

2024 Delinquency Legislation

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H. 834 AN ACT TO MODIFY THE DEFINITION OF DELINQUENT JUVENILE, TO MODIFY THE TRANSFER PROCESS FOR INDICTED JUVENILE CASES, TO CREATE A NEW PROCESS TO REMOVE A CASE TO JUVENILE COURT, TO MAKE CHANGES TO SCHOOL USE OF INFORMATION, TO MAKE SECURE CUSTODY HEARING CHANGES, TO MAKE TECHNICAL CORRECTIONS, TO MAKE CHANGES TO CERTAIN DISPOSITIONAL ALTERNATIVES, AND TO INCREASE THE PUNISHMENT FOR AN ADULT TO SOLICIT A MINOR TO COMMIT A CRIME AND TO MODIFY THE NUMBER OF DAYS FOR REQUEST FOR REVIEW BY A PROSECUTOR

Modification of Definition of Delinquent Juvenile

- G.S. 7B-1501(7)(b) is amended to remove Class A – Class E felony offenses committed at the age of 16 and 17 from the definition of delinquent juvenile. The exclusion includes all offenses that are transactionally related to the Class A – Class E felony offense.

Modification of Transfer Process for Indicted Juvenile Cases

- G.S. 7B-1808(a) is amended to require a first appearance in juvenile court following the removal of a case from superior court to juvenile court (see below for a description of the new removal process).
- G.S. 7B-1906(b2) is amended to require a hearing to determine the need for continued secure custody within 10 calendar days of the issuance of a secure custody order in a matter that is removed from superior court to juvenile court (see below for a description of the new removal process).
- G.S. 7B-2200 is restructured to describe the current transfer process for felony offenses, other than Class A felonies, alleged to have been committed at age 13, 14 or 15 as discretionary transfer and to describe the current transfer process for Class A felony offenses alleged to have been committed at ages 13, 14, or 15 as mandatory transfer.
- G.S. 7B-2200 is amended to add a new subsection (c) to allow for remand of cases from superior court to juvenile court after transfer occurred in cases in which a felony is alleged to have been committed at ages 13, 14, or 15. The case must be remanded to district court upon joint motion of the prosecutor and the juvenile’s attorney. The prosecutor must provide the chief court counselor or their designee with a copy of the joint motion before submitting the motion to the court. The superior court must expunge the superior court record at the time of remand. The superior court may also issue a secure custody order at the time of remand if the juvenile meets the criteria for secure custody in G.S. 7B-1903. The prosecutor must provide a copy of any such secure custody order to the chief court counselor as soon as possible and no more than 24 hours after the order is issued.
- G.S. 7B-2200.5 is amended to remove Class A – E felonies alleged to have been committed at ages 16 and 17 from the procedure to transfer cases from juvenile jurisdiction to superior court for trial as an adult. Language governing the timing of probable cause hearings in cases that remain subject to the mandatory transfer procedure for Class F and Class G felonies alleged to

have been committed at ages 16 and 17 is removed from this section (and placed in G.S. 7B-2202(b1), as described below).

- G.S. 7B-2202(a) is amended to exclude juvenile cases that were removed from superior court to juvenile court from a probable cause hearing in juvenile court (see description of removal process below).
- G.S. 7B-2202 is amended to add a new subsection (b1) providing that a probable cause hearing must be held in any matter subject to mandatory transfer within 90 days of the juvenile's first appearance. The probable cause hearing may be continued for good cause.
- A new G.S. 7B-2202.5 is added to require an indictment return appearance in juvenile court within five business days of the date a true bill of indictment is returned in a matter subject to mandatory transfer. The prosecutor must immediately notify the district court if a true bill of indictment is returned in a matter subject to mandatory transfer. The court must calendar the matter for an appearance within five business days of the date that the indictment was returned. At the appearance, the court must determine if notice of a true bill of indictment charging the commission of an offense subject to mandatory transfer was provided in accordance with G.S. 15A-630. If the court finds that notice was provided, the court must transfer the matter to superior court for trial as an adult and determine conditions of pretrial release as required by G.S. 7B-2204.
- G.S. 7B-2603 is amended to remove the right to an interlocutory appeal of a transfer order in cases subject to mandatory transfer. Issues related to mandatory transfers can be appealed to the Court of Appeals only following conviction in superior court.

