

JUVENILE JUSTICE REINVESTMENT ACT

INCREASE THE AGE OF JUVENILE JURISDICTION, EXCEPT FOR CERTAIN FELONIES

SECTION 16D.4.(a) G.S. 7B-1501 reads as rewritten:

"§ 7B-1501. Definitions.

In this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings. The singular includes the plural, unless otherwise specified.

...

(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.

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 violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31.

...

(27a) Victim. – Any individual or entity against whom a crime or infraction is alleged to have been committed by a juvenile based on reasonable grounds that the alleged facts are true. For purposes of Article 17 of this Chapter, the term may also include a parent, guardian, or custodian of a victim under the age of 18 years of age.

...."

SECTION 16D.4.(b) G.S. 7B-1601 reads as rewritten:

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

(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 committed while the juvenile was at least 16 years of 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.

(c) When delinquency 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 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 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. 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 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.

(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.

(d1) When the court has not obtained jurisdiction over a juvenile before the juvenile reaches the age of 19, for a felony and related misdemeanors the juvenile allegedly committed while the juvenile was at least 16 years of age but less than 17 years of age, 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. When the court has not obtained jurisdiction over a juvenile before the juvenile reaches the age of 20, for a felony and related misdemeanors the juvenile allegedly committed while the juvenile was at least 17 years of age but less than 18 years of age, 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 16D.4.(c) 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 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.

(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 or a misdemeanor, 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 16D.4.(d) G.S. 7B-2200 reads as rewritten:

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

~~After~~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 or older 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. If the alleged felony constitutes a Class A felony and the court finds probable cause, the court shall transfer the case to the superior court for trial as in the case of adults."

SECTION 16D.4.(e) Article 22 of Chapter 7B of the General Statutes is amended by adding a new section to read:

"§ 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, the court shall transfer jurisdiction over the juvenile to superior court for trial as in the case of adults after either of the following:

- (1) Notice to the juvenile and a finding by the court that a bill of indictment has been returned against the juvenile charging the commission of an offense that constitutes a Class A, B1, B2, C, D, F, or G felony if committed by an adult.
- (2) Notice, hearing, and a finding of probable cause that the juvenile committed an offense that constitutes a Class A, B1, B2, C, D, E, F, or G felony if committed by an adult.

(b) If the juvenile was 16 years of age or older at the time the juvenile allegedly committed an offense that would be a Class H or I felony if committed by an adult, 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 pursuant to G.S. 7B-2203."

SECTION 16D.4.(f) G.S. 7B-2202 reads as rewritten:

"§ 7B-2202. Probable cause hearing.

(a) ~~The~~Except as otherwise provided in G.S. 7B-2200.5(a)(1), the court shall conduct a hearing to determine probable cause in all felony cases in which a juvenile was 13 years of age or older when the offense was allegedly committed. The hearing shall be conducted within 15 days of the date of the juvenile's first appearance. The court may continue the hearing for good cause.

...

(e) ~~If~~If probable cause is found and transfer to superior court is not required by G.S. 7B-2200, G.S. 7B-2200 or G.S. 7B-2200.5, upon motion of the prosecutor or the juvenile's attorney or upon its own motion, the court shall either proceed to a transfer hearing or set a date for that hearing. If the juvenile has not received notice of the intention to seek transfer at least five days prior to the probable cause hearing, the court, at the request of the juvenile, shall continue the transfer hearing.

...."

SECTION 16D.4.(g) 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:
 - a. Require that a juvenile be supervised in the juvenile's own home by the department of social services in the juvenile's county, a juvenile court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or
 - b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or
 - c. If the director of the county department of social services has received notice and an opportunity to be heard, place the juvenile in the custody of the department of social services in the county of his residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. An order placing a juvenile in the custody or placement responsibility of a county department of social services shall contain a finding

that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. This placement shall be reviewed in accordance with G.S. 7B-906.1. The director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on behalf of the juvenile or juveniles, the director may, unless otherwise ordered by the judge, arrange for, provide, or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a judge or his designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent, guardian, or custodian of the affected juvenile. If the director cannot obtain consent, the director shall promptly notify the parent, guardian, or custodian that care or treatment has been provided and shall give the parent, guardian, or custodian frequent status reports on the circumstances of the juvenile. Upon request of a parent, guardian, or custodian of the affected juvenile, the results or records of the aforementioned evaluations, findings, or treatment shall be made available to the parent, guardian, or custodian by the director unless prohibited by G.S. 122C-53(d).

