

Senate Bill 449

By: Senators James of the 35th and Rhett of the 33rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the
2 Juvenile Code, so as to establish Juvenile Code applicability to individuals who are under the
3 age of 18 years when alleged to have committed a delinquent act; to revise definitions; to
4 amend Code Section 15-6-35, Title 16, Title 17, Code Section 27-3-63, Title 37, Title 42, and
5 Code Section 49-4A-9 of the Official Code of Georgia Annotated, relating to notice of
6 student's felony conviction to school superintendent, crimes and offenses, criminal
7 procedure, general offenses and penalties, mental health, penal institutions, and sentence of
8 youthful offenders, modification of order, review, and participation in programs,
9 respectively, so as to provide for conforming changes; to revise the applicability of the
10 offenses of aggravated assault, aggravated battery, and obscene telephone contact to
11 individuals who are 18 years of age or older; to revise applicability of certain offenses
12 relating to using individuals under a certain age to manufacture, distribute, or dispense
13 controlled substances, counterfeit substances, or marijuana; to provide for related matters;
14 to provide for applicability; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**PART I**
17 style="text-align:center">**SECTION 1-1.**

18 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile
19 Code, is amended by revising paragraph (10) of Code Section 15-11-2, relating to definitions,
20 as follows:

21 "(10) 'Child' means any individual who is:

22 (A) Under the age of 18 years;

23 (B) Under the age of ~~17~~ 18 years when alleged to have committed a delinquent act;

24 (C) Under the age of 22 years and in the care of DFCS as a result of being adjudicated
25 dependent before reaching 18 years of age;

26 (D) Under the age of 23 years and eligible for and receiving independent living
 27 services through DFCS as a result of being adjudicated dependent before reaching 18
 28 years of age; or

29 (E) Under the age of 21 years who committed an act of delinquency before reaching
 30 the age of ~~17~~ 18 years and who has been placed under the supervision of the court or
 31 on probation to the court for the purpose of enforcing orders of the court."

32 **SECTION 1-2.**

33 Said chapter is further amended by revising paragraph (2) of Code Section 15-11-10, relating
 34 to exclusive original jurisdiction, as follows:

35 "(2) Concerning any individual under the age of ~~17~~ 18 years alleged to have committed
 36 a juvenile traffic offense as defined in Code Section 15-11-630; or"

37 **SECTION 1-3.**

38 Said chapter is further amended by revising subsection (e) of Code Section 15-11-504,
 39 relating to place of detention and data on child detained, as follows:

40 "(e) The official in charge of a jail or other facility for the detention of adult offenders or
 41 persons charged with a crime shall inform the court or the juvenile court intake officer
 42 immediately when a child who appears to be under the age of ~~17~~ 18 years is received at
 43 such facility and shall deliver such child to the court upon request or transfer such child to
 44 the facility designated by the juvenile court intake officer or the court."

45 **SECTION 1-4.**

46 Said chapter is further amended by revising Code Section 15-11-560, relating to concurrent
 47 and original jurisdiction of superior court, as follows:

48 "15-11-560.

49 (a) Except as provided in subsection (b) of this Code section, the court shall have
 50 concurrent jurisdiction with the superior court over a child who is alleged to have
 51 committed a delinquent act which would be considered a crime if tried in a superior court
 52 and for which an adult may be punished by loss of life, imprisonment for life without
 53 possibility of parole, or confinement for life in a penal institution.

54 (b) The superior court shall have exclusive original jurisdiction over the trial of any child
 55 13 to ~~17~~ 18 years of age who is alleged to have committed any of the following offenses:

56 (1) Murder;

57 (2) Murder in the second degree;

58 (3) Voluntary manslaughter;

59 (4) Rape;

- 60 (5) Aggravated sodomy;
61 (6) Aggravated child molestation;
62 (7) Aggravated sexual battery;
63 (8) Armed robbery if committed with a firearm;
64 (9) Aggravated assault if committed with a firearm upon a public safety officer as such
65 acts are prohibited under subsection (c) of Code Section 16-5-21; or
66 (10) Aggravated battery upon a public safety officer as such acts are prohibited under
67 subsection (c) of Code Section 16-5-24.

