

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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HOUSE BILL 834  
Committee Substitute Favorable 5/31/23  
PROPOSED SENATE COMMITTEE SUBSTITUTE H834-CSCE-39 [v.3]  
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Short Title: Juv Justice Modifications.

(Public)

Sponsors:

Referred to:

April 24, 2023

A BILL TO BE ENTITLED  
AN ACT TO MAKE CERTAIN MODIFICATIONS TO THE JUVENILE JUSTICE  
TRANSFER PROCESS.

The General Assembly of North Carolina enacts:

**SECTION 1.** 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 10 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.
- b. Any juvenile who, while less than 18 years of age but at least 16 years of age, commits a crime or an infraction under State law or under an ordinance of local government, excluding all violations of the motor vehicle laws under Chapter 20 of the General Statutes, and excluding First Degree Murder under G.S. 14-17, Assault with Deadly Weapon with Intent to Kill Inflicting Serious Injury under G.S. 14-32(a), Robbery with a Firearm or Dangerous Weapon under G.S. 14-87, Discharge Firearm into Occupied Dwelling or Vehicle in Operation under G.S. 14-34.1, Assault with Deadly Weapon Inflicting Serious Injury under G.S. 14-32(b), Assault with Deadly Weapon with Intent to Kill under G.S. 14-32(c), Assault with Firearm on a Law Enforcement Officer under G.S. 14-34.5, and Discharging Weapon into Occupied Property under G.S. 14-34.1(a), or who commits indirect contempt by a juvenile as defined in G.S. 5A-31.
- c. Any juvenile who, while less than 10 years of age but at least 8 years of age, commits a Class A, B1, B2, C, D, E, F, or G felony under State law.
- d. Any juvenile who, while less than 10 years of age but at least 8 years of age, commits a crime or an infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws, and has been previously adjudicated delinquent."

**SECTION 2.** G.S. 7B-1601 reads as rewritten:

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



\* H 8 3 4 - C S C E - 3 9 \*

(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.

...

(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.

(h) The juvenile court and district court are divested of any further jurisdiction in any matters upon return of a true bill of indictment by a Grand Jury for an indictable offense listed in G.S. 7B-2200(c) and G.S. 7B-2200.5(d)."

**SECTION 3.** G.S. 7B-1704 reads as rewritten:

**"§ 7B-1704. Request for review by prosecutor.**

The complainant and the victim have ~~five calendar days~~, ten days, excluding weekends and holidays, unless waived by the district attorney, from receipt of the juvenile court counselor's decision not to approve the filing of a petition, to request review by the prosecutor. The juvenile court counselor shall notify the prosecutor immediately of such request and shall transmit to the prosecutor a copy of the complaint. The prosecutor shall notify the complainant, the victim, and the juvenile court counselor of the time and place for the review."

**SECTION 4.** G.S. 7B-1906(b) reads as rewritten:

"(b) As long as the juvenile remains in secure or nonsecure custody, upon request of the juvenile further hearings to determine the need for continued secure custody shall be held at intervals of no more than 10 calendar days, except as otherwise provided in this section. A subsequent hearing on continued nonsecure custody shall be held within seven business days, excluding Saturdays, Sundays, and legal holidays when the courthouse is closed for transactions, of the initial hearing required in subsection (a) of this section and hearings thereafter shall be held at intervals of no more than 30 calendar days. In the case of a juvenile alleged to be delinquent, further hearings may be waived only with the consent of the juvenile, through counsel for the juvenile."

**SECTION 5.** G.S. 7B-2200 reads as rewritten:

"Article 22.

~~"Probable Cause Hearing and Transfer Hearing. Transfer Hearings, and Indictment by the~~  
Grand Jury.

**"§ 7B-2200. Transfer of jurisdiction of a juvenile under the age of 16 to superior court.**

(a) Discretionary Transfer. Except as otherwise provided in G.S. 7B-2200.5, after notice, hearing, and a finding of probable cause the court may, upon motion of the prosecutor or the juvenile's attorney or upon its own motion, transfer jurisdiction over a juvenile to superior court if the juvenile was at least 13 years of age but less than 16 years of age at the time the juvenile allegedly committed an offense that would be a felony if committed by an adult.

