

2021 Delinquency Legislation

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S.L. 2021 - 47. S.255 An Act To Make Various Changes And Technical Corrections To The Laws Governing The Administration Of Justice.

- Section 9.(a) adds a new G.S. 7A-49.6. **Proceedings conducted by audio and video transmission.**
- Judicial officials are authorized to conduct proceedings of all type using audio and video transmission in which the parties, the presiding official, and any other participants can see and hear each other, except as otherwise provided in this new section of law.
- When conducting proceedings by audio and video transmission, judicial officials must safeguard the constitutional rights of the people involved in the proceeding and preserve the integrity of the judicial process.
- Each party must be able to communicate fully and confidentially with their attorney.
- A party may object to conducting a civil proceeding by audio and video transmission. If the presiding official finds that the party has demonstrated good cause for the objection, the proceeding must not be held by audio and video transmission. If there is no objection or if good cause is not shown, the proceeding may be conducted by audio and video transmission.
- Except as otherwise provided by law, when the right to confront witnesses or be present is implicated in delinquency proceedings, the court can only proceed by audio and video transmission on a knowing, intelligent, and voluntary waiver of the juvenile respondent's rights.
- Proceedings conducted by audio and video transmission must be held in a manner that complies with federal and state laws governing confidentiality and security of confidential information.
- If the proceeding is open to the public, the presiding official must facilitate access to the proceeding by the public and the media as nearly as practicable to the access that would be available were the proceeding conducted in person.
- If the proceeding is required by law to be recorded, then the audio and video transmission must be recorded in accordance with the law.
- This new statute is not intended to limit the court's authority to receive remote testimony pursuant to statutes that otherwise permit it.
- All proceedings under this section must be conducted using videoconferencing applications approved by the Administrative Office of the Courts.
- Effective June 18, 2021 and applicable to proceedings on or after that date.

S. 207 An Act To Implement The Juvenile Justice Reinvestment Act Based On Legislative Recommendations Of The Juvenile Jurisdiction Advisory Committee, To Make Related Changes To The Juvenile Code, And To Provide For An Appropriate Mental Health Assessment To Be Provided For Juveniles Who Have Been Adjudicated Delinquent.

- THIS LEGISLATION IS PENDING – IT HAS NOT PASSED AS OF THE WRITING OF THIS SUMMARY

Extended Commitments

- Allows for extended commitments to the YDC for offenses committed at ages 16 and 17

Age at offense	Offense type	Commitment to age
Any	first degree murder, first-degree forcible rape, first-degree statutory rape pursuant, first-degree forcible sexual offense, or first-degree statutory sexual offense	21
Under 16	Other B1 - E	19
16	Other B1 - E	20
17	Other B1 - E	21

- Makes conforming changes for release to PRS 90 days prior to aging out of custody for offenses at 16 and 17
- Conforms court's authority to modify or vacate orders to maximum terms of dispositions for offenses at 16 and 17, including new extended commitments

Confinement after felony conviction following transfer

- Allows for confinement in juvenile detention pending transfer to the prison system following conviction in superior court and receipt of an active sentence

Reverse waiver and transfer

- Give superior court authority to issue a secure custody order when remanding a case to district court; must have a hearing within 10 days and then connects to existing secure custody hearing requirements for delinquency cases
- Allows prosecutor to decline to transfer a mandatory transfer case for an offense at 16/17 for Class D – Class G felonies. Prosecutor can change their mind any time prior to adjudication

Minimum Age

- Raises minimum age to 8 for all offenses; establishes delinquency jurisdiction for offenses committed at ages 8 and 9 only for Class A – G felonies and for any child who has a previous adjudication of delinquency and is charged with a new crime; raises minimum age for undisciplined jurisdiction to 10; creates child consultation services for “vulnerable juveniles,” children ages 6 – 9 who commit a crime or infraction and are not delinquent; up to 6 months with possible 3 month extension; case management – screening, assessment, community resources, and programming to child and parent

E.M. fix

- After adjudication, if suspected mental illness, developmental disability, or intellectual disability, court shall order JJ to make a referral for a CCA or equivalent mental health

- assessment, unless one was conducted within the last 45 days before the adjudication hearing
- If sufficient evidence that the juvenile has severe emotional disturbance, developmental disability, or intellectual disability that substantially contributed to the delinquent behavior, and juvenile is eligible for a Level 3 disposition and/or recommended for a PRTF, court shall order a care review team to be convened by JJ.
- Care review team must submit a recommendation to the court within 30 days of order convening the team
- Effective 12/1/2021 and applies to petitions filed after that date
- Effective date for the rest of the changes is 12/1/21 and applies to offenses committed on or after that date.