

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE RESEARCH COMMISSION

STATE LEGISLATIVE BUILDING

RALEIGH, NC 27601



December 18, 2012

TO THE MEMBERS OF THE LEGISLATIVE RESEARCH COMMISSION:

Attached for your consideration is the report to the 2013 General Assembly. This report was prepared by the Legislative Research Commission's Committee on Age of Juvenile Offenders, pursuant to G.S. 120-30.17(1).

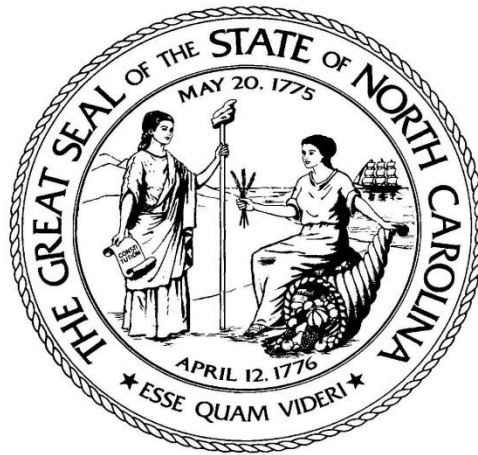
Representative Marilyn Avila
Chair

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LEGISLATIVE RESEARCH COMMISSION

**AGE OF JUVENILE OFFENDERS
COMMITTEE**

NORTH CAROLINA GENERAL ASSEMBLY



**REPORT TO THE
2013 GENERAL ASSEMBLY
OF NORTH CAROLINA**

DECEMBER 2012

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TRANSMITTAL LETTER

December 18, 2012

TO THE MEMBERS OF THE 2012 REGULAR SESSION
OF THE 2011 GENERAL ASSEMBLY

The Legislative Research Commission herewith submits to you for your consideration its report and recommendations to the 2013 General Assembly. The report was prepared by the Legislative Research Commission's Committee on Age of Juvenile Offenders, pursuant to G.S. 120-30.70(1).

Respectfully submitted,

Senator Thomas M. Apodaca
Co-Chair Designee

Representative Timothy K. Moore
Co-Chair Designee

Co-Chairs
Legislative Research Commission

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LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP

2011 – 2012

President Pro Tempore of the Senate

Senator Philip E. Berger
Co-Chair

Senator Thomas M. Apodaca
Acting Co-Chair

Senator Peter S. Brunstetter
Senator Linda D. Garrou
Senator Martin L. Nesbitt, Jr.
Senator Richard Y. Stevens

Speaker of the House of Representatives

Representative Thomas R. Tillis
Co-Chair

Representative Timothy K. Moore
Acting Co-Chair

Representative John M. Blust
Representative Justin P. Burr
Representative Mike D. Hager
Representative Edith D. Warren

PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is co-chaired by the President Pro Tempore of the Senate and the Speaker of the House of Representatives and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigation into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission authorized the study of Age of Juvenile Offenders, under authority of G.S. 120-30.17(1). The Committee was chaired by Representative Marilyn Avila. The full membership of the Committee is listed under [Committee Membership](#). A committee notebook containing the committee minutes and all information presented to the committee will be filed in the Legislative Library by the end of the **2011-2012** biennium.

COMMITTEE PROCEEDINGS

The Legislative Research Commission's Committee on Age of Juvenile Offenders met three times after the 2012 Regular Session. The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library.

October 17, 2012

The first meeting was held on Wednesday, October 17, 2012 at 2:00 PM in Room 544 of the Legislative Office Building. Susan Sitze, Staff Attorney, provided the Committee with an overview of the current law in North Carolina and summarized Senate Bill 434, Edition 3. Next, Joel Rosch, Senior Research Scholar and Policy Liaison at the Center for Child & Family Policy at Duke University presented a policy overview. Robin Jenkins, Deputy Director, Division of Juvenile Justice, North Carolina Department of Public Safety presented an overview of the current juvenile justice system. Finally, the Committee heard remarks from Phil Berger, Jr., District Attorney, Prosecutorial District 17A, representing the Conference of District Attorneys; and Eric Zogry, Juvenile Defender, Office of Indigent Defense Services.

November 29, 2012

The second meeting was held on Thursday, November 29, 2012 at 9:30 AM in Room 544 of the Legislative Office Building. The Committee heard presentations on juvenile justice legislation from Connecticut, Illinois, and Florida. Next, Jon Powell, Professor at Campbell Law School discussed Restorative Justice programs. The Committee then heard a presentation on Teen Court programs from Jillian Musa, Coordinator, Carteret County Teen Court. Finally, the Committee heard a presentation by Teresa Price, Director of Community Programs, and William Lassiter, State Contracts Administrator, on Juvenile Justice Community Programs. The Committee also discussed potential findings and recommendations.

December 18, 2012

The final meeting was held on Tuesday, December 18, 2012 at 2:00 PM in Room 643 of the Legislative Office Building. The Committee approved the final report.

RECOMMENDATIONS

The Committee recommends that the proposals contained in the 3rd Edition of Senate Bill 434 of the 2011 Session (see Appendix D) be adopted by the North Carolina General Assembly after consideration of the issues set out below, and any changes necessary to appropriately address those issues.