- (2) Excuse ~~the~~ the 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.

...."

SECTION 16D.4.(h) 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. For the purposes of this section, a prior adjudication is an adjudication of an offense that occurs before the adjudication of the offense before the court.

(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 A through E felony offense, 4 points.
- (2b) For each prior conviction of a Class F through I felony or Class A1 misdemeanor offense, excluding conviction of the motor vehicle laws, 2 points.
- (2c) 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 delinquent or convicted for more than one offense in a single session of district court, ~~court~~ or more than one offense in a single superior court during one calendar week, 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 Department of Public Safety 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 Department of Public Safety 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 16D.4.(i) G.S. 7B-2513(a) reads as rewritten:

"(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 shallFor 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 forcible rape pursuant to G.S. 14-27.21, first-degree statutory rape pursuant to G.S. 14-27.24, first-degree forcible sexual offense pursuant to G.S. 14-27.26, or first-degree statutory sexual offense pursuant to G.S. 14-27.29 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 but less than 17 years of age, the term shall not exceed the juvenile's nineteenth birthday.

(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 twentieth birthday.

(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 16D.4.(j) G.S. 7B-2515 reads as rewritten:

"§ 7B-2515. Notification of extended commitment; plan of treatment.

(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 prior to the juvenile's eighteenth birthday, or if the Division determines that the juvenile's commitment should be continued beyond the maximum commitment period as set forth in ~~G.S. 7B-2513(a)~~, G.S. 7B-2513(a4), the Division shall notify the juvenile and the juvenile's parent, guardian, or custodian in writing at least 30 days in advance of the juvenile's eighteenth birthday or the end of the maximum commitment period, of the additional specific commitment period proposed by the Division, the basis for extending the commitment period, and the plan for future care or treatment.

(a1) In determining whether a juvenile who was committed to the Division for an offense that was committed while the juvenile was at least 16 years of age but less than 17 years of age should be released before the juvenile's nineteenth 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 prior to the juvenile's nineteenth birthday, or if the Division determines that the juvenile's commitment should be continued beyond the maximum commitment period as set forth in G.S. 7B-2513(a4), the Division shall notify the juvenile and the juvenile's parent, guardian, or custodian in writing, at least 30 days in advance of the juvenile's nineteenth birthday or the end of the maximum commitment period, of the additional specific commitment period proposed by the Division, the basis for extending the commitment period, and the plan for future care or treatment.

(a2) In determining whether a juvenile who was committed to the Division for an offense that was committed while the juvenile was at least 17 years of age but less than 18 years of age should be released before the juvenile's twentieth 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 prior to the juvenile's twentieth birthday, or if the Division determines that the juvenile's commitment should be continued beyond the maximum commitment period as set forth in G.S. 7B-2513(a4), the Division shall notify the juvenile and the juvenile's parent, guardian, or custodian in writing, at least 30 days in advance of the juvenile's twentieth birthday or the end of the maximum commitment period, of the additional specific commitment period proposed by the Division, the basis for extending the commitment period, and the plan for future care or treatment.

(b) The Division shall modify the plan of care or treatment developed pursuant to G.S. 7B-2513(f) to specify (i) the specific goals and outcomes that require additional time for care or treatment of the juvenile; (ii) the specific course of treatment or care that will be implemented to achieve the established goals and outcomes; and (iii) the efforts that will be taken to assist the juvenile's family in creating an environment that will increase the likelihood that the efforts to treat and rehabilitate the juvenile will be successful upon release. If appropriate, the Division may place the juvenile in a setting other than a youth development center.

(c) The juvenile and the juvenile's parent, guardian, or custodian may request a review by the court of the Division's decision to extend the juvenile's commitment ~~beyond the juvenile's eighteenth birthday or maximum commitment period, pursuant to this section,~~ in which case the court shall conduct a review hearing. The court may modify the Division's decision and the juvenile's maximum commitment period. If the juvenile or the juvenile's parent, guardian, or custodian does not request a review of the Division's decision, the Division's decision shall become the juvenile's new maximum commitment period."

