

2017 Juvenile Justice Reinvestment Act

[S.L. 2017-57 \(S 257\)](#) – Juvenile Justice Reinvestment Act

The Juvenile Justice Reinvestment Act, included in the 2017 state budget, increases the age of juvenile court jurisdiction to include crimes committed by 16 and 17-year-olds, except for motor vehicle offenses, and expedites transfer to adult court for 16 and 17-year-olds who commit Class A-G felonies. The Act also makes several other changes to the Juvenile Code, which are summarized below.

Definitions

(effective December 1, 2019, and applicable to offenses committed on or after that date)

- **Delinquent Juvenile** – As defined by amended G.S. 7B-1501(7) and amended G.S. 143B-805(6), the term “delinquent juvenile” includes 16 and 17-year-olds who commit crimes or infractions, excluding motor vehicle offenses, or indirect contempt by a juvenile as defined by G.S. 5A-31. Amended G.S. 143B-805(6) also includes indirect contempt by a juvenile as a delinquent offense for juveniles who are under 16, consistent with G.S. 7B-1501(7).
- **Victim** – New G.S. 7B-1501(27a) defines a “victim” as an individual or entity against whom a crime or infraction has been committed by a juvenile when there are reasonable grounds that the allegations are true. For purposes of Article 17 (screening of complaints), a “victim” also includes the parent, guardian, or custodian of a victim who is under 18.

Juvenile Court Jurisdiction

(effective December 1, 2019, and applicable to offenses committed on or after that date)

- **Offenses committed before age 16** – Under amended G.S. 7B-1601(b) and (c), jurisdiction continues until age 18, unless terminated earlier by the court or the Juvenile Code provides otherwise. If a disposition cannot be entered before the juvenile turns 18, the court retains jurisdiction to conduct probable cause and transfer hearings and either transfer the case to superior court or dismiss the petition.
- **Offenses committed at age 16** – Under new G.S. 7B-1601(b1) and (c1), jurisdiction continues until age 19, unless terminated earlier by the court or the Juvenile Code provides otherwise. If a disposition cannot be entered before the juvenile turns 19, the court retains jurisdiction to conduct probable cause and transfer hearings and either transfer the case to superior court or dismiss the petition.
- **Offenses committed at age 17** – Under new G.S. 7B-1601(b1) and (c1), jurisdiction continues until age 20, unless terminated earlier by the court or the Juvenile Code provides otherwise. If a disposition cannot be entered before the juvenile turns 20, the court retains jurisdiction to conduct probable cause and transfer hearings and either transfer the case to superior court or dismiss the petition.
- **Continuing jurisdiction over felonies and related misdemeanors** – Under new G.S. 7B-1601(d1), after a juvenile reaches age 19 (for offenses committed at age 16) or age 20 (for offenses committed at age 17), the juvenile court’s original jurisdiction over felonies and related misdemeanors continues indefinitely for the sole purpose of conducting probable cause and transfer hearings and either transferring the case to superior court or dismissing the petition.
- **Adult Prosecution** – Under amended G.S. 7B-1604, a juvenile must be prosecuted as an adult for all offenses committed (1) on or after the juvenile’s 18th birthday, (2) after the juvenile has been transferred to and convicted in superior court for a prior offense, and (3) after the juvenile

has been convicted of a felony or misdemeanor, including motor vehicle offenses, in district or superior court.