68 (c) The granting of bail or pretrial release of a child charged with an offense enumerated
69 in subsection (b) of this Code section shall be governed by the provisions of Code Section
70 17-6-1.

71 (d) At any time before indictment, the district attorney may, after investigation and for
72 cause, decline prosecution in the superior court of a child 13 to ~~17~~ 18 years of age alleged
73 to have committed an offense specified in subsection (b) of this Code section. Upon
74 declining such prosecution in the superior court, the district attorney shall cause a petition
75 to be filed in the appropriate juvenile court for adjudication within 72 hours if the child is
76 in detention or 30 days if the child is not in detention. Except as provided in paragraph (8)
77 of subsection (b) of Code Section 15-11-602, any case transferred by the district attorney
78 to the juvenile court pursuant to this subsection shall be subject to the class A designated
79 felony act provisions of Code Section 15-11-602, and the transfer of the case from superior
80 court to juvenile court shall constitute notice to such child that such case is subject to the
81 class A designated felony act provisions of Code Section 15-11-602.

82 (e)(1) After indictment, the superior court may after investigation transfer to the juvenile
83 court any case involving a child 13 to ~~17~~ 18 years of age alleged to have committed any
84 act described in paragraph (3), (5), (6), (7), (9), or (10) of subsection (b) of this Code
85 section. In considering the transfer of such case, the court shall consider the criteria set
86 forth in Code Section 15-11-562. Any such transfer shall be appealable by the State of
87 Georgia pursuant to Code Section 5-7-1. Upon such a transfer by the superior court,
88 jurisdiction shall vest in the juvenile court and jurisdiction of the superior court shall
89 terminate.

90 (2) Except as provided in paragraph (8) of subsection (b) of Code Section 15-11-602, any
91 case transferred by the superior court to the juvenile court pursuant to this subsection
92 shall be subject to the class A designated felony act provisions of Code Section
93 15-11-602, and the transfer of the case from superior court to juvenile court shall
94 constitute notice to such child that such case is subject to the class A designated felony
95 act provisions of Code Section 15-11-602.

96 (f) The superior court may transfer any case involving a child 13 to ~~17~~ 18 years of age
 97 alleged to have committed any offense enumerated in subsection (b) of this Code section
 98 and convicted of a lesser included offense not included in subsection (b) of this Code
 99 section to the juvenile court of the county of such child's residence for disposition. Upon
 100 such a transfer by the superior court, jurisdiction shall vest in the juvenile court and
 101 jurisdiction of the superior court shall terminate.

102 (g) Within 30 days of any proceeding in which a child 13 to ~~17~~ 18 years of age is
 103 convicted of certain offenses over which the superior court has original jurisdiction as
 104 provided in subsection (b) of this Code section or adjudicated as a delinquent child on the
 105 basis of conduct which if committed by an adult would constitute such offenses, the
 106 superior court shall provide written notice to the school superintendent or his or her
 107 designee of the school in which such child is enrolled or, if the information is known, of
 108 the school in which such child plans to be enrolled at a future date. Such notice shall
 109 include the specific criminal offense that such child committed. The local school system
 110 to which such child is assigned may request further information from the court's file.

111 (h) As used in this Code section, the term 'firearm' means a handgun, rifle, shotgun, or
 112 other weapon which will or can be converted to expel a projectile by the action of an
 113 explosive or electrical charge."

114 **SECTION 1-5.**

115 Said chapter is further amended by revising subsection (d) of Code Section 15-11-561,
 116 relating to waiver of juvenile court jurisdiction and transfer to superior court, as follows:

117 "(d) No child, either before or after reaching ~~17~~ 18 years of age, shall be prosecuted in
 118 superior court for an offense committed before the child turned ~~17~~ 18, unless the case has
 119 been transferred as provided in this part. In addition, no child shall be subject to criminal
 120 prosecution at any time for an offense arising out of a criminal transaction for which the
 121 juvenile court retained jurisdiction in its transfer order."