SECTION 16D.4.(k) G.S. 7B-2603(b) reads as rewritten:

"(b) Once an order of transfer has been entered by the district court, the juvenile has the right to be considered for 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. The court may order the juvenile to be held in a holdover facility as defined by G.S. 7B-1501 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. Any detention of the juvenile pending release shall be in accordance with G.S. 7B-2204.~~"

SECTION 16D.4.(l) G.S. 7B-3101(a)(2) reads as rewritten:

"(2) The court transfers jurisdiction over a juvenile to superior court under G.S. 7B-2200.5 or G.S. 7B-2200;"

SECTION 16D.4.(m) G.S. 5A-31(a) reads as rewritten:

"(a) Each of the following, when done by an unemancipated minor who (i) is at least six years of age, (ii) is not yet ~~16~~18 years of age, and (iii) has not been convicted of any crime in superior court, is contempt by a juvenile:

...."

SECTION 16D.4.(n) 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 16 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 16D.4.(o) G.S. 14-208.6B reads as rewritten:

"§ 14-208.6B. Registration requirements for juveniles transferred to and convicted in superior court.

A juvenile transferred to superior court pursuant to G.S. 7B-2200 or G.S. 7B-2200.5 who is convicted of a sexually violent offense or an offense against a minor as defined in G.S. 14-208.6 shall register in person in accordance with this Article just as an adult convicted of the same offense must register."

SECTION 16D.4.(p) 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~~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 16D.4.(q) G.S. 115C-404(a) reads as rewritten:

"(a) Written notifications received in accordance with G.S. 7B-3101 and information gained from examination of juvenile records in accordance with G.S. 7B-3100 are confidential records, are not public records as defined under G.S. 132-1, and shall not be made part of the student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. The principal shall shred, burn, or otherwise destroy documents received in accordance with G.S. 7B-3100 to protect the confidentiality of the information when the principal receives notification that the court dismissed the petition under G.S. 7B-2411, the court transferred jurisdiction over the student to superior court under G.S. 7B-2200.5 or G.S. 7B-2200, or the court granted the student's petition for expunction of the records. The principal shall shred, burn, or otherwise destroy all information gained from examination of juvenile records in accordance with G.S. 7B-3100 when the principal finds that the school no longer needs the information to protect the safety of or to improve the educational opportunities for the student or others. In no case shall the principal make a copy of these documents."

SECTION 16D.4.(r) 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 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 violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31."

SECTION 16D.4.(s) G.S. 143B-806(b) is amended by adding a new subdivision to read:

"(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."

VICTIM REQUEST/REVIEW OF DECISION NOT TO FILE A PETITION

SECTION 16D.4.(t) G.S. 7B-1703(c) reads as rewritten:

"(c) If the juvenile court counselor determines that a petition should not be filed, the juvenile court counselor shall notify the complainant and the victim, if the complainant is not the victim, immediately in writing with specific reasons for the decision, whether or not legal sufficiency was found, and whether the matter was closed or diverted and retained, and shall include notice of the complainant's and victim's right to have the decision reviewed by the prosecutor. The juvenile court counselor shall sign the complaint after indicating on it:

- (1) The date of the determination;
- (2) The words "Not Approved for Filing"; and
- (3) Whether the matter is "Closed" or "Diverted and Retained".

Except as provided in G.S. 7B-1706, any complaint not approved for filing as a juvenile petition shall be destroyed by the juvenile court counselor after holding the complaint for a temporary period to allow review as provided in G.S. 7B-1705."

SECTION 16D.4.(u) G.S. 7B-1704 reads as rewritten:

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

The complainant ~~has~~ and the victim have five calendar days, 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~~ complainant, the victim, and the juvenile court counselor of the time and place for the review."

SECTION 16D.4.(v) G.S. 7B-1705 reads as rewritten:

"§ 7B-1705. Review of determination that petition should not be filed.

No later than 20 days after the complainant ~~is~~ and the victim are notified, the prosecutor shall review the juvenile court counselor's determination that a juvenile petition should not be filed. Review shall include conferences with the ~~complainant~~ complainant, the victim, and the juvenile court counselor. At the conclusion of the review, the prosecutor shall: (i) affirm the decision of the juvenile court counselor or direct the filing of a petition and (ii) notify the complainant and the victim of the prosecutor's action."

SECTION 16D.4.(w) G.S. 143B-806(b) is amended by adding a new subdivision to read:

"(14a) Develop and administer a system to provide information to victims and complainants regarding the status of pending complaints and the right of a complainant and victim to request review under G.S. 7B-1704 of a decision to not file a petition."

