



SENATE BILL 303: Strengthen Juvenile Laws.

2023-2024 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	April 5, 2023
Introduced by:	Sens. Britt, Sanderson, McInnis	Prepared by:	Robert Ryan
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: *Senate Bill 303 would make the following changes to the juvenile justice system:*

- *Class A through G felonies committed by juveniles who are 16 or older, and Class A felonies committed by juveniles who are under 16, would be transferred to superior court for trial as an adult upon the filing of an indictment.*
- *Certain identifying information about juveniles could be released to the public if a court issues an order authorizing the release of the information, or exigent circumstances exist.*
- *The law related to custodial interrogation of juveniles who are 16 or older would be amended to authorize statements made in the presence of a "caretaker" and not just a parent, guardian, or custodian.*

CURRENT LAW AND BILL ANALYSIS:

Section 1.(a)

Delinquent juveniles between the ages of 10 and 18 who commit an act which 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 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 returned 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).

The bill would modify G.S. 7B-2200.5, to mandate the transfer of a Class A through G felony to superior court for the juvenile to be tried as an adult upon the return of a true bill of indictment.

Section 1.(b)

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Senate Bill 303

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. G.S. 7B-2200.

The bill would modify G.S. 7B-2200 to mandate the transfer of a Class A felony to superior court for a juvenile less than 16 years of age upon the return of a true bill of indictment.

Section 1.(c).

Section 1.(c) makes conforming changes.

Section 2.(a)

Information gathered about juveniles is protected and law enforcement agencies are prohibited from the public disclosure of that information. G.S. 7B-2102 and G.S. 7B-3100.

The bill would create a new law, G.S. 7B-3103, which would allow the release of certain information about a juvenile, including the juvenile's name and photograph, if a court authorized the release of the information. A court would need to find all of the following in order to authorize the release of the juvenile's information:

- A petition has been filed alleging an offense that would subject the juvenile to prosecution as an adult.
- The court determines that the juvenile presents a danger.
- The court determines that good cause exists for the disclosure.

There is also a provision that would allow for a law enforcement agency to release the juvenile's information without a court order in exigent circumstances, but the law enforcement agency would then need to seek a court order at the first available session of court. If the court does not issue an order or once the juvenile is taken into custody, then the law enforcement agency must take down all public information about the juvenile that the agency has published.

Section 2.(b)

G.S. 7B-2101 contains the law for the procedure that law enforcement officers must follow when seeking to interrogate a juvenile who is in custody. In addition to advising the juvenile of the juvenile's Miranda rights, the juvenile must be advised that the juvenile has a right to have a parent, guardian, or custodian present at the questioning. If the juvenile was under the age of 16, then no statement is admissible in court unless the juvenile's parent, guardian, custodian, or attorney was present at the time of the questioning.

The bill would modify G.S. 7B-2101 to define and add in the term "caretaker" to the list of people who a juvenile age 16 or 17 years old has the right to have present during a custodial interrogation.

The law would remain unchanged as to juveniles under the age of 16.

EFFECTIVE DATE: This act becomes effective December 1, 2023, and applies to offenses committed on or after that date.