122 **SECTION 1-6.**

123 Said chapter is further amended by revising subsection (a) of Code Section 15-11-562,
 124 relating to transfer criteria and written report, as follows:

125 "(a) The criteria that the juvenile court shall consider in determining whether to transfer
 126 an alleged delinquent child as set forth in subsection (a) of Code Section 15-11-561 to
 127 superior court and the criteria that the superior court shall consider in determining whether
 128 to transfer any case involving a child 13 to ~~17~~ 18 years of age alleged to have committed
 129 any act described in paragraph (3), (5), (6), (7), (9), or (10) of subsection (b) of Code

130 Section 15-11-560 to juvenile court as set forth in subsection (e) of Code Section
 131 15-11-560 includes, but shall not be limited to:

- 132 (1) The age of such child;
- 133 (2) The seriousness of the alleged offense, especially if personal injury resulted;
- 134 (3) Whether the protection of the community requires transfer of jurisdiction;
- 135 (4) Whether the alleged offense involved violence or was committed in an aggressive or
 136 premeditated manner;
- 137 (5) The impact of the alleged offense on the alleged victim, including the permanence
 138 of any physical or emotional injury sustained, health care expenses incurred, and lost
 139 earnings suffered;
- 140 (6) The culpability of such child including such child's level of planning and
 141 participation in the alleged offense;
- 142 (7) Whether the alleged offense is a part of a repetitive pattern of offenses which
 143 indicates that such child may be beyond rehabilitation in the juvenile justice system;
- 144 (8) The record and history of such child, including experience with the juvenile justice
 145 system, other courts, supervision, commitments to juvenile institutions, and other
 146 placements;
- 147 (9) The sophistication and maturity of such child as determined by consideration of his
 148 or her home and environmental situation, emotional condition, and pattern of living;
- 149 (10) The program and facilities available to the juvenile court in considering disposition;
 150 and
- 151 (11) Whether or not a child can benefit from the treatment or rehabilitative programs
 152 available to the juvenile court."

153 **SECTION 1-7.**

154 Said chapter is further amended by revising Code Section 15-11-565, relating to places
 155 authorized for detention of child before and after transfer order, as follows:

156 "15-11-565.

157 (a) Prior to the entry of a judgment ordering a child's transfer or during the pendency of
 158 an appeal of a judgment ordering a child's transfer, such child shall be detained only in
 159 those places authorized for the preadjudication detention of a child as set forth in Code
 160 Section 15-11-504.

161 (b) After the entry of a judgment ordering transfer, a child shall be detained only in those
 162 places authorized for the detention of a child until such child, as set forth in Code Section
 163 15-11-34, reaches ~~17~~ 18 years of age."

164 **SECTION 1-8.**

165 Said chapter is further amended by revising subsection (a) of Code Section 15-11-630,
 166 relating to "child" defined, juvenile traffic offenses, summons, hearings, penalties, transfers,
 167 and providing information to Department of Driver Services, as follows:

168 "(a) As used in this Code section, the term 'child' means an individual under ~~17~~ 18 years
 169 of age."

170 **PART II**

171 **SECTION 2-1.**

172 Code Section 15-6-36 of the Official Code of Georgia Annotated, relating to notice of
 173 student's felony conviction to school superintendent, is amended by revising subsection (a)
 174 as follows:

175 "(a) For the purposes of this Code section, 'conviction' means any felony conviction of a
 176 person who is at least ~~17~~ 18 years of age."