The issues the Committee believes should be considered before adoption by the General Assembly are:

- Whether it would be better to incorporate 16 and 17 year olds into the juvenile system using a staggered time period or by adding all 16 and 17 year olds at one time. If a staggered time period is best, whether the increments contained in S434 are appropriate, or whether it should be staggered by some other method or time period.
- Whether A1 misdemeanors should be considered differently from other misdemeanor offenses for which 16 and 17 year olds will be considered juveniles. If it is determined that they should be considered differently, then how. Possible idea for consideration include, charging in adult court with a process for transferring to juvenile court and charging in juvenile court with a rebuttable presumption of transfer to adult court.
- How to deal with a 16 or 17 year old initially charged with a felony in adult court where the charges are reduced to a misdemeanor. Whether there should be a process to allow the court to transfer the 16 or 17 year old to juvenile court after the charge reduction.
- Whether there should be a process to allow law enforcement to release 16 and 17 year olds, who are alleged delinquent for offenses that will be initiated in juvenile court, on some form of summons or citation without compliance with some of the requirements when dealing with juveniles under the age of 16, such as retaining the juvenile until they can be released to a parent or guardian.
- Whether S434 should only apply to first offenders with no previous convictions (excluding minor traffic violations).

COMMITTEE MEMBERSHIP

2011-2012

Speaker of the House of Representatives Appointments:

Representative Marilyn Avila, Co-Chair

Representative John Blust

Representative James Boles

Representative Larry Hall

Representative Darren Jackson

Representative David Lewis

Seth Edwards, District Attorney, 2nd Judicial District

Frank Palombo, Former Chief of Police, New Bern

Edmond W. Caldwell, Jr., NC Sheriffs Association

Hon. Marcia Morey, District Court Judge, 14th Judicial District

COMMITTEE CHARGE

The LRC Study Committee on the Age of Juvenile Offenders shall study North Carolina's current juvenile justice system and identify reforms that may reduce long-term recidivism. Specifically, the Committee shall study:

1. What juvenile justice reforms are needed to implement the proposal in Senate Bill 434, Edition 3, for raising the age for misdemeanors;
2. Evidence-based models for reducing juvenile recidivism, such as the Juvenile Detention Alternatives Initiative of the Annie E. Casey Foundation, including models to reduce inappropriate or unnecessary use of secured detention;
3. How best to reserve secure facilities for the most troubled youth. This shall include assessing the recidivism rates and costs and benefits of alternatives to placement programs in the juvenile justice system, such as electronic monitoring;
4. Best practices among community-based programs, such as the Juvenile Crime Prevention Council System, that utilize evidence-based programs to reduce youth recidivism;
5. How to prepare local prisons for implementation of Department of Justice regulations related to the Prison Rape Elimination Act of 2003, P.L. 108-79, including ensuring that all youth under the age of 18 are held separately from adults.

STATUTORY AUTHORITY

NORTH CAROLINA GENERAL STATUTES ARTICLE 6B.

Legislative Research Commission.

§ 120-30.17. Powers and duties.

The Legislative Research Commission has the following powers and duties:

- (1) Pursuant to the direction of the General Assembly or either house thereof, or of the chairmen, to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner.
- (2) To report to the General Assembly the results of the studies made. The reports may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations.
- (3), (4) Repealed by Session Laws 1969, c. 1184, s. 8.
- (5), (6) Repealed by Session Laws 1981, c. 688, s. 2.
- (7) To obtain information and data from all State officers, agents, agencies and departments, while in discharge of its duty, pursuant to the provisions of G.S. 120-19 as if it were a committee of the General Assembly.
- (8) To call witnesses and compel testimony relevant to any matter properly before the Commission or any of its committees. The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Commission and its committees as if each were a joint committee of the General Assembly. In addition to the other signatures required for the issuance of a subpoena under this subsection, the subpoena shall also be signed by the members of the Commission or of its committee who vote for the issuance of the subpoena.
- (9) For studies authorized to be made by the Legislative Research Commission, to request another State agency, board, commission or committee to conduct the study if the Legislative Research Commission determines that the other body is a more appropriate vehicle with which to conduct the study. If the other body agrees, and no legislation specifically provides otherwise, that body shall conduct the study as if the original authorization had assigned the study to that body and shall report to the General Assembly at the same time other studies to be conducted by the Legislative Research Commission are to be reported. The other agency shall conduct the transferred study within the funds already assigned to it.

LEGISLATIVE PROPOSALS

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2011

S

3

SENATE BILL 434 Judiciary I Committee Substitute Adopted 4/19/11 House Committee Substitute Favorable 6/20/12

Short Title: Juvenile Age to 18.

(Public)

Sponsors:

Referred to:

March 29, 2011

A BILL TO BE ENTITLED

AN ACT TO AMEND THE DEFINITION OF DELINQUENT JUVENILE TO RAISE THE AGE FROM SIXTEEN TO EIGHTEEN YEARS IN SIX-MONTH INCREMENTS OF AGE OVER A FOUR-YEAR PERIOD FOR SIXTEEN-AND SEVENTEEN-YEAR-OLDS ALLEGED TO HAVE COMMITTED A MISDEMEANOR, TO PROVIDE THAT SIXTEEN- AND SEVENTEEN-YEAR-OLDS WHO HAVE BEEN PREVIOUSLY CONVICTED OF A FELONY IN ADULT COURT SHALL REMAIN IN ADULT COURT, TO MAKE CONFORMING CHANGES TO OTHER STATUTES RELEVANT TO CHANGING THE DEFINITION OF DELINQUENT JUVENILE, AND TO EXTEND THE YOUTH ACCOUNTABILITY TASK FORCE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Effective July 1, 2016, G.S. 7B-1501(7) reads as rewritten:

"(7) Delinquent juvenile. –

a. Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in ~~G.S. 5A-31~~G.S. 5A-31; or

b. Any juvenile who, while less than 16 years and six months of age but at least 16 years of age, commits a misdemeanor or infraction under State law or under an ordinance of local government, excluding violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31."