INCREASE INFORMATION AVAILABLE ON JUVENILES TO LAW ENFORCEMENT AND FOR COURT PROCEEDINGS

SECTION 16D.4.(x) G.S. 7B-3001 reads as rewritten:

"§ 7B-3001. Other records relating to juveniles.

(a) The chief court counselor shall maintain a record of all cases of juveniles under supervision of juvenile court counselors, to be known as the juvenile court counselor's record. The juvenile court

counselor's record shall include the juvenile's delinquency record; consultations with law enforcement that did not result in the filing of a complaint; family background information; reports of social, medical, psychiatric, or psychological information concerning a juvenile or the juvenile's family; probation reports; interviews with the juvenile's family; or other information the court finds should be protected from public inspection in the best interests of the juvenile.

(a1) To assist at the time of investigation of an incident that could result in the filing of a complaint, upon request, a juvenile court counselor shall share with a law enforcement officer sworn in this State information from the juvenile court counselor's record related to a juvenile's delinquency record or prior consultations with law enforcement. A law enforcement officer may not obtain copies of any part of the record, and all information shared pursuant to this subsection shall be withheld from public inspection as provided in subsection (b) of this section.

(b) Unless jurisdiction of the juvenile has been transferred to superior court, all law enforcement records and files concerning a juvenile shall be kept separate from the records and files of adults and shall be withheld from public inspection. The following persons may examine and obtain copies of law enforcement records and files concerning a juvenile without an order of the court:

- (1) The juvenile or the juvenile's attorney;
- (2) The juvenile's parent, guardian, custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) The prosecutor;
- (4) Juvenile court counselors; and
- (5) Law enforcement officers sworn in this State.

Otherwise, the records and files may be examined or copied only by order of the court.

(c) All records and files maintained by the Division pursuant to this Chapter shall be withheld from public inspection. The following persons may examine and obtain copies of the Division records and files concerning a juvenile without an order of the court:

- (1) The juvenile and the juvenile's attorney;
- (2) The juvenile's parent, guardian, custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) Professionals in the agency who are directly involved in the juvenile's case; and
- (4) Juvenile court counselors.

Otherwise, the records and files may be examined or copied only by order of the court. The court may inspect and order the release of records maintained by the Division.

(d) When the Section of Community Corrections of the Division of Adult Correction of the Department of Public Safety is authorized to access a juvenile record pursuant to G.S. 7B-3000(e1), the Division may, at the request of the Section of Community Corrections of the Division of Adult Correction, notify the Section of Community Corrections of the Division of Adult Correction that there is a juvenile record of an adjudication of delinquency for an offense that would be a felony if committed by an adult for a person subject to probation supervision under Article 82 of Chapter 15A of the General Statutes and may notify the Section of Community Corrections of the Division of Adult Correction of the county or counties where the adjudication of delinquency occurred."

SECTION 16D.4.(y) By July 1, 2018, the Administrative Office of the Courts shall expand access to its automated electronic information management system for juvenile courts, JWise, to include prosecutors and attorneys representing juveniles in juvenile court proceedings. Access shall be limited to examining electronic records related to juvenile delinquency information. Other information contained in JWise, such as any records pertaining to abuse, neglect, and dependency or termination of parental rights, shall not be made available to a prosecutor or juvenile's attorney through JWise.

SECTION 16D.4.(z) Due to the increased mobility of North Carolina citizens across counties, the Administrative Office of the Courts shall develop statewide inquiry access for JWise users that

corresponds to access to juvenile court records as authorized under Chapter 7B of the General Statutes by July 1, 2018.

SCHOOL-JUSTICE PARTNERSHIPS TO REDUCE SCHOOL-BASED REFERRALS TO JUVENILE COURTS

SECTION 16D.4.(aa) G.S. 7A-343 reads as rewritten:

"§ 7A-343. Duties of Director.

The Director is the Administrative Officer of the Courts, and the Director's duties include all of the following:

...

- (9g) Prescribe policies and procedures for chief district court judges to establish school-justice partnerships with local law enforcement agencies, local boards of education, and local school administrative units with the goal of reducing in-school arrests, out-of-school suspensions, and expulsions.

...."

