



HOUSE BILL 834: Juv Justice Modifications.

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2023-2024 General Assembly

Committee:	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	May 14, 2024
Introduced by:	Reps. Davis, N. Jackson	Prepared by:	Robert Ryan
Analysis of:	PCS to Second Edition H834-CSCE-39		Committee Co-Counsel

OVERVIEW: *The Proposed Committee Substitute (PCS) to House Bill 834 makes several modifications to the laws related to juvenile justice, including the following:*

- *Certain offenses committed by individuals who are age 16 and 17 years old are expressly excluded from the definition of "delinquent juvenile" so that those offenses would not be subject to the jurisdiction of juvenile court.*
- *The laws related to transferring a case from juvenile court to superior court are modified to state that juvenile court is divested of jurisdiction and superior court gains exclusive jurisdiction upon the return of an indictment.*
- *A new statute is created which provides that once a true bill of indictment against a juvenile has been returned for an indictable offense the superior court shall issue an order for arrest that requires the juvenile to appear before superior court.*

CURRENT LAW AND BILL ANALYSIS:

Delinquent juveniles between the ages of 10 and 18 who commit an act that would be a criminal offense if committed by an adult are not charged with a crime in criminal court, but rather are alleged to have committed a delinquent act and a petition is filed against the juvenile in juvenile court.

However, certain cases may or must be transferred to superior court so that the delinquent juvenile can be tried as an adult. The type of case that may or must be transferred will depend on the age of the delinquent juvenile.

For juveniles who are age 16 and 17 years old, the following laws apply for cases to be transferred to superior court for the juvenile to be tried as an adult:

- If the juvenile commits a Class A through G felony, the case must be transferred after either a bill of indictment has been filed or probable cause has been found after a hearing. G.S. 7B-2200.5(a). However, a prosecutor may decline to transfer a class D through G felony to superior court and keep such a case in juvenile court. G.S. 7B-2200.5(a1).
- If the juvenile has already been transferred to and convicted in superior court, then in all subsequent cases the juvenile will be prosecuted as an adult. G.S. 7B-1604.
- If the juvenile commits a Class H or I felony, transfer is in the discretion of the court. G.S. 7B-2200.5(b).

Jeffrey Hudson
Director



Legislative Analysis
Division
919-733-2578

House 834 PCS

Page 2

If a juvenile is less than 16 years of age and commits a Class A felony, transfer to superior court for trial as an adult is mandatory upon a finding of probable cause or upon the return of a true bill of indictment. G.S. 7B-2200.

Section 1 of the PCS changes the definition of "delinquent juvenile" related to juveniles who are age 16 and 17 years old to exclude certain listed offenses from that definition. As a result, if a juvenile is charged with one of the following listed offenses the juvenile would not be subject to the jurisdiction of juvenile court, but would rather be tried as an adult:

- G.S. 14-17, First degree murder.
- G.S. 14-32(a), Assault with a deadly weapon with intent to kill or inflict serious injury.
- G.S. 14-87, Robbery with a firearm or dangerous weapon.
- G.S. 14-34.1, Discharging certain barreled weapons or a firearm into occupied property.
- G.S. 14-32(b), Assault with a deadly weapon inflicting serious injury.
- G.S. 14-32(c), Assault with a deadly weapon with intent to kill.
- G.S. 14-34.5, Assault with a firearm on a law enforcement officer.

Section 2 modifies G.S. 7B-1601, Jurisdiction over delinquent juveniles, to provide that juvenile court and district court are divested of jurisdiction in any matters upon the return of a true bill of indictment.

Section 3 modifies G.S. 7B-1704, Request for review by prosecutor, to allow a complaint and victim ten business days, instead of five calendar days, to request a review of the decision to not file a petition against a juvenile.

Section 4 modifies G.S. 7B-1906(b), Secure or nonsecure custody hearings, to provide that "upon the request of a juvenile" further hearings regarding secure custody must be held no more often than every ten calendar days.

Sections 5 and 6 make conforming changes to G.S. 7B-2200 and G.S. 7B-2200.5 regarding transfer of jurisdiction from juvenile court to superior court to reflect the changes made in section 2 of this PCS regarding superior court gaining exclusive jurisdiction upon the return of an indictment.

Section 7 makes conforming changes to reflect the new order for arrest established by section 16 of this PCS.

Section 8 would modify G.S. 7B-2202, which governs probable cause hearings. Under current law, a probable cause hearing must be held for Class A through G felonies committed by 16- and 17-year-olds within 90 days of the juveniles first appearance, unless the case is indicted. A probable cause hearing must be held withing 15 days of the juvenile's first appears for Class H and I felonies committed by juveniles 16 and 17 years of age and all felonies committed by juveniles over 13 years of age. Section 8 could change this 15-day period to a 90-day period.

Sections 9 through 11 make conforming changes.

Section 12 makes a modification to G.S. 7B-2506, Dispositional alternatives for delinquent juveniles. G.S. 7B-2506(4) provides that a court can require a juvenile who has been adjudicated delinquent to pay restitution up to \$500 as part of the disposition of the case. Section 12 would eliminate the \$500 cap.

Section 13 modifies G.S. 7B-2603 to provide that a case that is transferred to superior court from juvenile court as part of the operation of law because of the return of a true bill of indictment is not subject to a review as a transfer decision.

House 834 PCS

Page 3

Section 14 modifies G.S. 7B-3101, Notification of schools when juveniles are alleged or found to be delinquent, to require a juvenile court counselor to notify the juvenile's school only if the juvenile committed what would be a Class A through G felony, and not a Class H or I felony, if committed by an adult. The PCS also requires the school principal to make an individualized decision about the status of the student and not have an automatic suspension policy.

Section 15 makes conforming changes to reflect the changes made by Section 16 of the PCS.

Section 16 creates a new statute: G.S. 15A-305.1, Order for arrest of an indicted juvenile and pretrial release. This new statute provides that once a true bill of indictment against a juvenile has been returned for an indictable offense the superior court shall issue an order for arrest that requires the juvenile to appear before a superior court.

EFFECTIVE DATE: Section 10 becomes effective January 1, 2025 and applies to offenses committed on or after that date. The remainder of the act becomes effective December 1, 2024, and applies to offenses committed on or after that date.