177 **SECTION 2-2.**

178 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
 179 amended by revising paragraph (1) of subsection (c) of Code Section 16-5-21, relating to
 180 aggravated assault, as follows:

181 "(c)(1) A person who knowingly commits the offense of aggravated assault upon a public
 182 safety officer while he or she is engaged in, or on account of the performance of, his or
 183 her official duties shall, upon conviction thereof, be punished as follows:

184 (A) When such assault occurs by the discharge of a firearm by a person who is at least
 185 ~~17~~ 18 years of age, such person shall be punished by imprisonment for not less than ten
 186 nor more than 20 years and shall be sentenced to a mandatory minimum term of
 187 imprisonment of ten years and no portion of the mandatory minimum sentence imposed
 188 shall be suspended, stayed, probated, deferred, or withheld by the sentencing court;
 189 provided, however, that in the court's discretion, the court may depart from such
 190 mandatory minimum sentence when the prosecuting attorney and defendant have
 191 agreed to a sentence that is below such mandatory minimum;

192 (B) When such assault does not involve the discharge of a firearm by a person who is
 193 at least ~~17~~ 18 years of age, and does not involve only the use of the person's body, such
 194 person shall be punished by imprisonment for not less than five nor more than 20 years
 195 and, for persons who are at least ~~17~~ 18 years of age, shall be sentenced to a mandatory
 196 minimum term of imprisonment of three years and no portion of the mandatory
 197 minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld

198 by the sentencing court; provided, however, that in the court's discretion, the court may
 199 depart from such mandatory minimum sentence when the prosecuting attorney and
 200 defendant have agreed to a sentence that is below such mandatory minimum; or
 201 (C) When such assault occurs only involving the use of the person's body, by
 202 imprisonment for not less than five nor more than 20 years."

203 **SECTION 2-3.**

204 Said title is further amended by revising paragraph (1) of subsection (c) of Code Section
 205 16-5-24, relating to aggravated battery, as follows:

206 "(c)(1) A person who knowingly commits the offense of aggravated battery upon a public
 207 safety officer while the public safety officer is engaged in, or on account of the
 208 performance of, his or her official duties shall, upon conviction thereof, be punished by
 209 imprisonment for not less than ten nor more than 20 years; provided, however, that for
 210 persons who are at least ~~17~~ 18 years of age, a mandatory minimum term of imprisonment
 211 of three years shall be imposed and no portion of the mandatory minimum sentence shall
 212 be suspended, stayed, probated, deferred, or otherwise withheld by the sentencing court;
 213 provided, however, that in the court's discretion, the court may depart from such
 214 mandatory minimum sentence when the prosecuting attorney and defendant have agreed
 215 to a sentence that is below such mandatory minimum."

216 **SECTION 2-4.**

217 Said title is further amended by revising paragraph (3) of subsection (a) of Code Section
 218 16-12-1, relating to contributing to the delinquency or dependency of a minor, as follows:

219 "(3) 'Minor' means any individual who is under the age of ~~17~~ 18 years who is alleged to
 220 have committed a delinquent act ~~or any individual under the age of 18 years.~~"

221 **SECTION 2-5.**

222 Said title is further amended by revising subsection (b) of Code Section 16-12-100.3, relating
 223 to obscene telephone contact, conviction, and penalties, as follows:

224 "(b) A person ~~17~~ 18 years of age or over commits the offense of obscene telephone contact
 225 with a child if that person has telephone contact with an individual whom that person
 226 knows or should have known is a child, and that contact involves any aural matter
 227 containing explicit verbal descriptions or narrative accounts of sexually explicit nudity,
 228 sexual conduct, sexual excitement, or sadomasochistic abuse which is intended to arouse
 229 or satisfy the sexual desire of either the child or the person, provided that no conviction
 230 shall be had for this offense on the unsupported testimony of the victim."

231 **SECTION 2-6.**

232 Said title is further amended by revising subsection (k) of Code Section 16-13-30, relating
233 to purchase, possession, manufacture, distribution, or sale of controlled substances or
234 marijuana and penalties, as follows:

235 "(k) It shall be unlawful for any person to hire, solicit, engage, or use an individual under
236 the age of ~~17~~ 18 years, in any manner, for the purpose of manufacturing, distributing, or
237 dispensing, on behalf of the solicitor, any controlled substance, counterfeit substance, or
238 marijuana unless the manufacturing, distribution, or dispensing is otherwise allowed by
239 law. Any person who violates this subsection shall be guilty of a felony and, upon
240 conviction thereof, shall be punished by imprisonment for not less than five years nor more
241 than 20 years or by a fine not to exceed \$20,000.00, or both."

