



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

2021-2022 General Assembly

Committee:		Date:	February 25, 2022
Introduced by:		Prepared by:	Susan Sitze
Analysis of:	S.L. 2021-123		Staff Attorney

OVERVIEW: *S.L. 2021-123 modifies certain provisions of the Juvenile Justice Reinvestment Act, as recommended by the Juvenile Justice Advisory Committee, modifies the minimum age of a delinquent juvenile and an undisciplined juvenile, creates a definition of "vulnerable juvenile," and modifies the law dealing with juvenile court mental health assessments. Please see the full summary for details of these modifications.*

This act became effective December 1, 2021, and generally applies to offenses committed on or after that date, except that the provisions regarding mental health assessments apply to petitions filed on or after that date.

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) make 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.

Jeffrey Hudson
Director



Legislative Analysis
Division
919-733-2578

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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) modifies the definition of neglected juvenile to include a juvenile whose parent, guardian, or custodian has refused to follow the recommendations of the Juvenile and Family Team made pursuant to Article 27A of Chapter 7B enacted in Section 5.(e) of this act.

Section 5.(b) makes the following modifications to definitions applicable to the statutes governing delinquent and undisciplined juveniles:

- Defines "juvenile consultation" as the provision of services to a vulnerable juvenile.
- Defines a "vulnerable juvenile" as a juvenile less than 10 but at least 6 who commits a crime or infraction, but does not meet the definition of "delinquent juvenile."
- Raises the minimum age for an undisciplined juvenile to age 10.
- Modifies the definition of "delinquent juvenile" to include the following:
 - A juvenile less than 16 but at least 10 who commits any crime or infraction, including motor vehicle offenses.
 - A juvenile less than 18 but at least 16 who commits any crime or infraction, excluding motor vehicle offenses.
 - A juvenile less than 10 but at least 8 who commits a Class A, B1, B2, C, D, E, F, or G felony.
 - A juvenile less than 10 but at least 8 who commits any crime or infraction, including motor vehicle offenses, and has been previously adjudicated delinquent.

Section 5.(c) makes conforming changes to the evaluation decisions of juvenile court counselors and how complaints against delinquent and vulnerable juveniles are handled. This section also adds a new G.S. 7B-1706.1 directing juvenile consultation services for vulnerable juveniles to be provided for up to 6 months, with a possible extension of 3 months.

Section 5.(d) makes a conforming change to the statute governing fingerprints of juveniles.

Section 5.(e) creates a new Article 27A under Chapter 7B of the General Statutes to do the following regarding the parent, guardian, or custodian of vulnerable juvenile who is receiving juvenile consultation services:

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- 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 vulnerable juvenile receiving juvenile consultation services or for the parent, guardian, or custodian.

The act 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 juvenile and family in the provision of juvenile consultation services.

The act provides that if a parent, guardian, or custodian of a juvenile refuses to follow recommendations of the Juvenile and Family Team and this refusal puts the juvenile 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 5.(f) makes clarifying and conforming changes to G.S. 7B-3100 regarding when agencies must share information about juveniles with one another.

Sections 6.(a) through 6.(e) make conforming changes 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) and directs the Department of Public Safety to evaluate intensive intervention services intended to prevent further involvement in the juvenile justice system.

Section 7 requires JJSDAC to report annually on all complaints filed against juveniles less than 10 but at least 6 including the number of complaints, types of offenses, and number of juveniles with multiple complaints or who receive juvenile consultation services for more than one complaint.

Section 8.(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 8.(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 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 able 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 8 became effective December 1, 2021, and applies to petitions filed on or after that date.

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

Jessica Boney, Brian Gwyn, and Brad Krehely, Staff Attorneys, contributed substantially to this summary.