SECTION 1.(b) Effective July 1, 2017, G.S. 7B-1501(7) reads as rewritten:

"(7) Delinquent juvenile. –

a. Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or

under an ordinance of local government, including violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31; or

- b. Any juvenile who, while less than ~~16 years and six months~~17 years of age but at least 16 years of age, commits a misdemeanor or infraction under State law or under an ordinance of local government, excluding violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31."

SECTION 1.(c) Effective July 1, 2018, G.S. 7B-1501(7) reads as rewritten:

"(7) Delinquent juvenile. –

- a. Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31; or
- b. Any juvenile who, while less than 17 years and six months of age but at least 16 years of age, commits a misdemeanor or infraction under State law or under an ordinance of local government, excluding violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31."

SECTION 1.(d) Effective July 1, 2019, G.S. 7B-1501(7) reads as rewritten:

"(7) Delinquent juvenile. –

- a. Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31; or
- b. Any juvenile who, while less than ~~17 years and six months~~18 years of age but at least 16 years of age, commits a misdemeanor or infraction under State law or under an ordinance of local government, excluding violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31."

SECTION 2. Effective July 1, 2016, G.S. 7B-1501(11) reads as rewritten:

"(11) Holdover facility. – A place located in a ~~jail-jail~~, which has been approved by the Department of Health and Human Services as meeting the State standards for ~~detention-the operation of local confinement facilities~~, as required in ~~G.S. 153A-221~~G.S. 153A-221, providing close supervision where ~~the-a~~ juvenile cannot converse with, see, or be seen by the adult population."

SECTION 3.(a) Effective July 1, 2016, G.S. 7B-1601 reads as rewritten:

"§ 7B-1601. Jurisdiction over delinquent juveniles.

Appendix D

(a) The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be delinquent. For purposes of determining jurisdiction, the age of the juvenile at the time of the alleged offense governs.

(b) When the court obtains jurisdiction over a juvenile alleged to be ~~delinquent~~, delinquent for an offense committed prior to the juvenile reaching the age of 16 years, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 18 years, except as provided otherwise in this Article.

(b1) When the court obtains jurisdiction over a juvenile alleged to be delinquent for an offense that would be a misdemeanor offense if committed by an adult and the offense was committed while the juvenile was at least 16 years of age, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 19 years.

(c) When delinquency ~~proceedings~~ proceedings, for a juvenile alleged to be delinquent for an offense committed prior to the juvenile reaching the age of 16 years, cannot be concluded before the juvenile reaches the age of 18 years, the court retains jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition.

(c1) When delinquency proceedings, for a juvenile alleged to be delinquent for an offense committed while the juvenile was at least 16 years of age, cannot be concluded before the juvenile reaches the age of 19 years, the court retains jurisdiction for the sole purpose of dismissing the petition.

(d) When the court has not obtained jurisdiction over a juvenile before the juvenile reaches the age of 18, for a felony and any related misdemeanors the juvenile allegedly committed on or after the juvenile's thirteenth birthday and prior to the juvenile's sixteenth birthday, the court has jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition.

(e) The court has jurisdiction over delinquent juveniles in the custody of the Division and over proceedings to determine whether a juvenile who is under the post-release supervision of the juvenile court counselor has violated the terms of the juvenile's post-release supervision.

(f) The court has jurisdiction over persons 18 years of age or older who are under the extended jurisdiction of the juvenile court.

(g) The court has jurisdiction over the parent, guardian, or custodian of a juvenile who is under the jurisdiction of the court pursuant to this section if the parent, guardian, or custodian has been served with a summons pursuant to G.S. 7B-1805."

SECTION 3.(b) Effective July 1, 2018, G.S. 7B-1601(b1) reads as rewritten:

"(b1) When the court obtains jurisdiction over a juvenile alleged to be delinquent for an offense that would be a misdemeanor offense if committed by an adult and the offense was committed while the juvenile was at least 16 years of ~~age~~, age but less than 17 years of age, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 19 years. If the offense was committed while the juvenile was at least 17 years of age, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 20 years."

SECTION 3.(c) Effective July 1, 2018, G.S. 7B-1601(c1) reads as rewritten:

"(c1) When delinquency proceedings, for a juvenile alleged to be delinquent for an offense committed while the juvenile was at least 16 years of ~~age, age but less than 17 years of age,~~ cannot be concluded before the juvenile reaches the age of 19 years, the court retains jurisdiction for the sole purpose of dismissing the petition. When delinquency proceedings, for a juvenile alleged to be delinquent for an offense committed while the juvenile was at least 17 years of age, cannot be concluded before the juvenile reaches the age of 20 years, the court retains jurisdiction for the sole purpose of dismissing the petition."

SECTION 4.(a) Effective July 1, 2016, G.S. 7B-1604 reads as rewritten:

"§ 7B-1604. Limitations on juvenile court jurisdiction.

(a) Any juvenile, including a juvenile who is under the jurisdiction of the court, who commits a criminal offense on or after the ~~juvenile's sixteenth birthday~~ juvenile has reached the age of 16 years and six months is subject to prosecution as an adult. A juvenile who is emancipated shall be prosecuted as an adult for the commission of a criminal offense.

(b) A juvenile (i) who is transferred to and convicted in superior court or (ii) who has previously been convicted in either district or superior court for a felony, including a violation of the motor vehicle laws under State law shall be prosecuted as an adult for any criminal offense the juvenile commits after the district or superior court conviction."

