



# HOUSE BILL 834: Juvenile Justice Modifications.

2023-2024 General Assembly

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<b>Committee:</b>		<b>Date:</b>	August 23, 2024
<b>Introduced by:</b>		<b>Prepared by:</b>	Robert Ryan
<b>Analysis of:</b>	S.L. 2024-17		Staff Attorney

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**OVERVIEW:** *S.L. 2024-17 does the following:*

- *Modifies the definition of "delinquent juvenile" related to juveniles who are 16 and 17 years old to exclude any offense punishable as a Class A, B1, B2, C, D, or E felony if committed by an adult.*
- *Modifies the transfer process for juvenile cases from juvenile to superior court by creating a new indictment return appearance.*
- *Modifies certain laws to create a new process for removal of a case from superior court to juvenile court.*
- *Modifies the laws regarding notification of a delinquent juvenile's school and how the school can use that information.*
- *Changes the timing requirement for subsequent secured custody hearings for juveniles.*
- *Makes technical changes and a modification to certain dispositional alternatives.*
- *Increases the punishment for an adult who solicits a minor to commit a crime.*
- *Modifies the number of days the complainant and the victim have to request a review by the prosecutor of the juvenile court counselor's decision not to approve the filing of a petition.*

*This bill was vetoed by the Governor on June 14, 2024, and that veto was overridden by the General Assembly on June 27, 2024. This act has various effective dates. Please see the full summary for more detail.*

## **CURRENT LAW AND BILL ANALYSIS:**

### MODIFY DEFINITION OF DELINQUENT JUVENILE

Under current law, 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 can or must be transferred to superior court so that the delinquent juvenile can be tried as an adult. The type of case that can or must be transferred will depend on the age of the delinquent juvenile.

For juveniles who are 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:

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- If the juvenile commits a Class A through G felony, the case must be transferred after either notice of a true bill of indictment has been provided or probable cause has been found after a hearing. G.S. 7B-2200.5(a). However, a prosecutor can 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).

If a juvenile is 13, 14, or 15 years old 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 notice of return of a true bill of indictment. G.S. 7B-2200.

The act changes the definition of "delinquent juvenile" related to juveniles who are age 16 and 17 years old to exclude any offense punishable as a Class A, B1, B2, C, D, or E felony if committed by an adult, together with any related offense, from that definition. As a result, if a juvenile is charged with one of these offenses the juvenile will not be subject to the jurisdiction of juvenile court.

## MODIFY THE TRANSFER PROCESS FOR INDICTED JUVENILE CASES

The act modifies certain laws in Chapter 7B of the General Statutes to clarify the procedure for the transfer process for cases in juvenile court to superior court.

Specifically, Section 2.(f) creates a new statute: G.S. 7B-2202.5, Indictment Return Appearance. This statute provides that the prosecutor must immediately notify the juvenile court if a true bill of indictment is returned for an offense that would be eligible for mandatory transfer to superior court. Such an offense would be a Class A felony committed by a juvenile who was 13, 14, or 15 years old, or a Class F or G felony committed by a juvenile who was 16 or 17 years old. (Because of the change to the definition of delinquent juvenile Class A through E felonies will no longer be in the jurisdiction of juvenile court and will not be subject to this transfer mechanism.) Once a court receives this notification the court must calendar the matter for an appearance within 5 business days. At this appearance, it is expressly stated that the juvenile court must only determine if notice of a true bill of indictment was provided. If the court determines that such notice was provided the court must: (i) transfer jurisdiction to superior court, and (ii) determine conditions of pretrial release. Section 2.(c) modifies G.S. 7B-2200, Transfer of jurisdiction of a juvenile under the age of 16 to superior court, to create a new procedure for remanding, or returning, a case back to juvenile court once a case has been sent to superior court from juvenile court and when the juvenile was 13, 14, or 15 years old. This transfer is mandatory upon joint motion of the prosecutor and the defense attorney, and the superior court must also expunge the superior court record. Section 2.(e) modifies G.S. 7B-2202, Probable cause hearing, to provide that the timeline for a probable cause hearing will be 90 days from a juvenile's first appearance in all cases where transfer by indictment is authorized. Section 2.(g) modifies G.S. 7B-2603, Right to appeal transfer decision, to remove the ability to appeal a mandatory transfer order. The remaining sections make conforming changes.

