvenile Justice Section until the juvenile can be transferred to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

Section 3 allows the superior court to issue a secure custody order when a juvenile matter that has been transferred to superior court is remanded to district court. This section also requires a hearing to determine the need for continued secure custody must be held no more than 10 calendar days following the issuance of a secure custody order on remand of the matter from superior court. This hearing may not be continued or waived. The district court has authority to modify any secure custody order following the issuance of that order by the superior court.

Section 4 permits a prosecutor to decline to prosecute in superior court a matter that would otherwise be subject to mandatory transfer if the juvenile allegedly committed an offense that would be a Class D, E, F, or G felony if committed by an adult.

Section 5.(a) and Section 5.(b) create definitions for "child consultation" and "consultation complaint" and raise the minimum age of a delinquent juvenile and an undisciplined juvenile from age 6 to age 10.

Section 6 removes references to being 10 years of age or older for fingerprinting and photographing of juveniles under G.S. 7B-2102.

Section 7 removes the reference to being at least 10 years of age for commitment under G.S. 7B-2513(a).

Section 8.(a) creates a new section G.S. 7B-308.1 under Article 3 of Chapter 7B of the General Statutes requiring a juvenile court counselor to report to the director of social services the suspected abuse, neglect or dependency of a child under the age of 10 receiving child consultation services.

Section 8.(b) directs a juvenile court counselor to determine when a complaint is received whether the juvenile is under age 10, and therefore must be served as child consultation.

Section 8.(c) makes conforming changes to the evaluation decisions of juvenile court counselors and requires a juvenile court counselor to obtain referral information if proceeding to a child consultation.

Section 8.(d) adds a new section G.S. 7B-1706.1 under Article 17 of Chapter 7B of the General Statutes on child consultation services for children age 6 but under age 10. A juvenile court counselor must provide various assessments and resources to the child and the parent, legal guardian, or custodian, for up to 6 months.

Section 8.(e) clarifies the requirements for service of the summons and petition under G.S. 7B-1806 are triggered when a petition is filed alleging a juvenile is undisciplined or delinquent.

Section 8.(f) creates a new Article 34A under Chapter 7B of the General Statutes to do the following regarding the parent, guardian, or custodian of a child under age 10 who is receiving child consultation services:

- Require attendance at all scheduled meetings with the juvenile court counselor.
- Require attendance at parental responsibility classes.
- Work with juvenile court counselor to coordinate medical services for the child receiving child consultation services or for the parent, guardian, or custodian.

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It directs the juvenile court counselor to provide transportation to the extent possible. It also instructs the juvenile court counselor to work collaboratively with the various stakeholders involved with the child and family in the provision of child consultation services.

It provides that if a parent, guardian, or custodian of a child refuses to follow recommendations of the Child and Family Team and this refusal puts the child at risk for abuse, neglect, or dependency, the juvenile court counselor must report to DSS who must file an abuse, neglect, and dependency petition.

Section 8.(g) makes a conforming change to the duties and powers of the Juvenile Justice Section of the Division of Adult Correction (JJSDAC) and Juvenile Justice of the Department of Public Safety (JJDPs).

Section 8.(h) directs the Department of Public Safety to evaluate intensive intervention services intended to prevent further involvement in the juvenile justice system.

Section 8.(i) requires juvenile court counselors to provide and coordinate service referrals for children under the age of 10 who receive child consultation services. It also requires reporting of suspected abuse or neglect of a juvenile to the director of social services under the appropriate statute.

Section 8.(j) directs each County Council to review the needs of children under the age of 10 and children at risk of delinquency, and to provide funds for children at risk for juvenile delinquency.

Section 8.(k) adds intensive intervention services to prevent deeper involvement in the juvenile justice system to the reporting requirement of JJSDAC and JJDPs.

Section 8.(l) makes clarifying and conforming changes to G.S. 7B-3100 regarding when agencies must share information about juveniles and children with one another.

Section 9.(a) defines "severe emotional disturbance" in G.S. 7B-1501 as "[a] diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within DSM 5 that resulted in functional impairment which substantially interferes with or limits the child's role or functioning in family, school, or community activities in a person who is under the age of 18."

Section 9.(b) removes the existing provisions of G.S. 7B-2502(c) related to juveniles suspected of having a mental illness or developmental disability, and instead codifies new requirements for addressing such juveniles. For juveniles with a suspected mental illness, developmental disability, or intellectual disability, the court must order that the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety make a referral for a comprehensive clinical assessment or other equivalent mental health assessment, unless a comprehensive clinical assessment or other equivalent mental health assessment was conducted within the last 45 days before the adjudication hearing. The assessment is required to evaluate the developmental, emotional, behavioral, and mental health needs of the juvenile.

If such an assessment is ordered after a juvenile has been adjudicated delinquent, the court must review the assessment before disposition of the case. A care review team made up of various stakeholders must be convened for the juvenile if the court finds that any of the following substantially contributed to the juvenile's delinquent behavior and the juvenile is eligible for a Juvenile Justice Level 3 disposition and/or is recommended for a Psychiatric Residential Treatment Facility (PRTF) placement: (1) severe emotional disturbance; (2) developmental disability; or (3) intellectual disability.

If ordered by the court, a care review team must develop and submit to the court within 30 days a recommendation plan for appropriate services and resources that address the needs of the juvenile. The court must review the recommendation plan when determining the juvenile's disposition.

If the juvenile does not have health insurance for the recommended treatment, the court must conduct a hearing to determine who should pay the cost of the assessment, evaluation, or treatment. If the court finds

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that neither parent nor funding from the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety is unable to pay the cost of evaluation or treatment, the court must order the county to arrange for evaluation or treatment of the juvenile and pay the remaining cost.

A juvenile must not be committed directly to a State hospital or State developmental center, and orders purporting to do this are void except for examinations to determine capacity to proceed.

Section 9 becomes effective December 1, 2021, and applies to petitions filed on or after that date.

EFFECTIVE DATE: Except as otherwise provided, this act becomes effective December 1, 2021, and applies to offenses committed on or after that date.

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