

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL 186
PROPOSED COMMITTEE SUBSTITUTE H186-PCS30167-CH-5

Short Title: Div. of Juvenile Justice Mods.-AB

(Public)

Sponsors:

Referred to:

February 27, 2023

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE SERVICE OF SUMMONS FOR JUVENILE PETITIONS, TO
CREATE ALTERNATIVES TO JUVENILE DETENTION, TO CLARIFY THE PROCESS
FOR COURT-ORDERED EVALUATIONS FOR JUVENILES, TO MODIFY THE
DISCLOSURE OF CERTAIN INFORMATION TO THE PUBLIC CONCERNING
JUVENILES, TO CLARIFY MINORITY SENSITIVITY TRAINING FOR LAW
ENFORCEMENT PERSONNEL, TO CLARIFY JUVENILE DETENTION TRANSFER,
AND TO MAKE VARIOUS TECHNICAL AND CONFORMING CHANGES, AS
RECOMMENDED BY THE DEPARTMENT OF PUBLIC SAFETY, DIVISION OF
JUVENILE JUSTICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-1806 reads as rewritten:

"§ 7B-1806. Service of summons.

The summons and petition shall be personally served upon the parent, the guardian, or custodian and the juvenile not less than five days prior to the date of the scheduled hearing. The time for service may be waived in the discretion of the court. A juvenile court counselor or any other person authorized by law may serve and complete juvenile process under this section, and as provided in G.S. 143B-831. A defense of lack of personal jurisdiction or insufficiency of service of process is waived if a parent, guardian, or custodian and juvenile avail themselves to the court and an objection is not raised at the initial court appearance.

If the parent, guardian, or custodian entitled to receive a summons cannot be found by a diligent effort, the court may authorize service of the summons and petition by mail or by publication. The cost of the service by publication shall be advanced by the petitioner and may be charged as court costs as the court may direct.

The court may issue a show cause order for contempt against a parent, guardian, or custodian who is personally served and fails without reasonable cause to appear and to bring the juvenile before the court.

The provisions of G.S. 15A-301(a), (c), (d), and (e) relating to criminal process apply to juvenile process; provided the period of time for return of an unserved summons is 30 days."

SECTION 2.(a) Article 19 of Subchapter II of Chapter 7B of the General Statutes is amended by adding a new section to read:

"§ 7B-1902.5. Alternatives to detention; delegation.

(a) In the case of any juvenile that is not alleged to have committed an offense that would be a Class A, B1, B2, C, D, E, F, or G felony if committed by an adult, the court may order that the juvenile remain in the community under the supervision of a juvenile court counselor through



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1 alternatives to detention, which shall include electronic monitoring, house arrest, or another
2 structured program.

3 (b) Any district court judge may impose alternatives to detention under this section if the
4 court finds that those alternatives are appropriate to ensure protection of the public and secure
5 the juvenile's presence in court. The order shall be in writing and specify the reasons for the use
6 of alternatives to detention.

7 (c) The chief district court judge may delegate the court's authority to direct the use of
8 alternatives to detention to the chief court counselor or the chief court counselor's counseling
9 staff by administrative order filed in the office of the clerk of superior court. The administrative
10 order shall specify which persons may be contacted for approval of alternatives to detention. The
11 chief district court judge shall not delegate the court's authority to detain or house juveniles in
12 holdover facilities under G.S. 7B-1905 or G.S. 7B-2513.

13 (d) In every case in which an order has been entered by an official exercising authority
14 delegated under this section, a hearing to determine whether the continued use of alternatives to
15 detention under subsection (a) of this section is appropriate shall be conducted within five
16 calendar days of the entry of the order, and thereafter, at intervals of no more than 60 calendar
17 days from the hearing. In all other cases, the court shall schedule hearings to determine whether
18 the continued use of alternatives to detention is appropriate at intervals of no more than 60
19 calendar days after the entry of the initial order in the case. The court may conduct a hearing to
20 determine whether the continued use of alternatives to detention is appropriate at any time upon
21 its own motion or upon motion of the juvenile court counselor, the prosecutor, or the juvenile.

22 (e) At a hearing to determine whether the continued use of alternatives to detention is
23 appropriate, the court may continue the order imposing alternatives to detention as provided in
24 this section, terminate the order, or take any other action authorized by this Subchapter. The court
25 shall be bound by the criteria in G.S. 7B-1903 in determining whether the continued use of
26 alternatives to detention is appropriate."