JUVENILE JUSTICE TRAINING FOR LAW ENFORCEMENT OFFICERS

SECTION 16D.4.(bb) G.S. 17C-6(a) reads as rewritten:

"§ 17C-6. Powers of Commission.

(a) In addition to powers conferred upon the Commission elsewhere in this Chapter, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

- (2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a permanent position. The standards for entry level employment shall include all of the following:
- a. ~~education~~ Education and training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions.
 - b. Education and training on juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.

...

- (14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards shall include all of the following:
- a. ~~training~~ Training in response to, and investigation of, domestic violence cases, as well as training investigation for evidence-based prosecutions.
 - b. Training on juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.

- (15) Establish minimum standards and levels of training for certification of instructors for the domestic violence training and juvenile justice training required by subdivisions (2) and (14) of this subsection.

...."

SECTION 16D.4.(cc) G.S. 17E-4(a) reads as rewritten:

"§ 17E-4. Powers and duties of the Commission.

(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

...

(2) Establish minimum educational and training standards that may be met in order to qualify for entry level employment as an officer in temporary or probationary status or in a permanent position. The standards for entry level employment of officers shall include all of the following:

a. ~~training~~ Training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term "officers" shall include justice officers as defined in G.S. 17E-2(3)a., except that the term shall not include "special deputy sheriffs" as defined in ~~G.S. 17E-2(3)a.~~ G.S. 17E-2(3)a.

b. Training on juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.

...

(11) Establish minimum standards for in-service training for justice officers. In-service training standards shall include all of the following:

a. ~~training~~ Training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term "justice officer" shall include those defined in G.S. 17E-2(3)a., except that the term shall not include "special deputy sheriffs" as defined in ~~G.S. 17E-2(3)a.~~ G.S. 17E-2(3)a.

b. Training on juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.

(12) Establish minimum standards and levels of training for certification of instructors for the domestic violence training and juvenile justice training required by subdivisions (2) and (11) of this subsection.

The Commission may certify, and no additional certification shall be required from it, programs, courses and teachers certified by the North Carolina Criminal Justice Education and Training Standards Commission. Where the Commission determines that a program, course, instructor or teacher is required for an area which is unique to the office of sheriff, the Commission may certify such program, course, instructor, or teacher under such standards and procedures as it may establish."

SECTION 16D.4.(dd) In developing and implementing the education and training required by subsections (a) and (b) of this section, the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall work with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

JUVENILE GANG SUPPRESSION

SECTION 16D.4.(ee) G.S. 7B-1702 reads as rewritten:

"§ 7B-1702. Evaluation.

Upon a finding of legal sufficiency, except in cases involving nondivertible offenses set out in G.S. 7B-1701, the juvenile court counselor shall determine whether a complaint should be filed as a petition, the juvenile diverted pursuant to G.S. 7B-1706, or the case resolved without further action. In making the decision, the counselor shall consider criteria provided by the ~~Department.~~ Department and shall conduct a gang assessment. The intake process shall include the following steps if practicable:

- (1) Interviews with the complainant and the victim if someone other than the complainant;
- (2) Interviews with the juvenile and the juvenile's parent, guardian, or custodian;
- (3) Interviews with persons known to have relevant information about the juvenile or the juvenile's family.

Interviews required by this section shall be conducted in person unless it is necessary to conduct them by telephone."

SECTION 16D.4.(ff) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall develop a gang assessment instrument to be used in accordance with subsection (ee) of this section. The form shall be developed in consultation with the administrator of the GangNET database maintained by the North Carolina State Highway Patrol, and the Division may also consult with other entities that might provide information relevant to the development of an effective assessment tool.

SECTION 16D.4.(gg) G.S. 7B-2508 is amended by adding a new subsection to read:

"(g1) Notwithstanding subsection (f) of this section, if a juvenile is adjudicated for an offense that the court finds was committed as part of criminal gang activity as defined in G.S. 7B-2508.1, the juvenile shall receive a disposition one level higher than would otherwise be provided for the class of offense and delinquency history level."

SECTION 16D.4.(hh) Article 25 of Chapter 7B of the General Statutes is amended by adding a new section to read:

"§ 7B-2508.1. Criminal gang activity.