SECTION 4.(b) Effective July 1, 2017, G.S. 7B-1604(a) reads as rewritten:

"(a) Any juvenile, including a juvenile who is under the jurisdiction of the court, who commits a criminal offense on or after the juvenile has reached the age of ~~16 years and six months~~ 17 years is subject to prosecution as an adult. A juvenile who is emancipated shall be prosecuted as an adult for the commission of a criminal offense."

SECTION 4.(c) Effective July 1, 2018, G.S. 7B-1604(a) reads as rewritten:

"(a) Any juvenile, including a juvenile who is under the jurisdiction of the court, who commits a criminal offense on or after the juvenile has reached the age of 17 years and six months is subject to prosecution as an adult. A juvenile who is emancipated shall be prosecuted as an adult for the commission of a criminal offense."

SECTION 4.(d) Effective July 1, 2019, G.S. 7B-1604(a) reads as rewritten:

"(a) Any juvenile, including a juvenile who is under the jurisdiction of the court, who commits a criminal offense on or after the juvenile has reached the age of ~~17 years and six months~~ 18 years is subject to prosecution as an adult. A juvenile who is emancipated shall be prosecuted as an adult for the commission of a criminal offense."

SECTION 5. Effective July 1, 2016, G.S. 7B-2506 reads as rewritten:

"§ 7B-2506. Dispositional alternatives for delinquent juveniles.

The court exercising jurisdiction over a juvenile who has been adjudicated delinquent may use the following alternatives in accordance with the dispositional structure set forth in G.S. 7B-2508:

(1) In the case of any juvenile under the age of 18 years who needs more adequate care or supervision or who needs placement, the judge may:

...

(2) Excuse ~~the-a~~ juvenile under the age of 16 years from compliance with the compulsory school attendance law when the court finds that

suitable alternative plans can be arranged by the family through other community resources for one of the following:

- a. An education related to the needs or abilities of the juvenile including vocational education or special education;
- b. A suitable plan of supervision or placement; or
- c. Some other plan that the court finds to be in the best interests of the juvenile.

- (3) Order the juvenile to cooperate with a community-based program, an intensive substance abuse treatment program, or a residential or nonresidential treatment program. ~~Participation in the programs shall not exceed 12 months.~~

...."

SECTION 6. Effective July 1, 2016, G.S. 7B-2507 reads as rewritten:

"§ 7B-2507. Delinquency history levels.

(a) Generally. – The delinquency history level for a delinquent juvenile is determined by calculating the sum of the points assigned to each of the juvenile's prior adjudications or convictions and to the juvenile's probation status, if any, that the court finds to have been proved in accordance with this section.

(b) Points. – Points are assigned as follows:

- (1) For each prior adjudication of a Class A through E felony offense, 4 points.

- (2) For each prior adjudication of a Class F through I felony offense or Class A1 misdemeanor offense, 2 points.

(2a) For each prior conviction of a Class A1 misdemeanor, excluding conviction for violation of the motor vehicle laws, 2 points.

(2b) For each prior misdemeanor conviction of impaired driving (G.S. 20-138.1), impaired driving in a commercial vehicle (G.S. 20-138.2), and misdemeanor death by vehicle (G.S. 20-141.4(a2)), 2 points.

- (3) For each prior adjudication of a Class 1, 2, or 3 misdemeanor offense, 1 point.

(3a) For each prior conviction of a Class 1, 2, or 3 misdemeanor offense, excluding conviction for violation of the motor vehicle laws, 1 point.

- (4) If the juvenile was on probation at the time of offense, 2 points.

No points shall be assigned for a prior adjudication that a juvenile is in direct contempt of court or indirect contempt of court.

(c) Delinquency History Levels. – The delinquency history levels are:

- (1) Low – No more than 1 point.
- (2) Medium – At least 2, but not more than 3 points.
- (3) High – At least 4 points.

In determining the delinquency history level, the classification of a prior offense is the classification assigned to that offense at the time the juvenile committed the offense for which disposition is being ordered.

(d) Multiple Prior Adjudications or Convictions Obtained in One Court Session. – For purposes of determining the delinquency history level, if a juvenile is adjudicated

Appendix D

delinquent or convicted for more than one offense in a single session of district court, only the adjudication or conviction for the offense with the highest point total is used.

(e) Classification of Prior Adjudications or Convictions From Other Jurisdictions. – Except as otherwise provided in this subsection, an adjudication or conviction occurring in a jurisdiction other than North Carolina is classified as a Class I felony if the jurisdiction in which the offense occurred classifies the offense as a felony, or is classified as a Class 3 misdemeanor if the jurisdiction in which the offense occurred classifies the offense as a misdemeanor. If the juvenile proves by the preponderance of the evidence that an offense classified as a felony in the other jurisdiction is substantially similar to an offense that is a misdemeanor in North Carolina, the adjudication or conviction is treated as that class of misdemeanor for assigning delinquency history level points. If the State proves by the preponderance of the evidence that an offense classified as either a misdemeanor or a felony in the other jurisdiction is substantially similar to an offense in North Carolina that is classified as a Class I felony or higher, the adjudication or conviction is treated as that class of felony for assigning delinquency history level points. If the State proves by the preponderance of the evidence that an offense classified as a misdemeanor in the other jurisdiction is substantially similar to an offense classified as a Class A1 misdemeanor in North Carolina, the adjudication or conviction is treated as a Class A1 misdemeanor for assigning delinquency history level points.

