

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 303
Judiciary Committee Substitute Adopted 4/4/23

Short Title: Strengthen Juvenile Laws.

(Public)

Sponsors:

Referred to:

March 14, 2023

A BILL TO BE ENTITLED
AN ACT TO MODIFY THE TRANSFER PROCESS FOR JUVENILES CHARGED WITH
CERTAIN FELONIES, TO MODIFY THE CONFIDENTIALITY OF CERTAIN
INFORMATION CONCERNING JUVENILES UNDER INVESTIGATION, AND TO
MODIFY THE INTERROGATION PROCEDURES FOR CERTAIN JUVENILES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) 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, upon notice of the return of a true bill of indictment provided in G.S. 15A-630, the court shall transfer jurisdiction over the juvenile to superior court for trial as in the case of adults ~~unless the prosecutor declines to prosecute in superior court as provided in subsection (a1) of this section after either of the following: adults.~~

(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, E, 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.~~

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

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



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

SECTION 1.(b) G.S. 7B-2200 reads as rewritten:

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

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. If the alleged felony constitutes a Class A felony and the court finds probable cause, felony, the court shall transfer the case to the superior court for trial as in the case of adults, adults upon notice of the return of a true bill of indictment provided in G.S. 15A-630."

SECTION 1.(c) G.S. 7B-2202(a) reads as rewritten:

"(a) Except as otherwise provided in ~~G.S. 7B-2200.5(a)(1)~~, G.S. 7B-2200 and G.S. 7B-2200.5(a), 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. ~~Except as otherwise provided in G.S. 7B-2200.5(c), the~~ 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."

SECTION 2.(a) Article 31 of Subchapter II of Chapter 7B of the General Statutes is amended by adding a new section to read:

"§ 7B-3103. Disclosure of information about juveniles for public safety reasons.

(a) Notwithstanding G.S. 7B-2102(d) or any other provision of law to the contrary, a court may order the Division or any law enforcement agency within the State to release to the public the information contained in subsection (b) of this section if a court makes all of the following findings in a written order:

(1) A petition has been filed alleging that the juvenile has committed at least one offense that would subject the juvenile to transfer to superior court pursuant to G.S. 7B-2200 or G.S. 7B-2200.5.

(2) There is a judicial determination, based on the juvenile's record or the nature of the alleged offense or offenses, that the juvenile presents a danger to self or others.

(3) There is a judicial determination that good cause exists for the disclosure.

(b) The following information about a juvenile subject to a public disclosure under subsection (a) of this section may be released to the public:

(1) The juvenile's first name, last name, and photograph.

(2) Any offense in a juvenile petition alleged to have been committed by the juvenile.

(3) Whether a secure custody order has been issued for the juvenile.

(4) A statement, based on the juvenile's record or the nature of the alleged offense and the level of concern of the Division or law enforcement agency, as to the juvenile's threat to self or others.

(c) If a juvenile who is the subject of an order entered under subsection (a) of this section is taken into custody before the required disclosure is made to the public, the Division or law

enforcement agency shall not make the disclosure. If the juvenile who is the subject of an order entered under subsection (a) of this section or a disclosure pursuant to subsection (e) of this section is taken into custody, then all released information must be removed from any publicly available law enforcement agency or Division website or social media account controlled by the law enforcement agency or Division.

(d) Before the information contained in subsection (b) of this section is released to the public, the Division or law enforcement agency shall make a reasonable effort to notify a parent, legal guardian, or custodian of the juvenile.

(e) Notwithstanding subsections (a) and (d) of this section, when exigent circumstances exist, the Division or any law enforcement agency within the State may release the information contained in subsection (b) of this section. If information is released pursuant to this subsection, the releasing party must seek an order as provided by subsection (a) of this section as soon as reasonably practicable, but no later than the first available session of a court in the county after the release of information. If a court does not issue an order as provided by subsection (a) of this section at the next available session of court, all released information must be removed from any publicly available law enforcement agency or Division website or social media account controlled by the law enforcement agency or Division."

SECTION 2.(b) G.S. 7B-2101 reads as rewritten:

"§ 7B-2101. Interrogation procedures.

(a) Any juvenile-juvenile, who is less than 16 years of age, in custody must be advised of all of the following prior to questioning:

- (1) That the juvenile has a right to remain ~~silent~~;silent.
- (2) That any statement the juvenile does make can be and may be used against the ~~juvenile~~;juvenile.
- (3) That the juvenile has a right to have a parent, guardian, or custodian present during ~~questioning~~; andquestioning.
- (4) That the juvenile has a right to consult with an attorney and that one will be appointed for the juvenile if the juvenile is not represented and wants representation.

(a1) Any juvenile, who is 16 years of age or older, in custody must be advised of all of the following prior to questioning:

- (1) That the juvenile has a right to remain silent.
- (2) That any statement the juvenile does make can be and may be used against the juvenile.
- (3) That the juvenile has a right to have a parent, guardian, custodian, or caretaker present during questioning.
- (4) That the juvenile has a right to consult with an attorney and that one will be appointed for the juvenile if the juvenile is not represented and wants representation.

(b) When the juvenile is less than 16 years of age, no in-custody admission or confession resulting from interrogation may be admitted into evidence unless the confession or admission was made in the presence of the juvenile's parent, guardian, custodian, or attorney. If an attorney is not present, the parent, guardian, or custodian as well as the juvenile must be advised of the juvenile's rights as set out in subsection (a) of this section; however, a parent, guardian, or custodian may not waive any right on behalf of the juvenile.

(c) If the juvenile indicates in any manner and at any stage of questioning pursuant to this section that the juvenile does not wish to be questioned further, the officer shall cease questioning.

(d) Before admitting into evidence any statement resulting from custodial interrogation, the court shall find that the juvenile knowingly, willingly, and understandingly waived the juvenile's rights.

(e) For the purposes of this section, "caretaker" means any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent, a foster parent, an adult member of the juvenile's household, an adult entrusted with the juvenile's care, a potential adoptive parent during a visit or trial placement with a juvenile in the custody of a department, any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility, or any employee or volunteer of a division, institution, or school operated by the Department of Health and Human Services."

SECTION 3. This act becomes effective December 1, 2023, and applies to offenses committed on or after that date.