The following definitions apply in this Article:

- (1) Criminal gang. – Any ongoing organization, association, or group of three or more persons, whether formal or informal, that (i) has as one of its primary activities the commission of criminal or delinquent acts and (ii) shares a common name, identification, signs, symbols, tattoos, graffiti, attire, or other distinguishing characteristics, including common activities, customs, or behaviors. The term shall not include three or more persons associated in fact, whether formal or informal, who are not engaged in criminal gang activity.
- (2) Criminal gang activity. – The commission of, attempted commission of, or solicitation, coercion, or intimidation of another person to commit (i) any offense under Article 5 of Chapter 90 of the General Statutes or (ii) any offense under Chapter 14 of the General Statutes except Article 9, 22A, 40, 46, or 59 thereof, and further excepting G.S. 14-82, 14-145, 14-183, 14-184, 14-186, 14-190.9, 14-247, 14-248, or 14-313 thereof, and either of the following conditions is met:
 - a. The offense is committed with the intent to benefit, promote, or further the interests of a criminal gang or for the purposes of increasing a person's own standing or position within a criminal gang.
 - b. The participants in the offense are identified as criminal gang members acting individually or collectively to further any criminal purpose of a criminal gang.

- (3) Criminal gang member. – Any person who meets three or more of the following criteria:
- a. The person admits to being a member of a criminal gang.
 - b. The person is identified as a criminal gang member by a reliable source, including a parent or a guardian.
 - c. The person has been previously involved in criminal gang activity.
 - d. The person has adopted symbols, hand signs, or graffiti associated with a criminal gang.
 - e. The person has adopted the display of colors or the style of dress associated with a criminal gang.
 - f. The person is in possession of or linked to a criminal gang by physical evidence, including photographs, ledgers, rosters, written or electronic communications, or membership documents.
 - g. The person has tattoos or markings associated with a criminal gang.
 - h. The person has adopted language or terminology associated with a criminal gang.
 - i. The person appears in any form of social media to promote a criminal gang."

SECTION 16D.4.(ii) G.S. 7B-3001(a) reads as rewritten:

"(a) The chief court counselor shall maintain a record of all cases of juveniles under supervision of juvenile court counselors, to be known as the juvenile court counselor's record. The juvenile court counselor's record shall include family background information; reports of social, medical, psychiatric, or psychological information concerning a juvenile or the juvenile's family; probation reports; interviews with the juvenile's family; the results of the gang assessment; or other information the court finds should be protected from public inspection in the best interests of the juvenile."

SECTION 16D.4.(jj) Subsection (ff) of this section is effective when it becomes law. The remainder of this Part becomes effective December 1, 2019, and applies to offenses committed on or after that date.

ESTABLISH JUVENILE JURISDICTION ADVISORY COMMITTEE

SECTION 16D.4.(kk) Advisory Committee Established. – There is established within the Division of Adult Correction and Juvenile Justice of the Department of Public Safety the Juvenile Jurisdiction Advisory Committee. The Division of Adult Correction and Juvenile Justice shall provide professional and clerical staff and other services and supplies, including meeting space, as needed for the Advisory Committee to carry out its duties in an effective manner.

SECTION 16D.4.(ll) Membership. – The Advisory Committee shall consist of 21 members. The following members or their designees shall serve as ex officio members:

- (1) The Deputy Commissioner for Juvenile Justice of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
- (2) The Director of the Administrative Office of the Courts.
- (3) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services.
- (4) The Superintendent of Public Instruction.
- (5) The Juvenile Defender in the Office of Indigent Defense.
- (6) The Executive Director of the North Carolina Sentencing and Policy Advisory Commission.
- (7) One representative from the Juvenile Justice Planning Committee of the Governor's Crime Commission.

The remaining members shall be appointed as follows:

- (8) Two chief court counselors appointed by the Governor, one to be from a rural county and one from an urban county.
- (9) One chief district court judge and one superior court judge appointed by the Chief Justice of the North Carolina Supreme Court.
- (10) One police chief appointed by the President Pro Tempore of the Senate.
- (11) One sheriff appointed by the Speaker of the House of Representatives.
- (12) One clerk of superior court appointed by the President Pro Tempore of the Senate.
- (13) One district attorney appointed by the Speaker of the House of Representatives.
- (14) One assistant district attorney who handles juvenile matters appointed by the Conference of District Attorneys.
- (15) One assistant public defender who handles juvenile matters appointed by the North Carolina Association of Public Defenders.
- (16) Two representatives from the juvenile advocacy community, one appointed by the President Pro Tempore of the Senate and one appointed by the Speaker of the House of Representatives.
- (17) Two representatives from the victim advocacy community, one appointed by the President Pro Tempore of the Senate and one appointed by the Speaker of the House of Representatives.