(f) Proof of Prior ~~Adjudications~~ Adjudications or Convictions. – A prior adjudication or conviction shall be proved by any of the following methods:

- (1) Stipulation of the parties.
- (2) An original or copy of the court record of the prior ~~adjudication~~ adjudication or conviction.
- (3) A copy of records maintained by the Division of Criminal Information or by the Division.
- (4) Any other method found by the court to be reliable.

The State bears the burden of proving, by a preponderance of the evidence, that a prior adjudication or conviction exists and that the juvenile before the court is the same person as the juvenile named in the prior ~~adjudication~~ adjudication or conviction. The original or a copy of the court records or a copy of the records maintained by the Division of Criminal Information or of the Division, bearing the same name as that by which the juvenile is charged, is prima facie evidence that the juvenile named is the same person as the juvenile before the court, and that the facts set out in the record are true. For purposes of this subsection, "a copy" includes a paper writing containing a reproduction of a record maintained electronically on a computer or other data processing equipment, and a document produced by a facsimile machine. The prosecutor shall make all feasible efforts to obtain and present to the court the juvenile's full record. Evidence presented by either party at trial may be utilized to prove prior ~~adjudications~~ adjudications or convictions. If asked by the juvenile, the prosecutor shall furnish the juvenile's prior adjudications or convictions to the juvenile within a reasonable time sufficient to allow the juvenile to determine if the record available to the prosecutor is accurate."

SECTION 7.(a) Effective July 1, 2016, G.S. 7B-2513(a) reads as rewritten:

Appendix D

"(a) Pursuant to G.S. 7B-2506 and G.S. 7B-2508, the court may commit a delinquent juvenile who is at least 10 years of age to the Division for placement in a youth development center. Commitment shall be for an indefinite term of at least six months.

(a1) In no event shall the term exceed: For an offense the juvenile committed prior to reaching the age of 16 years, the term shall not exceed:

- (1) The twenty-first birthday of the juvenile if the juvenile has been committed to the Division for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree rape pursuant to G.S. 14-27.2, or first-degree sexual offense pursuant to G.S. 14-27.4 if committed by an adult;
- (2) The nineteenth birthday of the juvenile if the juvenile has been committed to the Division for an offense that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in subdivision (1) of this subsection; or
- (3) The eighteenth birthday of the juvenile if the juvenile has been committed to the Division for an offense other than an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

(a2) For an offense the juvenile committed while the juvenile was at least 16 years of age, the term shall not exceed the juvenile's 19th birthday.

(a3) Reserved.

(a4) No juvenile shall be committed to a youth development center beyond the minimum six-month commitment for a period of time in excess of the maximum term of imprisonment for which an adult in prior record level VI for felonies or in prior conviction level III for misdemeanors could be sentenced for the same offense, except when the Division pursuant to G.S. 7B-2515 determines that the juvenile's commitment needs to be continued for an additional period of time to continue care or treatment under the plan of care or treatment developed under subsection (f) of this section. At the time of commitment to a youth development center, the court shall determine the maximum period of time the juvenile may remain committed before a determination must be made by the Division pursuant to G.S. 7B-2515 and shall notify the juvenile of that determination."

SECTION 7.(b) Effective July 1, 2017, G.S. 7B-2513(a2) reads as rewritten:

"(a2) For an offense the juvenile committed while the juvenile was at least 16 years of age but less than 17 years of age, the term shall not exceed the juvenile's 19th birthday."

SECTION 7.(c) Effective July 1, 2018, G.S. 7B-2513(a3) reads as rewritten:

"(a3) For an offense the juvenile committed while the juvenile was at least 17 years of age, the term shall not exceed the juvenile's 20th birthday."

SECTION 8. Effective July 1, 2016, G.S. 7B-2515(a) reads as rewritten:

"(a) In determining whether a juvenile who was committed to the Division for an offense that was committed prior to the juvenile reaching the age of 16 years should be released before the juvenile's 18th birthday, the Division shall consider the protection of the public and the likelihood that continued placement will lead to further rehabilitation. If the Division does not intend to release the juvenile who was committed for an offense

Appendix D

1 that was committed prior to the juvenile reaching the age of 16 years prior to the
2 juvenile's eighteenth birthday, or if the Division determines that the juvenile's
3 commitment should be continued beyond the maximum commitment period as set forth
4 in G.S. 7B-2513(a), G.S. 7B-2513(a1), the Division shall notify the juvenile and the
5 juvenile's parent, guardian, or custodian in writing at least 30 days in advance of the
6 juvenile's eighteenth birthday or the end of the maximum commitment period, of the
7 additional specific commitment period proposed by the Division, the basis for extending
8 the commitment period, and the plan for future care or treatment."