242 **SECTION 2-7.**

243 Said title is further amended by revising subsection (g) of Code Section 16-13-32.4, relating
244 to manufacturing, distributing, dispensing, or possessing controlled substances in, on, or near
245 public or private schools, as follows:

246 "(g) It is an affirmative defense to prosecution for a violation of this Code section that the
247 prohibited conduct took place entirely within a private residence, that no person ~~17~~ 18
248 years of age or younger was present in such private residence at any time during the
249 commission of the offense, and that the prohibited conduct was not carried on for purposes
250 of financial gain. Nothing in this subsection shall be construed to establish an affirmative
251 defense with respect to any offense under this chapter other than the offense provided for
252 in subsection (a) of this Code section."

253 **SECTION 2-8.**

254 Said title is further amended by revising subsection (g) of Code Section 16-13-32.5, relating
255 to manufacturing, distributing, dispensing, or possessing controlled substance, marijuana, or
256 counterfeit substance near park or housing project, nonmerger of offenses, evidence of
257 location and boundaries, posting, and affirmative defenses, as follows:

258 "(g) It is an affirmative defense to prosecution for a violation of this Code section that the
259 prohibited conduct took place entirely within a private residence, that no person ~~17~~ 18
260 years of age or younger was present in such private residence at any time during the
261 commission of the offense, and that the prohibited conduct was not carried on for purposes
262 of financial gain. Nothing in this subsection shall be construed to establish an affirmative
263 defense with respect to any offense under this chapter other than the offense provided for
264 in subsections (a) and (b) of this Code section."

265 **SECTION 2-9.**

266 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
 267 amended by revising subsection (a) of Code Section 17-8-55, relating to testimony of child
 268 less than seventeen years old outside physical presence of accused, as follows:

269 "(a) As used in this Code section, the term 'child' means an individual who is under ~~17~~ 18
 270 years of age."

271 **SECTION 2-10.**

272 Said title is further amended by revising Code Section 17-10-14, relating to committal of
 273 person under 17 convicted of felony, as follows:

274 "17-10-14.

275 (a) Notwithstanding any other provisions of this article and except as otherwise provided
 276 in subsection (b) of this Code section, in any case where a person under the age of ~~17~~ 18
 277 years is convicted of a felony and sentenced as an adult to life imprisonment or to a certain
 278 term of imprisonment, such person shall be committed to the Department of Juvenile
 279 Justice to serve such sentence in a detention center of such department until such person
 280 is ~~17~~ 18 years of age at which time such person shall be transferred to the Department of
 281 Corrections to serve the remainder of the sentence. This Code section shall apply to any
 282 person convicted on or after July 1, 1987, and to any person convicted prior to such date
 283 who has not been committed to an institution operated by the Department of Corrections.

284 (b) If a child is transferred to superior court pursuant to Code Section 15-11-561 and
 285 convicted of aggravated assault as defined in Chapter 5 of Title 16, the court may sentence
 286 such child to the Department of Corrections. Such child shall be housed in a designated
 287 youth confinement unit until such person is ~~17~~ 18 years of age, at which time such person
 288 may be housed in any other unit designated by the Department of Corrections."