Probable Cause and Transfer to Superior Court

(effective December 1, 2019, and applicable to offenses committed on or after that date)

- **Probable Cause Hearing** – Amended G.S. 7B-2202 provides that a probable cause hearing is required for all felonies committed by a juvenile at age 13 or older, except for cases subject to mandatory transfer by indictment under new G.S. 7B-2200.5. When transfer is not mandatory, the court may proceed to a transfer hearing or set a date for that hearing after a finding of probable cause. The juvenile is entitled to at least 5 days notice of the transfer hearing.
- **Transfer of 13, 14, and 15-year-olds** – Amended G.S. 7B-2200 provides that a transfer hearing is required to transfer jurisdiction to superior court for a felony committed by a juvenile at age 13, 14, or 15, except for Class A felonies which are subject to mandatory transfer upon a finding of probable cause.
- **Transfer of 16 and 17-year-olds** – New G.S. 7B-2200.5 creates an expedited process to transfer jurisdiction to superior court for certain felonies committed by 16 and 17-year-olds.
 - Transfer to superior court is mandatory for a Class A-G felony committed by a juvenile at the age of 16 or 17 after (1) notice that an indictment has been filed, or (2) the court enters a finding of probable cause after notice and a hearing.
 - Transfer to superior court for a Class H or I felony committed by a juvenile at the age of 16 or 17 requires notice, a finding of probable cause, and a transfer hearing.
- **Pre-Trial Release** – Amended G.S. 7B-2603(b) removes language regarding procedures for the pre-trial release and detention of juveniles who appeal from an order transferring jurisdiction to superior court. The statute now provides that any detention of the juvenile pending release shall be in accordance with G.S. 7B-2204.
- **Sex Offender Registration** – Amended G.S. 14-208.6B provides that registration requirements for juveniles who are transferred to superior court and convicted of a sexually violent offense or an offense against a minor as defined in G.S. 14-208.6 are applicable when transfer occurs pursuant to either G.S. 7B-2200 or new G.S. 7B-2200.5.

Disposition

(effective December 1, 2019, and applicable to offenses committed on or after that date)

- **Dispositional Alternatives** – Amended G.S. 7B-2506 sets new age limits for certain dispositional alternatives.
 - G.S. 7B-2506(1), which authorizes out of home placement options for juveniles, including placement of the juvenile in the custody of a county department of social services, is now applicable to any juvenile who is under the age of 18.
 - G.S. 7B-2506(2), which authorizes a court to excuse a juvenile from compliance with the compulsory school attendance law, is applicable only to juveniles who are under the age of 16.
- **Delinquency History Level** – Amended G.S. 7B-2507 provides for including prior criminal convictions in determining a juvenile's delinquency history level. Prior misdemeanor and felony convictions are assigned the same number of points as prior delinquency adjudications of the same class of offense. Other conforming changes provide that the rules regarding multiple prior delinquency adjudications obtained in one court session, classification of prior adjudications from other jurisdictions, and proof of prior adjudications also apply to prior convictions.

- **Commitment to YDC**
 - **Offenses committed before age 16** – Under new G.S. 7B-2513(a1), the previous age limits for a juvenile’s maximum commitment term are applicable to offenses committed by a juvenile prior to age 16.
 - **Offenses committed at age 16** – New G.S. 7B-2513(a2) provides that a commitment term for an offense committed at age 16 may not exceed the juvenile’s 19th birthday.
 - **Offenses committed at age 17** – New G.S. 7B-2513(a3) provides that a commitment term for an offense committed at age 17 may not exceed the juvenile’s 20th birthday.
 - **Maximum Commitment** – New G.S. 7B-2513(a4) sets forth the existing rule that a juvenile’s maximum commitment term may not exceed the maximum adult sentence for the same offense unless the Division determines that the commitment should be extended to continue a plan of care or treatment, as provided by G.S. 7B-2515.
- **Notification of Extended Commitment**
 - **Offenses committed before age 16** – G.S. 7B-2515(a) was amended to make the existing rules requiring written notice of an extended commitment applicable only to offenses committed by a juvenile prior to age 16.
 - **Offenses committed at age 16** – New G.S. 7B-2515(a1) requires that written notice of an extended commitment must be provided to the juvenile and the juvenile’s parent, guardian, or custodian at least 30 days before the end of the maximum commitment period or 30 days before the juvenile’s 19th birthday. The notice must include the proposed additional commitment period, the basis for the proposed extended commitment, and the plan for future care or treatment.
 - **Offenses committed at age 17** – New G.S. 7B-2515(a2) requires that written notice of an extended commitment must be provided to the juvenile and the juvenile’s parent, guardian, or custodian at least 30 days before the end of the maximum commitment period or 30 days before the juvenile’s 20th birthday. The notice must include the proposed additional commitment period, the basis for the proposed extended commitment, and the plan for future care or treatment.
 - **Right to Review Hearing** – Upon notice of a proposed extended commitment pursuant this section, the juvenile and the juvenile’s parent, guardian, or custodian may request review by the court.