9 **SECTION 9.** Effective July 1, 2016, G.S. 7B-2603(b) reads as rewritten:

10 "(b) Once an order of transfer has been entered by the district court, the juvenile
11 has the right to be considered for pretrial release as provided in G.S. 15A-533 and
12 G.S. 15A-534. Pending release, the juvenile shall be detained pursuant to G.S. 7B-2204.
13 ~~The release order shall specify the person or persons to whom the juvenile may be~~
14 ~~released. Pending release, the court shall order that the juvenile be detained in a~~
15 ~~detention facility while awaiting trial. The court may order the juvenile to be held in a~~
16 ~~holdover facility as defined by G.S. 7B-1501 at any time the presence of the juvenile is~~
17 ~~required in court for pretrial hearings or trial, if the court finds that it would be~~
18 ~~inconvenient to return the juvenile to the detention facility."~~

19 **SECTION 10.(a)** Effective July 1, 2016, the introductory language of
20 G.S. 5A-31(a) reads as rewritten:

21 "(a) Each of the following, when done by an unemancipated minor who (i) is at
22 least six years of age, (ii) is not yet 16 years and six months of age, and (iii) has not
23 been convicted of any crime in superior court, is contempt by a juvenile:"

24 **SECTION 10.(b)** Effective July 1, 2017, the introductory language of
25 G.S. 5A-31(a) reads as rewritten:

26 "(a) Each of the following, when done by an unemancipated minor who (i) is at
27 least six years of age, (ii) is not yet ~~16 years and six months~~ 17 years of age, and (iii) has
28 not been convicted of any crime in superior court, is contempt by a juvenile:"

29 **SECTION 10.(c)** Effective July 1, 2018, the introductory language of
30 G.S. 5A-31(a) reads as rewritten:

31 "(a) Each of the following, when done by an unemancipated minor who (i) is at
32 least six years of age, (ii) is not yet 17 years and six months of age, and (iii) has not
33 been convicted of any crime in superior court, is contempt by a juvenile:"

34 **SECTION 10.(d)** Effective July 1, 2019, the introductory language of
35 G.S. 5A-31(a) reads as rewritten:

36 "(a) Each of the following, when done by an unemancipated minor who (i) is at
37 least six years of age, (ii) is not yet ~~17 years and six months~~ 18 years of age, and (iii) has
38 not been convicted of any crime in superior court, is contempt by a juvenile:"

39 **SECTION 11.(a)** Effective July 1, 2016, G.S. 5A-34(b) reads as rewritten:

40 "(b) The provisions of Article 1 and Article 2 of this Chapter apply to acts or
41 omissions by a minor who:

- 42 (1) Is 16 years and six months of age or older;
- 43 (2) Is married or otherwise emancipated; or
- 44 (3) Before the act or omission, was convicted in superior court of any
45 criminal offense."

46 **SECTION 11.(b)** Effective July 1, 2017, G.S. 5A-34(b) reads as rewritten:

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"(b) The provisions of Article 1 and Article 2 of this Chapter apply to acts or omissions by a minor who:

- (1) Is ~~16 years and six months~~ 17 years of age or older;
- (2) Is married or otherwise emancipated; or
- (3) Before the act or omission, was convicted in superior court of any criminal offense."

SECTION 11.(c) Effective July 1, 2018, G.S. 5A-34(b) reads as rewritten:

"(b) The provisions of Article 1 and Article 2 of this Chapter apply to acts or omissions by a minor who:

- (1) Is 17 years and six months of age or older;
- (2) Is married or otherwise emancipated; or
- (3) Before the act or omission, was convicted in superior court of any criminal offense."

SECTION 11.(d) Effective July 1, 2019, G.S. 5A-34(b) reads as rewritten:

"(b) The provisions of Article 1 and Article 2 of this Chapter apply to acts or omissions by a minor who:

- ~~(1) Is 17 years and six months of age or older;~~
- (2) Is married or otherwise emancipated; or
- (3) Before the act or omission, was convicted in superior court of any criminal offense."

SECTION 12.(a) Effective July 1, 2016, G.S. 143B-805(6) reads as rewritten:

"(6) Delinquent juvenile. –

a. Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle ~~laws.~~ laws; or

b. Any juvenile who, while less than 16 years and six months of age but at least 16 years of age, commits a misdemeanor or infraction under State law or under an ordinance of local government, excluding violation of the motor vehicle laws."

SECTION 12.(b) Effective July 1, 2017, G.S. 143B-805(6) reads as rewritten:

"(6) Delinquent juvenile. –

a. Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws; or

b. Any juvenile who, while less than ~~16 years and six months~~ 17 years of age but at least 16 years of age, commits a misdemeanor or infraction under State law or under an ordinance of local government, excluding violation of the motor vehicle laws."

SECTION 12.(c) Effective July 1, 2018, G.S. 143B-805(6) reads as rewritten:

"(6) Delinquent juvenile. –

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- a. Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a misdemeanor or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws; or
- b. Any juvenile who, while less than 17 years and six months of age but at least 16 years of age, commits a misdemeanor or infraction under State law or under an ordinance of local government, excluding violation of the motor vehicle laws."

SECTION 12.(d) Effective July 1, 2019, G.S. 143B-805(6) reads as rewritten:

"(6) Delinquent juvenile. –

- a. Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws; or
- b. Any juvenile who, while less than ~~17 years and six months~~18 years of age but at least 16 years of age, commits a misdemeanor or infraction under State law or under an ordinance of local government, excluding violation of the motor vehicle laws."

SECTION 13. Effective July 1, 2016, G.S. 143B-806(b) reads as rewritten:

"(b) The Secretary shall have the following powers and duties:

...

(20) Provide for the transportation to and from any State or local juvenile facility of any person under the jurisdiction of the juvenile court for any purpose required by Chapter 7B of the General Statutes or upon order of the court."

SECTION 14.(a) Effective July 1, 2016, G.S. 14-316.1 reads as rewritten:

"§ 14-316.1. Contributing to delinquency and neglect by parents and others.

Any person who is at least 16 years and six months old who knowingly or willfully causes, encourages, or aids any juvenile within the jurisdiction of the court to be in a place or condition, or to commit an act whereby the juvenile could be adjudicated delinquent, undisciplined, abused, or neglected as defined by G.S. 7B-101 and G.S. 7B-1501 shall be guilty of a Class 1 misdemeanor.