## CREATE NEW PROCESS TO REMOVE CASE TO JUVENILE COURT

The act modifies certain laws to create a new process for removal of a case from superior court to juvenile court. Section 3.(b) creates a new procedure where Class A through E felonies, committed by a juvenile who was 16 or 17 years of age, which are in superior court can be returned to juvenile court upon the motion of both parties. Specifically, at any time before a jury is empaneled, upon joint motion of the prosecutor and the defendant's attorney, the superior court must order the removal of the action to juvenile court. The superior court must also expunge the criminal charges and court record at the time of the

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removal. The remaining sections make conforming changes. (Please also see above explanation of section 2.(c) which created a similar removal procedure for a juvenile 13, 14, or 15 years old.)

## CHANGES TO SCHOOL USE OF INFORMATION

The act 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 E felony, if committed by an adult. The statute is also modified to require the school principal to make an individualized decision about the status of the student and not have an automatic suspension policy.

## SECURE CUSTODY HEARING CHANGES

The act modifies G.S. 7B-1906(b) to change the timing requirement for subsequent secured custody hearings for juveniles. Currently, hearings regarding continued secure custody for juveniles must be held every 10 days. The act changes this requirement to a period of every 30 days, but any party can request an earlier hearing date and the court is required to provide a hearing date within 10 days of such a request.

## TECHNICAL CORRECTIONS

The act makes technical corrections to various laws related to juvenile justice. Some of these sections have a January 1, 2025, effective date to line up with the effective dates of the statutes being modified.

## CHANGES TO CERTAIN DISPOSITIONAL ALTERNATIVES

The act makes a modification to G.S. 7B-2506(4) and G.S. 7B-2506(22), Dispositional alternative for delinquent juveniles, which provide that a court can order restitution as an alternative disposition for a juvenile who has been adjudicated delinquent. These provisions are modified to provide that restitution ordered under a theory of joint and several liability is in the discretion of the court, rather than being mandatory as under current law.

## INCREASE PUNISHMENT FOR CERTAIN CRIMES

G.S. 14-2.6, Punishment for solicitation to commit a felony or misdemeanor, provides that if a person solicits another person to commit a crime, the person who solicited the crime must be punished as follows:

- Solicits a Class A or Class B1 felony → punished as a Class C felony.
- Solicits a Class B2 felony → punished as a Class D felony.
- Solicits a Class H felony → punished as a Class 1 misdemeanor.
- Solicits a Class I felony → punished as a Class 2 misdemeanor.
- Solicits any other Class felony → punished as a felony two classes lower.
- Solicits a misdemeanor → punished as a Class 3 misdemeanor.

The act modifies G.S. 14-2.6 to maintain the existing punishment for solicitation as outlined above, except that if an adult solicited a minor to commit any crime, the adult is guilty of the same class felony or misdemeanor the adult solicited the minor to commit.

## MODIFY NUMBER OF DAYS FOR REQUEST FOR REVIEW BY A PROSECUTOR

The act modifies G.S. 7B-1704, Request for review by prosecutor, to allow the complainant and the victim 10 working days, instead of 5 calendar days, to request a review by the prosecutor of the juvenile court counselor's decision not to approve the filing of a petition.

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**EFFECTIVE DATE:** This bill was vetoed by the Governor on June 14, 2024, and that veto was overridden by the General Assembly on June 27, 2024. Except as otherwise provided, the act becomes effective December 1, 2024, and applies to offenses committed on or after that date.