Juvenile Gang Suppression

(effective December 1, 2019, and applicable to offenses committed on or after that date)

- **Gang Assessment** – Amended G.S. 7B-1702 requires a juvenile court counselor to conduct a gang assessment during the evaluation of a complaint to determine whether it should be filed as a juvenile petition. Section 16D.4.(ff), which became effective on July 1, 2017, directs the Division of Adult Correction and Justice to develop a gang assessment instrument in consultation with the administrator of the GangNET database maintained by the NC State Highway Patrol, and with other entities, if deemed necessary.
- **Gang Assessment Results** – Amended G.S. 7B-3001(a) provides that the juvenile court counselor’s record must contain the results of the gang assessment.
- **Enhancement of Disposition Level** – New G.S. 7B-2508(g1) creates an exception to the disposition chart set out in G.S. 7B-2508(f) which requires that a juvenile’s disposition level be increased one level higher than provided for by the chart when the court finds that the

adjudicated offense was committed as part of criminal gang activity, as defined by new G.S. 7B-2508.1.

- **Criminal Gang Activity Definitions** – New G.S. 7B-2508.1 creates the following definitions which apply to Article 25 of the Juvenile Code:
 - **Criminal gang** – New G.S. 7B-2508.1(1) defines the term “criminal gang” as any ongoing association of three or more persons, whether formal or informal, that (1) engages in criminal or delinquent acts as one of its primary activities and (2) shares a common name, identification, or other distinguishing characteristics such as signs, symbols, tattoos, graffiti, or attire. The term does not include an association of three or more persons who are not engaged in criminal gang activity.
 - **Criminal gang activity** – New G.S. 7B-2508.1(2) defines the term “criminal gang activity” to include the commission of, attempted commission of, or solicitation, coercion, or intimidation of another person to commit (1) any NC Controlled Substances Act offense or (2) any criminal offense under Chapter 14 of the General Statutes, excluding certain enumerated offenses, when either of the following conditions is met:
 - The offense is committed with the intent to benefit, promote, or further the interests of a criminal gang or increase a person’s own standing within a criminal gang.
 - The participants in the offense are identified as criminal gang members acting individually or collectively to further any purpose of a criminal gang.
 - **Criminal gang member** – New G.S. 7B-2508.1(3) defines the term “criminal gang member” as any person who meets three or more of the nine criteria set forth in the statute.

Transportation of Juveniles

(effective December 1, 2019, and applicable to offenses committed on or after that date)

- **Transportation to Juvenile Facilities** – New G.S. 143B-806(b)(20) grants authority to the Secretary of the Division of Adult Correction and Juvenile Justice to provide for the transportation to and from State or local juvenile facilities of any person under the jurisdiction of juvenile court.

Felony Notification of Schools

(effective December 1, 2019, and applicable to offenses committed on or after that date)

- **Notification of Transfer to Superior Court** – Amended G.S. 7B-3101(a)(2) provides that a juvenile court counselor must provide verbal and written notification to the principal of the juvenile’s school if the juvenile’s case is transferred to superior court under new G.S. 7B-2200.5.
- **Destruction of Records** – Amended G.S. 115C-404(a) requires a principal who receives confidential juvenile records under G.S. 7B-3100 to destroy them upon notification that the student’s case has been transferred to superior court under G.S. 7B-2200 or new G.S. 7B-2200.5 (previously under G.S. 7B-2200).