289 **SECTION 2-11.**

290 Code Section 27-3-63 of the Official Code of Georgia Annotated, relating to general offenses
 291 and penalties, is amended by revising paragraph (1) of subsection (b) as follows:

292 "(1) For the first offense, the offender shall be fined not less than \$100.00, except that
 293 this minimum fine shall not apply to the offender if he or she is ~~17~~ 18 years of age or
 294 younger;"

295 **SECTION 2-12.**

296 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by
 297 revising paragraph (4) of Code Section 37-3-1, relating to definitions, as follows:

298 "(4) 'Court' means:

299 (A) In the case of an individual who is ~~17~~ 18 years of age or older, the probate court
 300 of the county of residence of the patient or the county in which such patient is found.
 301 Notwithstanding Code Section 15-9-13, in any case in which the judge of such court
 302 is unable to hear a case brought under this chapter within the time required for such
 303 hearing or is unavailable to issue the order specified in subsection (b) of Code Section
 304 37-3-41, such judge shall appoint a person to serve and exercise all the jurisdiction of
 305 the probate court in such case. Any person so appointed shall be a member of the State
 306 Bar of Georgia and shall be otherwise qualified for his or her duties by training and
 307 experience. Such appointment may be made on a case-by-case basis or by making a
 308 standing appointment of one or more persons. Any person receiving such standing
 309 appointment shall serve at the pleasure of the judge making the appointment or his or
 310 her successor in office to hear such cases if and when necessary. The compensation of
 311 a person so appointed shall be as agreed upon by the judge who makes the appointment
 312 and the person appointed with the approval of the governing authority of the county for
 313 which such person is appointed and shall be paid from the county funds of said county.
 314 All fees collected for the services of such appointed person shall be paid into the
 315 general funds of the county served; or

316 (B) In the case of an individual who is under the age of ~~17~~ 18 years, the juvenile court
 317 of the county of residence of the patient or the county in which such patient is found."

318 **SECTION 2-13.**

319 Said title is further amended by revising paragraph (5) of Code Section 37-4-2, relating to
 320 definitions, as follows:

321 "(5) 'Court' means:

322 (A) In the case of an individual who is ~~17~~ 18 years of age or older, the probate court
 323 of the county of residence of the client or the county in which such client is found.
 324 Notwithstanding Code Section 15-9-13, in any case in which the judge of said probate
 325 court is unable to hear a case brought under this chapter within the time required for
 326 such hearing, said judge shall appoint a person to serve and exercise all the jurisdiction
 327 of the probate court in such case. Any person so appointed shall be a member of the
 328 State Bar of Georgia and shall be otherwise qualified for his or her duties by training
 329 and experience. Such appointment may be made on a case-by-case basis or by making
 330 a standing appointment of one or more persons. Any person receiving such standing
 331 appointment shall serve at the pleasure of the judge making the appointment or the
 332 judge's successor in office to hear such cases if and when necessary. The compensation
 333 of a person so appointed shall be as agreed upon by the judge who makes the

334 appointment and the person appointed with the approval of the governing authority of
 335 the county for which such person is appointed and shall be paid from the county funds
 336 of said county. All fees collected for the services of such appointed person shall be
 337 paid into the general funds of the county served; or

338 (B) In the case of an individual who is under the age of ~~17~~ 18 years, the juvenile court
 339 of the county of residence of the client or the county in which such client is found."

340 **SECTION 2-14.**

341 Said title is further amended by revising paragraph (7) of Code Section 37-7-1, relating to
 342 definitions, as follows:

343 "(7) 'Court' means:

344 (A) In the case of an individual who is ~~17~~ 18 years of age or older, the probate court
 345 for the county of residence of the patient or the county in which such patient is found.
 346 Notwithstanding Code Section 15-9-13, in any case in which the judge of the probate
 347 court is unable to hear a case brought under this chapter within the time required for
 348 such hearing or is unavailable to issue the order specified in subsection (b) of Code
 349 Section 37-7-41, the judge shall appoint a person to serve and exercise all the
 350 jurisdiction of the probate court in such case. Any person so appointed shall be a
 351 member of the State Bar of Georgia and be otherwise qualified for his or her duties by
 352 training and experience. Such appointment may be made on a case-by-case basis or by
 353 making a standing appointment of one or more persons. Any person receiving such a
 354 standing appointment shall serve at the pleasure of the judge making the appointment
 355 or his or her successor in office to hear such cases if and when necessary. The
 356 compensation of a person so appointed shall be as agreed upon by the judge who makes
 357 the appointment and the person appointed and as approved by the governing authority
 358 of the county for which such person is appointed and shall be paid from the county
 359 funds of the county. All fees collected for the services of such appointed person shall
 360 be paid into the general funds of the county served; or

361 (B) In the case of an individual who is under the age of ~~17~~ 18 years, the juvenile court
 362 of the county of residence of the patient or the county in which the patient is found."