27 **SECTION 2.(b)** G.S. 7B-1907 reads as rewritten:

28 **"§ 7B-1907. Telephonic communication authorized.**

29 All communications, notices, orders, authorizations, and requests authorized or required by
30 G.S. 7B-1901, 7B-1902.5, 7B-1903, and 7B-1904 may be made by telephone when other means
31 of communication are impractical. All written orders pursuant to telephonic communication shall
32 bear the name and the title of the person communicating by telephone, the signature and the title
33 of the official entering the order, and the hour and the date of the authorization."

34 **SECTION 3.** G.S. 7B-2502 reads as rewritten:

35 **"§ 7B-2502. Evaluation and treatment of undisciplined and delinquent juveniles.**

36 (a) In any case, the court may order that the juvenile be examined by a physician,
37 psychiatrist, psychologist, or other qualified expert as may be needed for the court to determine
38 the needs of the juvenile. Upon the completion of the examination, the court may conduct a
39 hearing to determine whether the juvenile is in need of medical, surgical, psychiatric,
40 psychological, or other evaluation or treatment and the court may order the juvenile to comply
41 with any evaluation or treatment recommended by the examination.

42 (a1) In the case of a juvenile adjudicated delinquent for committing an offense that
43 involves the possession, use, sale, or delivery of alcohol or a controlled substance, the court shall
44 require the juvenile to be tested for the use of controlled substances or alcohol within 30 days of
45 the adjudication. In the case of any juvenile adjudicated delinquent, the court may, if it deems it
46 necessary, require the juvenile to be tested for the use of controlled substances or alcohol. The
47 results of these initial tests conducted pursuant to this subsection shall be used for evaluation and
48 treatment purposes only. In placing a juvenile in out-of-home care under this section, the court
49 shall also consider whether it is in the juvenile's best interest to remain in the juvenile's
50 community of residence.

1 (a2) In the case of a juvenile who has been identified with a suspected mental ~~illness,~~
 2 illness through the use of a validated screening instrument or other evidence presented to the
 3 court, or a suspected developmental ~~disability,~~ disability or intellectual ~~disability,~~ disability, that
 4 has been adjudicated delinquent, the court shall order that the Division of Juvenile Justice of the
 5 Department of Public Safety make a referral for a comprehensive clinical assessment or
 6 equivalent mental health assessment, unless the court finds a comprehensive clinical assessment
 7 or equivalent mental health assessment has been conducted within the last ~~45-90~~ days before the
 8 ~~adjudication-disposition~~ hearing. An assessment ordered by a court under this subsection shall
 9 evaluate the developmental, emotional, behavioral, and mental health needs of the juvenile.

10 (a3) If an assessment is ordered by the court under subsection (a2) of this ~~section,~~ section
 11 or if an assessment has been conducted within the last 90 days before the disposition hearing, the
 12 court shall review the comprehensive clinical assessment or equivalent mental health assessment
 13 prior to the ~~date of~~ disposition in the case. If the court finds sufficient evidence that the juvenile
 14 has severe emotional disturbance, as defined in G.S. 7B-1501(24a), or a developmental
 15 disability, as defined in G.S. 122C-3(12a), or intellectual disability, as defined in
 16 G.S. 122C-3(17a), that, in the court's discretion, substantially contributed to the juvenile's
 17 delinquent behavior, and the juvenile is eligible for a Juvenile Justice Level 3 disposition and/or
 18 is recommended for a Psychiatric Residential Treatment Facility (PRTF) placement, the court
 19 shall order a care review team to be convened by the Division of Juvenile Justice of the
 20 Department of Public Safety and assigned to the case.

21"

22 **SECTION 4.** Article 31 of Subchapter II of Chapter 7B of the General Statutes is
 23 amended by adding a new section to read:

24 **"§ 7B-3103. Disclosure of information about juveniles for public safety reasons.**

25 (a) Notwithstanding G.S. 7B-2102(d) or any other provision of law to the contrary, the
 26 court may order the Division or any law enforcement agency within the State to release to the
 27 public the information contained in subsection (b) of this section if the court makes all of the
 28 following findings in a written order:

- 29 (1) A petition has been filed alleging at least one offense that the juvenile has
 30 committed would be a Class A, B1, B2, C, D, E, F, or G felony if committed
 31 by an adult.
- 32 (2) The court determines, based on the juvenile's record or the nature of the
 33 alleged offense or offenses, that the juvenile presents a danger to self or others.
- 34 (3) The court determines there exists good cause for the disclosure.