Appointments to the Advisory Committee shall be made no later than October 1, 2017. A vacancy in the Advisory Committee or a vacancy as chair of the Advisory Committee resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made.

SECTION 16D.4.(mm) 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 Advisory Committee.

The cochairs shall call the initial meeting of the Advisory Committee on or before November 1, 2017. The Advisory Committee shall subsequently meet upon such notice and in such manner as its members determine. A majority of the members of the Advisory Committee shall constitute a quorum.

SECTION 16D.4.(oo) Cooperation by Government Agencies. – The Advisory Committee may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

SECTION 16D.4.(pp) Duties of Advisory Committee. – The Advisory Committee shall develop a specific plan for the implementation of any changes in the juvenile justice system that would be required in order to extend jurisdiction in delinquency matters and proceedings to include 16- and 17-year-old persons within the juvenile justice system. The plan shall include cost estimates for each portion of the plan, including capital costs, operating costs, and staffing costs. As the expansion of the jurisdiction of the Division of Juvenile Justice to include persons 16 and 17 years of age who commit crimes or infractions becomes effective pursuant to this act, the Advisory Committee shall monitor and review the implementation of the expansion and shall make additional recommendations to the General Assembly as necessary.

SECTION 16D.4.(qq) Consultation. – The Advisory Committee shall consult with appropriate State departments, agencies, and board representatives on issues related to juvenile justice administration.

SECTION 16D.4.(rr) Report. – By March 1, 2018, the Advisory Committee shall submit an interim report to the General Assembly with copies to the Joint Legislative Oversight Committee on Justice and Public Safety and to the Appropriations Committees on Justice and Public Safety of both houses containing (i) the specific plan and the cost estimates for capital, operating, and staffing costs for implementation of this section, including legislative, administrative, and funding recommendations

necessary to implement the increase in juvenile jurisdiction to include 16- and 17-year-old persons and (ii) cost estimates for capital, operating, and staffing costs if the implementation of this section was staggered based on age. The interim report shall also include its findings and recommendations as to whether the extension of jurisdiction in delinquency matters and proceedings should include juveniles who commit the following offenses:

- (1) Habitual misdemeanor assault (G.S. 14-33.2).
- (2) Crime against nature (G.S. 14-177).
- (3) Obscene literature and exhibitions (G.S. 14-190.1).
- (4) Third degree sexual exploitation of a minor (G.S. 14-190.17A).
- (5) Solicitation of a child by computer to commit an unlawful sex act (G.S. 14-202.3).
- (6) Stalking when court order in effect (G.S. 14-277.3A).
- (7) The Class A1 offense of misdemeanor assault on a law enforcement officer.
- (8) Assault inflicting serious bodily injury; strangulation (G.S. 14-32.4).
- (9) Fraudulently setting fire to dwelling houses (G.S. 14-65).
- (10) Any offense requiring registration as a sex offender pursuant to Article 27A of Chapter 14 of the General Statutes.
- (11) Any other offense the Committee deems appropriate for exclusion.

The Advisory Committee shall submit additional interim reports with updates on the planning steps completed towards implementation, including any legislative, administrative, and funding recommendations, annually by January 15 of each year.

The Advisory Committee shall submit a final report on the implementation of this section and its findings and recommendations, including legislative, administrative, and funding recommendations, by January 15, 2023, to the General Assembly and the Governor. The Advisory Committee shall terminate on February 1, 2023, or upon the filing of its final report, whichever occurs earlier.

SECTION 16D.4.(ss) Funding. – The Advisory Committee may apply for, receive, and accept grants of non-State funds or other contributions as appropriate to assist in the performance of its duties.

EFFECTIVE DATES

SECTION 16D.4.(tt) Sections 16D.4(a) through 16D.4(s) of this act become effective December 1, 2019, and apply to offenses committed on or after that date. Sections 16D.4(t) through 16D.4(x) of this act become effective October 1, 2017, and Sections 16D.4(t) through 16D.4(w) apply to all complaints filed on or after that date. Except as otherwise provided in this act, the remainder of this act is effective when it becomes law. Prosecutions or delinquency proceedings initiated for offenses committed before any particular section of this section 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.