(b) Mandatory Transfer. After notice, hearing, and finding of probable cause ~~The the~~ court shall transfer the case to superior court for trial as in the case of adults if the felony the juvenile allegedly committed constitutes a Class A felony and ~~(i) the court finds probable cause or (ii) upon notice of the return of a true bill of indictment as provided in G.S. 15A-630.felony."~~

(c) An offense listed in subsection (b) may be presented to a Grand Jury and upon a true bill of indictment the superior court obtains exclusive jurisdiction, and the juvenile court and district court are divested of any further jurisdiction in the matter."

**SECTION 6.** G.S. 7B-2200.5 reads as rewritten:

**"§ 7B-2200.5. Transfer of jurisdiction of a juvenile at least 16 years of age to superior court.**

(a) If a juvenile was 16 years of age or older at the time the juvenile allegedly committed an offense that would be a Class A, B1, B2, C, D, E, F, or G felony if committed by an adult, after notice, hearing, and a finding of probable cause the court shall transfer jurisdiction over the juvenile to superior court for trial as in the case of adults unless the prosecutor declines to

1 prosecute in superior court as provided in subsection (a1) of this ~~section after either of the~~  
2 ~~following section.~~

3 (1) ~~Notice to the juvenile of the return of a true bill of indictment as provided in~~  
4 ~~G.S. 15A-630.~~

5 (2) ~~Notice, hearing, and a finding of probable cause that the juvenile committed~~  
6 ~~an offense that constitutes a Class A, B1, B2, C, D, E, F, or G felony if~~  
7 ~~committed by an adult.~~

8 (a1) The prosecutor may decline to prosecute in superior court a matter that would  
9 otherwise be subject to mandatory transfer pursuant to subsection (a) of this section if the juvenile  
10 has allegedly committed an offense that would be a Class D, E, F, or G felony if committed by  
11 an adult. If the prosecutor declines to prosecute the matter in superior court, jurisdiction over the  
12 juvenile shall remain in juvenile court following a finding of probable cause pursuant to  
13 G.S. 7B-2202. Prior to adjudication, the prosecutor may choose to transfer the matter pursuant  
14 to subsection (a) of this section if the juvenile has allegedly committed an offense that would be  
15 a Class D, E, F, or G felony if committed by an adult.

16 (b) If the juvenile was 16 years of age or older at the time the juvenile allegedly  
17 committed an offense that would be a Class H or I felony if committed by an adult, after notice,  
18 hearing, and a finding of probable cause, the court may, upon motion of the prosecutor or the  
19 juvenile's attorney or upon its own motion, transfer jurisdiction over a juvenile to superior court  
20 pursuant to G.S. 7B-2203.

21 (c) ~~A probable cause hearing conducted pursuant to subdivision (2) of subsection (a) of~~  
22 ~~this section shall be conducted within 90 days of the date of the juvenile's first appearance. The~~  
23 ~~court may continue the hearing for good cause.~~

24 (d) In any case where jurisdiction over a juvenile has been transferred to superior court,  
25 upon joint motion of the prosecutor and the juvenile's attorney, the superior court shall remand  
26 the case to district court. The prosecutor shall provide the chief court counselor or his or her  
27 designee with a copy of the joint motion prior to submitting the motion to the court. The superior  
28 court shall expunge the superior court record in accordance with G.S. 15A-145.8 at the time of  
29 remand, and, if the juvenile meets the criteria established in G.S. 7B-1903, may issue an order  
30 for secure custody upon the request of a prosecutor. The prosecutor shall provide a copy of any  
31 secure custody order issued to the chief court counselor or his or her designee, as soon as possible  
32 and no more than 24 hours after the order is issued.

33 (e) An offense listed in section (a) may be presented to a Grand Jury and upon a true bill  
34 of indictment the superior court obtains exclusive jurisdiction, and the juvenile court and district  
35 court are divested of any further jurisdiction in the matter."