35 (b) The following information about a juvenile subject to a public disclosure under
 36 subsection (a) of this section may be released to the public:

- 37 (1) The juvenile's first name, last name, and photograph.
- 38 (2) Any offense in a juvenile petition alleged to have been committed by the
 39 juvenile.
- 40 (3) Whether a secure custody order has been issued for the juvenile.
- 41 (4) A statement, based on the juvenile's record or the nature of the alleged offense
 42 and the level of concern of the Division or law enforcement agency, as to the
 43 juvenile's threat to self or others.

44 (c) If a juvenile who is the subject of an order entered under subsection (a) of this section
 45 is taken into custody before the required disclosure is made to the public, the Division or law
 46 enforcement agency shall not make the disclosure.

47 (d) Before the information contained in subsection (b) of this section is released to the
 48 public, the Division or law enforcement agency shall make a reasonable effort to notify a parent,
 49 legal guardian, or custodian of the juvenile."

50 **SECTION 5.** G.S. 153A-218 reads as rewritten:

51 **"§ 153A-218. County confinement facilities.**

1 A county may establish, acquire, erect, repair, maintain, and operate local confinement
2 facilities and may for these purposes appropriate funds not otherwise limited as to use by law.
3 Subject to the holdover provisions in G.S. 7B-2204, no person under the age of 18 may be held
4 in a county confinement facility unless there is an agreement between the county confinement
5 facility and the Division of Juvenile Justice allowing the housing of persons under the age of 18
6 at the facility or a portion of the facility that has been approved as a juvenile detention facility by
7 the Division of Juvenile Justice. A juvenile detention facility may be located in the same facility
8 as a county jail provided that the juvenile detention facility meets the requirements of this Article
9 and ~~G.S. 147-33.40~~. G.S. 143B-819."

10 **SECTION 6.** G.S. 114-12.1 reads as rewritten:

11 "**§ 114-12.1. Minority sensitivity training for law enforcement personnel.**

12 (a) The Department of Justice shall develop guidelines for minority sensitivity training
13 for all law enforcement personnel throughout the State. The Department shall ensure that all
14 persons who work with minority juveniles in the juvenile justice system are taught how to
15 communicate effectively with minority juveniles and how to recognize and address the needs of
16 those juveniles. The Department shall also advise all law enforcement and professionals who
17 work within the juvenile justice system of ways to improve the treatment of minority juveniles
18 so that all juveniles receive equal treatment. Except where local law enforcement or the Division
19 of Juvenile Justice of the Department of Public Safety has existing minority sensitivity training
20 that meets the Department guidelines, the Department shall conduct the minority sensitivity
21 training annually. Prior to the training each year, the Department shall assess whether minorities
22 are receiving fair and equal treatment in the juvenile justice system with regard to the
23 administration of predisposition procedures, of diversion methods, of dispositional alternatives,
24 and of treatment and post-release supervision plans.

25 (b) The Division of Juvenile Justice of the Department of Public Safety shall ensure that
26 all juvenile court counselors and other Division personnel receive the minority sensitivity
27 training specified in subsection (a) of this section. The Division of Juvenile Justice of the
28 Department of Public Safety is responsible for creating, implementing, and evaluating juvenile
29 minority sensitivity and racial and ethnic disparities training annually."

30 **SECTION 7.** G.S. 7B-2204 reads as rewritten:

31 "**§ 7B-2204. Right to pretrial release; detention.**

32 ...
33 (d) Should the juvenile be found guilty, or enter a plea of guilty or no contest to a criminal
34 offense in superior court and receive an active sentence, then immediate transfer to the Division
35 of Prisons of the Department of Adult Correction shall be ordered. Until such time as the juvenile
36 is transferred to the Division of Prisons of the Department of Adult Correction, the juvenile may
37 be detained in a holdover facility. ~~The juvenile may not be detained in a detention facility pending~~
38 ~~transfer to the Division of Prisons of the Department of Adult Correction, unless the facility or~~
39 ~~detention facility is operated by the sheriff pursuant to G.S. 7B-1905(b)-approved by the Division~~
40 of Juvenile Justice of the Department of Public Safety.

41"

42 **SECTION 8.** This act becomes effective December 1, 2023.