It is not necessary for the district court exercising juvenile jurisdiction to make an adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order to prosecute a parent or any person, including an employee of the Division of Juvenile Justice of the Department of Public Safety under this section. An adjudication that a juvenile is delinquent, undisciplined, abused, or neglected shall not preclude a subsequent prosecution of a parent or any other person including an employee of the Division of Juvenile Justice of the Department of Public Safety, who contributes to the delinquent, undisciplined, abused, or neglected condition of any juvenile."

SECTION 14.(b) Effective July 1, 2017, G.S. 14-316.1 reads as rewritten:

"§ 14-316.1. Contributing to delinquency and neglect by parents and others.

Any person who is at least ~~16 years and six months~~17 years old who knowingly or willfully causes, encourages, or aids any juvenile within the jurisdiction of the court to

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be in a place or condition, or to commit an act whereby the juvenile could be adjudicated delinquent, undisciplined, abused, or neglected as defined by G.S. 7B-101 and G.S. 7B-1501 shall be guilty of a Class 1 misdemeanor.

It is not necessary for the district court exercising juvenile jurisdiction to make an adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order to prosecute a parent or any person, including an employee of the Division of Juvenile Justice of the Department of Public Safety under this section. An adjudication that a juvenile is delinquent, undisciplined, abused, or neglected shall not preclude a subsequent prosecution of a parent or any other person including an employee of the Division of Juvenile Justice of the Department of Public Safety, who contributes to the delinquent, undisciplined, abused, or neglected condition of any juvenile."

SECTION 14.(c) Effective July 1, 2018, G.S. 14-316.1 reads as rewritten:

"§ 14-316.1. Contributing to delinquency and neglect by parents and others.

Any person who is at least 17 years and six months old who knowingly or willfully causes, encourages, or aids any juvenile within the jurisdiction of the court to be in a place or condition, or to commit an act whereby the juvenile could be adjudicated delinquent, undisciplined, abused, or neglected as defined by G.S. 7B-101 and G.S. 7B-1501 shall be guilty of a Class 1 misdemeanor.

It is not necessary for the district court exercising juvenile jurisdiction to make an adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order to prosecute a parent or any person, including an employee of the Division of Juvenile Justice of the Department of Public Safety under this section. An adjudication that a juvenile is delinquent, undisciplined, abused, or neglected shall not preclude a subsequent prosecution of a parent or any other person including an employee of the Division of Juvenile Justice of the Department of Public Safety, who contributes to the delinquent, undisciplined, abused, or neglected condition of any juvenile."

SECTION 14.(d) Effective July 1, 2019, G.S. 14-316.1 reads as rewritten:

"§ 14-316.1. Contributing to delinquency and neglect by parents and others.

Any person who is at least ~~17 years and six months~~ 18 years old who knowingly or willfully causes, encourages, or aids any juvenile within the jurisdiction of the court to be in a place or condition, or to commit an act whereby the juvenile could be adjudicated delinquent, undisciplined, abused, or neglected as defined by G.S. 7B-101 and G.S. 7B-1501 shall be guilty of a Class 1 misdemeanor.

It is not necessary for the district court exercising juvenile jurisdiction to make an adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order to prosecute a parent or any person, including an employee of the Division of Juvenile Justice of the Department of Public Safety under this section. An adjudication that a juvenile is delinquent, undisciplined, abused, or neglected shall not preclude a subsequent prosecution of a parent or any other person including an employee of the Division of Juvenile Justice of the Department of Public Safety, who contributes to the delinquent, undisciplined, abused, or neglected condition of any juvenile."

SECTION 15. For purposes of this act, the determination of a juvenile's age shall be from the date of birth in the month of birth to the same date in each calendar month.

SECTION 16.(a) Effective January 14, 2011, Section 18.9(h) of S.L. 2009-451 reads as rewritten:

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"**SECTION 18.9.(h)** Report. – The Task Force shall submit an interim report to the 2010 Regular Session of the 2009 General Assembly, with copies to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Appropriations Subcommittees on Justice and Public Safety of both houses and shall submit a final report of its findings and recommendations, including legislative, administrative, and funding recommendations, by ~~January 15, 2011~~, January 15, 2020, to the General Assembly, the Governor, and the citizens of the State. The Task Force shall terminate upon filing its final report."

SECTION 16.(b) Effective January 1, 2012, Section 18.9 of S.L. 2009-451 reads as rewritten:

"**SECTION 18.9.(a)** Task Force Established. – There is established within the ~~Division of Juvenile Justice of the Department of Public Safety~~~~Department of Juvenile Justice and Delinquency Prevention~~ the Youth Accountability Planning Task Force. The ~~Division of Juvenile Justice of the Department of Public Safety~~~~Department of Juvenile Justice and Delinquency Prevention~~ shall provide professional and clerical staff and other services and supplies, including meeting space, as needed for the Task Force to carry out its duties in an effective manner.

"**SECTION 18.9.(b)** Membership. – The Task Force shall consist of 21 members. The following members or their designees shall serve as ex officio members:

- (1) The ~~Chief Deputy Secretary of the Division of Juvenile Justice of the Department of Public Safety~~~~Secretary of the Department of Juvenile Justice and Delinquency Prevention~~.
- (2) The Director of the Administrative Office of the Courts.
- (3) The Secretary of the Department of Health and Human Services.
- (4) The ~~Chief Deputy Secretary of the Division of Adult Corrections of the Department of Public Safety~~~~Secretary of the Department of Correction~~.
- (5) The Secretary of the Department of ~~Crime Control and~~ Public Safety.
- (6) The Superintendent of Public Instruction.
- (7) The Secretary of the Department of Administration, or a designee having knowledge of programs and services for youth and young adults.
- (8) The Juvenile Defender in the Office of Indigent Defense.
- (9) One representative from the Governor's Crime Commission, appointed by the Governor.
- (10) One representative from the North Carolina Sentencing and Policy Advisory Commission, appointed by the Governor.