36 **SECTION 7.** G.S. 7B-2201 reads as rewritten:

37 **"§ 7B-2201. Fingerprinting and DNA sample from juvenile transferred to superior court.**

38 (a) When jurisdiction over a juvenile is transferred to the superior ~~court, court or an order~~  
39 for arrest is issued pursuant to G.S. 15A-305.1, the juvenile shall be fingerprinted and the  
40 juvenile's fingerprints shall be sent to the State Bureau of Investigation.

41 (b) When jurisdiction over a juvenile is transferred to the superior ~~court, court or an order~~  
42 for arrest is issued pursuant to G.S. 15A-305.1, a DNA sample shall be taken from the juvenile  
43 if any of the offenses for which the juvenile is transferred or indicted for are included in the  
44 provisions of G.S. 15A-266.3A."

45 **SECTION 8.** G.S. 7B-2202(a) reads as rewritten:

46 "(a) ~~Except as otherwise provided in G.S. 7B-2200 and G.S. 7B-2200.5(a)(1), The~~  
47 prosecutor shall calendar the date of the probable cause hearing and the court shall provide notice  
48 and conduct a hearing to determine probable cause in all felony cases in which a juvenile was 13  
49 years of age or older when the offense was allegedly committed. Except as otherwise provided  
50 in G.S. 7B-2200.5(c), the The hearing shall be conducted within 15 days 90 days of the date of the  
51 juvenile's first appearance. The court may continue the hearing for good cause."

SECTION 9. G.S. 7B-2204 reads as rewritten:

"§ 7B-2204. **Right to pretrial release; ~~detention~~detention following transfer to superior court.**

(a) Once the order of transfer has been entered, pursuant to G.S. 7B-2200(b), G.S. 7B-2200.5, or G.S. 7B-2203, the juvenile has the right to pretrial release as provided in G.S. 15A-533 and G.S. 15A-534. The release order shall specify the person or persons to whom the juvenile may be released. Pending release, the court shall order that the juvenile be detained in a detention facility while awaiting trial. Personnel of the Division of Juvenile Justice of the Department of Public Safety, or personnel approved by the Division, shall transport the juvenile from the detention facility to court.

...."

SECTION 10. G.S. 7B-2401 reads as rewritten:

§ 7B-2401. **No proceedings when juvenile is not capable to proceed.**

(a) No juvenile may be transferred to superior court for trial as an adult, adjudicated delinquent or undisciplined, or subject to disposition for an offense in juvenile court, including a violation of probation, when, by reason of mental disorder, intellectual disability, neurological disorder, traumatic or acquired brain injury, or developmental immaturity, the juvenile is unable to understand the nature and object of the proceedings against the juvenile, to comprehend the juvenile's own situation in reference to the proceedings, or to assist in the juvenile's own defense in a rational or reasonable manner.

(b) This section does not prevent the court from going forward with any motions which can be handled by counsel without the assistance of the juvenile.

(c) This section does not apply to individuals over whom the juvenile court has jurisdiction pursuant to G.S. 7B-1601(d) through (d1) nor to any juvenile who is subject to transfer by indictment pursuant to ~~G.S. 7B-2200 and G.S. 7B-2200.5(a)(1)~~. G.S. 7B-2200(c) and G.S. 7B-2200.5. Capacity to proceed under these circumstances shall not be addressed by the juvenile court. Capacity to proceed may be raised pursuant to Article 56 of Chapter 15A of the General Statutes if the superior court obtains jurisdiction of the proceeding."

SECTION 10.(b) This section becomes effective January 1, 2025, and applies to offenses committed on or after that date.

SECTION 11. G.S. 7B-2401.2(g) reads as rewritten:

"(g) An order for a forensic evaluation shall stay juvenile proceedings, with the exception of hearings to review the need for continued nonsecure or secure custody and proceedings related to the transfer of jurisdiction by indictment pursuant to ~~G.S. 7B-2200.5(a)~~, G.S. 7B-2200(c) and G.S. 7B-2200.5(d) until capacity has been determined pursuant to this Subchapter."

SECTION 12. 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:

...

(4) Require restitution, full or partial, ~~up to five hundred dollars (\$500.00)~~, payable within a 12-month period to any person who has suffered loss or damage as a result of the offense committed by the juvenile. The court may determine the amount, terms, and conditions of the restitution. If the juvenile participated with another person or persons, all participants ~~should~~ may be jointly and severally responsible for the payment of restitution; however, the court shall not require the juvenile to make restitution if the juvenile satisfies the court that the juvenile does not have, and could not reasonably acquire, the means to make restitution.