New Process to Remove Cases to Juvenile Court

- G.S. 7B-1902 is amended to provide authority for a superior court judge to issue a secure custody order when the superior court orders removal of a case to juvenile court.
- A new G.S. 15A-960 is added to create a process for removal of cases in which a Class A – Class E felony is alleged to have been committed at age 16 and 17 from superior court to juvenile court.
 - Removal is required on the filing of a joint motion by the prosecutor and the defendant's attorney. The motion can be filed any time after an indictment is returned or a criminal information is issued and before the jury is sworn and impaneled. The prosecutor must provide a copy of the joint motion to the chief court counselor or their designee before submitting the motion to the court. The removal order must be in writing and require the chief court counselor or their designee to file a juvenile petition within 10 calendar days after removal is ordered.
 - The superior court record must be expunged according to G.S. 15A-145.8 at the time of removal.
 - The superior court may issue an order for secure custody at the time of removal upon the request of the prosecutor and if the defendant meets the criteria to issue a secure custody order in G.S. 7B-1903. The prosecutor must provide the chief court counselor or their designee with a copy of any secure custody order issued at removal as soon as possible and no more than 24 hours after the order is issued.

- G.S. 15A-145.8 is amended to apply the same expunction process in place for cases that are remanded from superior court to juvenile court to cases that are removed from superior court to juvenile court.

Changes to School Use of Information

- G.S. 7B-3101 is amended to restrict school notification of the filing of a petition in a delinquency matter to cases that allege a Class A – Class E felony if committed by an adult. Language that prohibits an automatic suspension policy related to this notification is added. The principal is required to make an individualized decision related to the status of the student during the pendency of the delinquency matter.
- G.S. 115C-404(b) is amended to prohibit an automatic suspension policy related to juvenile court information received either as a felony notification under G.S. 7B-3101 or information gained from the examination of juvenile records under G.S. 7B-3100. The principal is required to make an individualized decision related to the status of the student during the pendency of the delinquency matter.

Secure Custody Hearing Changes

- G.S. 7B-1906(b) is amended to require hearings on the ongoing need for secure custody every 30 days in all delinquency cases. Parties can request and the court can order an earlier hearing. Earlier hearings must be scheduled within 10 calendar days of the request for the earlier hearing.

Technical Corrections to Part V of S.L. 2023-114 (juvenile capacity)

- G.S. 7B-2401.2(d) is corrected to remove reference to a 30-day timeline for the completion of a forensic evaluation report.
- Effective dates are added to ensure that the entirety of the new law takes effect beginning with offenses committed on or after January 1, 2025.
- G.S. 7B-2401.4(f)(3) is amended to require good cause to grant an extension of remediation.
- G.S. 7B-1904 is amended to add a missing “than.”
- G.S. 7B-2401.5 is amended to prohibit placement of a juvenile in a situation where that juvenile will come into contact with adults for any purpose when the juvenile is subject to involuntary civil commitment.

Changes to Certain Dispositional Alternative

- G.S. 7B-2506(4) and G.S. 7B-2506(22) are amended to allow, but not require, joint and several responsibility for all participants in an offense that resulted in loss or damage to a person when restitution is ordered.

Increase Punishment for Certain Crimes

- G.S. 14-2.6 is amended
 - to define an adult as a person 18 years or older and to define a minor as a person who has not reached the age of 18 years;

- to include adults and minors as people who can be punished for soliciting another adult to commit a felony or misdemeanor offense;
- to establish solicitation of a minor to commit a felony or misdemeanor offense by another minor as an offense, as pictured in the table below;

Offense minor solicited to Commit	Punishment for minor who engaged in the solicitation
Class A or B1 felony	Class C felony
Class B2 felony	Class D felony
Class H felony	Class 1 misdemeanor
Class I felony	Class 2 misdemeanor
Any other felony	Felony 2 classes below solicited felony
Any misdemeanor	Class 3 misdemeanor

- to create a new offense when an adult solicits a minor to commit a felony or misdemeanor. An adult who solicits a minor to commit a felony or misdemeanor is guilty of the same class felony or misdemeanor the adult solicited the minor to commit.

Modify Number of Days for Request for Review by a Prosecutor

- G.S. 7B-1704 is amended to increase the number of days a complainant and a victim have to request prosecutor review of the decision of the juvenile court counselor not to file a petition in a delinquency matter. The number of days is increased from five days from receipt of the juvenile court counselor's decision not to approve the petition for filing to 10 days. The district attorney may waive this time limit.

Effective Date

- The act becomes effective December 1, 2024, and applies to offenses committed on or after that date, except for the technical amendments to the juvenile capacity law which take effect on January 1, 2025 and apply to offenses committed on or after that date.