363 **SECTION 2-15.**

364 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended
 365 by revising subsection (b) of Code Section 42-5-52, relating to classification and separation
 366 of inmates generally, placement of juvenile offenders and of females, transfer of mentally
 367 diseased, alcoholic, drug addicted, or tubercular inmates, as follows:

368 "(b) The department may establish separate correctional or similar institutions for the
 369 separation and care of juvenile offenders. The commissioner may transfer any juvenile
 370 under ~~17~~ 18 years of age from the penal institution in which he or she is serving to the
 371 Department of Juvenile Justice, provided that the transfer is approved thereby. The
 372 juvenile may be returned to the custody of the commissioner when the commissioner of
 373 juvenile justice determines that the juvenile is unsuited to be dealt with therein. The
 374 commissioner may accept a juvenile for transfer into a penal institution upon the request
 375 of the commissioner of juvenile justice if such juvenile is ~~16~~ 17 years of age or older and
 376 has been committed to the Department of Juvenile Justice for a class A designated felony
 377 act or class B designated felony act, as defined by Code Section 15-11-2, and such
 378 juvenile's behavior presents a substantial danger to any person at or within a Department
 379 of Juvenile Justice facility. In the event of such transfer, the department shall have the
 380 same authority over and responsibility for such juvenile as the Department of Juvenile
 381 Justice has for such juvenile and shall maintain sight and sound separation as set forth in
 382 paragraph (5) of subsection (c) of Code Section 15-11-504."

383 **SECTION 2-16.**

384 Said title is further amended by revising subsection (b) of Code Section 42-8-35.4, relating
 385 to confinement in probation detention center, as follows:

386 "(b) The court shall determine that the defendant is at least ~~17~~ 18 years of age at the time
 387 of sentencing."

388 **SECTION 2-17.**

389 Said title is further amended by revising paragraph (4) of Code Section 42-12-3, relating to
 390 definitions, as follows:

391 "(4) 'Prisoner' means a person ~~17~~ 18 years of age or older who has been convicted of a
 392 crime and is presently incarcerated or is being held in custody awaiting trial or
 393 sentencing."

394 **SECTION 2-18.**

395 Code Section 49-4A-9 of the Official Code of Georgia Annotated, relating to sentence of
 396 youthful offenders, modification of order, review, and participation in programs, is amended
 397 by revising subsection (e) as follows:

398 "(e) Any child under ~~17~~ 18 years of age who is sentenced in the superior court and
 399 committed to the department may be eligible to participate in all juvenile detention facility
 400 programs and services including community work programs, sheltered workshops, special
 401 state sponsored programs for evaluation and services under the Georgia Vocational

402 Rehabilitation Agency and the Department of Behavioral Health and Developmental
403 Disabilities, and under the general supervision of juvenile detention facility staff at special
404 planned activities outside of the juvenile detention facility. When such a child sentenced
405 in the superior court is approaching his or her seventeenth birthday, the department shall
406 notify the court that a further disposition of the child is necessary. The department shall
407 provide the court with information concerning the participation and progress of the child
408 in programs described in this subsection. The court shall review the case and determine
409 if the child, upon becoming ~~17~~ 18 years of age, should be placed on probation, have his or
410 her sentence reduced, be transferred to the Department of Corrections for the remainder of
411 the original sentence, or be subject to any other determination authorized by law."

412

PART III

413

SECTION 3-1.

414 This Act shall apply in relation to offenses committed on and after July 1, 2018.

415

SECTION 3-2.

416 All laws and parts of laws in conflict with this Act are repealed.