...."

1           **SECTION 13.** G.S. 7B-2603 reads as rewritten:

2   **"§ 7B-2603. Right to appeal transfer decision.**

3       (a) Notwithstanding G.S. 7B-2602, any order transferring jurisdiction of the district court  
4 in a juvenile matter to the superior court pursuant to G.S. 7B-2203 may be appealed to the  
5 superior court for a hearing on the record. Notice of the appeal must be given in open court or in  
6 writing within 10 days after entry of the order of transfer in district court. Entry of an order shall  
7 be treated in the same manner as entry of a judgment under G.S. 1A-1, Rule 58 of the North  
8 Carolina Rules of Civil Procedure. The clerk of superior court shall provide the district attorney  
9 with a copy of any written notice of appeal filed by the attorney for the juvenile. Upon expiration  
10 of the 10 day period in which an appeal may be entered, if an appeal has been entered and not  
11 withdrawn, the clerk shall transfer the case to the superior court docket. The superior court shall,  
12 within a reasonable time, review the record of the transfer hearing for abuse of discretion by the  
13 juvenile court in the issue of transfer. The superior court shall not review the findings as to  
14 probable cause for the underlying offense.

15       ...

16       (d) The superior court order shall be an interlocutory order, and the issue of transfer may  
17 be appealed to the Court of Appeals only after the juvenile has been convicted in superior court.

18       (e) This section shall not apply and confers no right to appeal transferred matters  
19 presented to a Grand Jury and the return of a true bill of indictment for an indictable offense as  
20 provided in N.C. Gen. Stat. 7B-2200(c) and N.C. Gen. Stat. 7B-2200.5(d) to the Superior Court."

21           **SECTION 14.** G.S. 7B-3101 reads as rewritten:

22   **"§ 7B-3101. Notification of schools when juveniles are alleged or found to be delinquent.**

23       (a) Notwithstanding G.S. 7B-3000, the juvenile court counselor shall deliver verbal and  
24 written notification of any of the following actions to the principal of the school that the juvenile  
25 attends:

- 26           (1) A petition is filed under G.S. 7B-1802 that alleges delinquency for an offense  
27 that would ~~be a~~ constitute a Class A, B1, B2, C, D, E, F, or G felony if  
28 committed by an adult. The principal of the school shall make an  
29 individualized decision related to the status of the student during the pendency  
30 of the matter and not have an automatic suspension policy.  
31           (2) The court transfers jurisdiction over a juvenile to the superior court under  
32 G.S. 7B-2200.5 or G.S. 7B-2200.  
33           (3) The court dismisses under G.S. 7B-2411 the petition that alleges delinquency  
34 for an offense that would be a felony if committed by an adult.  
35           (4) The court issues a dispositional order under Article 25 of Chapter 7B of the  
36 General Statutes including, but not limited to, an order of probation that  
37 requires school attendance, concerning a juvenile alleged or found delinquent  
38 for an offense that would be a felony if committed by an adult.  
39           (5) The court modifies or vacates any order or disposition under G.S. 7B-2600  
40 concerning a juvenile alleged or found delinquent for an offense that would  
41 be a felony if committed by an adult.

42       Notification of the school principal in person or by telephone shall be made before the  
43 beginning of the next school day. Delivery shall be made as soon as practicable but at least within  
44 five days of the action. Delivery shall be made in person or by certified mail. Notification that a  
45 petition has been filed shall describe the nature of the offense. Notification of a dispositional  
46 order, a modified or vacated order, or a transfer to superior court shall describe the court's action  
47 and any applicable disposition requirements. As used in this subsection, the term "offense" does  
48 not include any offense under Chapter 20 of the General Statutes.

49       ...."

50           **SECTION 15.** G.S. 15A-305 reads as rewritten:

51   **"§ 15A-305. Order for arrest.**

(a) Definition. – As used in this section, an order for arrest is an order issued by a justice, judge, clerk, or magistrate that a law-enforcement officer take a named person into custody.