The remaining members shall be appointed as follows:

- (11) Three members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (12) Three members of the Senate appointed by the President Pro Tempore of the Senate.
- (13) Two chief court counselors, appointed by the Governor, one to be from a rural county and one from an urban county.
- (14) One present or former chief district court judge or superior court judge appointed by the Chief Justice of the North Carolina Supreme Court.

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- (15) One police chief appointed by the President Pro Tempore of the Senate.
- (16) One district attorney appointed by the Speaker of the House of Representatives.

Appointments to the Task Force shall be made no later than October 1, 2009. A vacancy in the Task Force or a vacancy as chair of the Task Force resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made.

"SECTION 18.9.(c) Chair; Meetings. – The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate one member to serve as cochair of the Task Force.

The cochairs shall call the initial meeting of the Task Force on or before November 1, 2009. The Task Force shall subsequently meet upon such notice and in such manner as its members determine. A majority of the members of the Task Force shall constitute a quorum.

"SECTION 18.9.(d) The Office of the Governor shall provide staff to the Task Force at the request of the Task Force.

"SECTION 18.9.(e) Cooperation by Government Agencies. – The Task Force may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

"SECTION 18.9.(f) Duties of Task Force. – The Task Force shall determine whether the State should amend the laws concerning persons 16 and 17 years of age who commit crimes or infractions, including a determination of whether the Juvenile Code or the Criminal Procedure Act should be revised to provide appropriate sanctions, services, and treatment for those offenders and a study of expanding the jurisdiction of the Division of Juvenile Justice of the Department of Public Safety~~Department of Juvenile Justice and Delinquency Prevention~~ to include persons 16 and 17 years of age who commit crimes or infractions. As part of its study, the Task Force shall also develop an implementation plan that may be used if it is determined that it is appropriate to expand the jurisdiction of the Division of Juvenile Justice of the Department of Public Safety~~Department of Juvenile Justice and Delinquency Prevention~~ to include persons 16 and 17 years of age who commit crimes or infractions. In particular, the Task Force shall consider all of the following:

- (1) The costs to the State court system and State and local law enforcement.
- (2) The relevant State laws that should be conformed or amended as a result of revising the definition of delinquent juvenile to include 16- and 17-year-old persons, including the motor vehicle and criminal laws, the laws regarding expunction of criminal records, and other juvenile laws. The Task Force shall make recommendations to the General Assembly regarding proposed legislative amendments.
- (3) Proposals to eliminate the racial disparity in complaints, commitments, community program availability, utilization and success rates, and other key decision and impact points in the juvenile justice process.
- (4) Proposals regarding community programs that would provide rehabilitative services to juveniles in a treatment-oriented environment

and incorporate best practices as recommended in subdivision (3) of this subsection.

- (5) The total cost of expanding the jurisdiction of the Division of Juvenile Justice of the Department of Public Safety~~Department of Juvenile Justice and Delinquency Prevention~~ to include persons who are 16 and 17 years of age who commit crimes or infractions under State law or under an ordinance of local government.
- (6) The implications of revising the definition of delinquent juvenile to include 16- and 17-year-olds, as it relates to other laws based on age, including laws requiring school attendance and drivers license laws.
- (7) Whether standards should be established for determining when a juvenile should be transferred to superior court, including whether there should be presumptions that certain offenses should or should not result in a transfer to superior court.
- (8) Whether a 16- or 17-year-old who is alleged to have committed a felony motor vehicle offense should be considered a juvenile or an adult.
- (9) Any other related issues that the Task Force considers necessary.

Upon enactment of legislation expanding the jurisdiction of the Division of Juvenile Justice of the Department of Public Safety to include persons 16 and 17 years of age who commit crimes or infractions, the Task Force shall monitor and review the implementation of the expansion and shall make additional recommendations to the General Assembly as necessary.

"SECTION 18.9.(g) Consultation. – The Task Force shall consult with appropriate State departments, agencies, and board representatives on issues related to juvenile justice administration.

"SECTION 18.9.(h) Report. – The Task Force shall submit an interim report to the 2010 Regular Session of the 2009 General Assembly, with copies to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Appropriations Subcommittees on Justice and Public Safety of both houses and shall submit a final report of its findings and recommendations, including legislative, administrative, and funding recommendations, by January 15, 2020, to the General Assembly, the Governor, and the citizens of the State. The Task Force shall terminate upon filing its final report.

"SECTION 18.9.(i) Funding. – The Task Force may apply for, receive, and accept grants of non-State funds or other contributions as appropriate to assist in the performance of its duties. The Division of Juvenile Justice of the Department of Public Safety ~~Department of Juvenile Justice and Delinquency Prevention~~ may also use funds appropriated to it to carry out the study and devise the implementation plan."

SECTION 17. Except as otherwise provided in this act, this act is effective when it becomes law. Prosecutions, or delinquency proceedings initiated, for offenses committed before any particular section of this act becomes effective are not abated or affected by this act, and the statutes that are in effect on the dates the offenses are committed remain applicable to those prosecutions.