(b) When Issued. – An order for arrest may be issued when:

(1) ~~A-Except as provided in G.S. 15A-305.1, a grand jury has returned a true bill of indictment against a defendant who is not in custody and who has not been released from custody pursuant to Article 26 of this Chapter, Bail, to answer to the charges in the bill of indictment.~~

(2) A defendant who has been arrested and released from custody pursuant to Article 26 of this Chapter, Bail, fails to appear as required.

(3) The defendant has failed to appear as required by a duly executed criminal summons issued pursuant to G.S. 15A-303 that charged the defendant with a criminal offense, or a citation issued by a law enforcement officer or other person authorized by statute pursuant to G.S. 15A-302 that charged the defendant with a misdemeanor.

(4) A defendant has violated the conditions of probation.

(5) In any criminal proceeding in which the defendant has become subject to the jurisdiction of the court, it becomes necessary to take the defendant into custody.

(6) It is authorized by G.S. 15A-803 in connection with material witness proceedings.

(7) The common-law writ of *habeas corpus* has heretofore been issuable.

(8) When a defendant fails to appear as required in a show cause order issued in a criminal proceeding.

(9) It is authorized by G.S. 5A-16 in connection with contempt proceedings.

(c) Statement of Cause and Order; Copy of Indictment. –

(1) The process must state the cause for its issuance and order an officer described in G.S. 15A-301(b) to take the person named therein into custody and bring him before the court. If the defendant is to be held without bail, the order must so provide.

(2) When the order is issued pursuant to subdivision (b)(1), a copy of the bill of indictment must be attached to each copy of the order for arrest.

(d) Who May Issue. – An order for arrest, valid throughout the State, may be issued by any person authorized to issue warrants for arrest."

**SECTION 16.** Article 17 of Chapter 15A of the General Statutes is amended by adding a new section to read:

**"§ 15A-305.1 Order for arrest of an indicted juvenile and pretrial release.**

(a) When a grand jury has returned a true bill of indictment against a juvenile for an indictable offense listed in G.S. 7B – 2200 or G.S. 7B – 2200.5; the presiding or convening superior court judge shall issue an order for arrest of the indicted juvenile.

(b) The order for arrest shall require the indicted juvenile to appear before a superior court.

(c) The court may order pursuant to G.S. 15A-623 that the bill of indictment be kept secret until the defendant is arrested or appears before the Superior Court.

(d) Once the order for arrest has been issued, the indicted juvenile has the right to pretrial release pursuant to G.S. 15A-533 and 15A-534. Pending release, the court shall order that the juvenile be detained in a detention facility while awaiting trial. Personnel of the Division of Juvenile Justice of the Department of Public Safety, or personnel approved by the Division, shall transport the juvenile from the detention facility to court.

(e) The court may order the juvenile to be held in a holdover facility at any time the presence of the juvenile is required in court for pretrial hearings or trial, if the court finds that it would be inconvenient to return the juvenile to the detention facility. Personnel of the Division,

1 or personnel approved by the Division, shall transport the juvenile from the holdover facility to  
2 court and shall transport the juvenile back to the detention center.

3 (f) If the juvenile reaches the age of 18 years while awaiting the completion of  
4 proceedings in superior court, the juvenile shall be transported by personnel of the Division, or  
5 personnel approved by the Division, to the custody of the sheriff of the county where the charges  
6 arose.

7 (g) Should the juvenile be found guilty or enter a plea of guilty or no contest to a  
8 criminal offense in superior court and receive an active sentence, then immediate transfer to the  
9 Division of Prisons of the Department of Adult Correction shall be ordered. Until such time as  
10 the juvenile is transferred to the Division of Prisons of the Department of Adult Correction, the  
11 juvenile may be detained in a holdover facility or detention facility approved by the Section or  
12 approved by the Division of Juvenile Justice of the Department of Public Safety.

13 (h) The juvenile may be kept by the Division of Prisons of the Department of Adult  
14 Correction as a safekeeper until the juvenile is placed in an appropriate correctional program."

15 **SECTION 17.** Except as otherwise provided, this act becomes effective December  
16 1, 2024, and applies to offenses committed on or after that date.