Contempt by a Juvenile

(effective December 1, 2019, and applicable to offenses committed on or after that date)

- **Definition** – Amended G.S. 5A-31(a) provides that contempt by a juvenile may be committed by any juvenile who is at least 6, not yet 18 (previously 16), and has not been convicted of any crime in superior court.

- **Criminal or Civil Contempt by Adults** – Amended G.S. 5A-34(b) provides that criminal and civil contempt procedures set forth in Articles 1 and 2 of Chapter 5A apply to minors who (1) are married or otherwise emancipated or (2) have been previously convicted in superior court of any offense. The amendment removed language which previously made criminal and civil contempt procedures applicable to minors who are 16 or older.

*Contributing to the Delinquency, Abuse, or Neglect of a Minor
(effective December 1, 2019, and applicable to offenses committed on or after that date)*

- **Applicability** – Amended G.S. 14-316.1 makes the offense applicable to persons who are at least 18 (previously 16).

*Victim's Rights
(effective October 1, 2017, and applicable to complaints filed on or after that date)*

- **Notification of Filing Decision** – Amended G.S. 7B-1703(c) requires a juvenile court counselor to provide written notification to both complainants and victims (previously only complainants) of a decision not to file a complaint as a juvenile petition. The notification must include specific reasons for the decision, whether or not legal sufficiency was found, and whether the matter was closed or diverted and retained. The notification also must inform the complainant and victim of the right to have the decision reviewed by a prosecutor.
- **Request for Review by Prosecutor** – Amended G.S. 7B-1704 makes conforming changes to provide that the procedure for requesting review of a juvenile court's filing decision applies to both complainants and victims (previously complainants only).
- **Prosecutor's Review and Decision** – Amended G.S. 7B-1705 makes conforming changes to provide that a prosecutor's review of a court counselor's filing decision must include conferences with the complainant, victim, and juvenile court counselor (previously complainant and juvenile court counselor only). A prosecutor also must notify both the complainant and the victim of his or her decision at the conclusion of the review.
- **Victim's Access to Information** – New G.S. 143B-806(b)(14a) grants authority to the Secretary of the Division of Adult Correction and Juvenile Justice to develop and administer a system to inform victims and complainants about the status of pending complaints and the right to request review under G.S. 7B-1704 of a juvenile court counselor's decision not to file a complaint.

*Law Enforcement Access to Information
(effective October 1, 2017)*

- **Consultations with Law Enforcement** – Amended G.S. 7B-3001(a) provides that the juvenile court counselor's record must include the juvenile's delinquency record and consultations with law enforcement that do not result in the filing of a juvenile petition. **A separate amendment to G.S. 7B-3001(a) also requires the inclusion of a gang assessment as part of this record.
- **Disclosure of Information to Law Enforcement** – New G.S. 7B-3001(a1) authorizes juvenile court counselors to share with law enforcement officers, upon request, information related to a juvenile's delinquency record or prior consultations with law enforcement for the purpose of assisting officers during the investigation of an incident that could lead to the filing of a complaint. Law enforcement officers may not obtain copies of juvenile records and must maintain the confidentiality of information shared and keep it separately from other law enforcement records, as required by G.S. 7B-3001(b).

Electronic Records
(effective July 1, 2017)

- **JWise Access** – Section 16D.4.(y) of the Act requires that by July 1, 2018, the Administrative Office of the Courts (AOC) must expand access to JWise, the automatic electronic information management system for juvenile courts, to include prosecutors and juvenile defense attorneys. Such access must be limited to examining electronic records related to juvenile delinquency proceedings and does not include records related to abuse, neglect, and dependency or termination of parental rights cases. Section 16D.4.(z) requires that by July 1, 2018, the AOC must also develop statewide inquiry access for JWise users that corresponds to the access to juvenile court records authorized by Chapter 7B.

School-Justice Partnerships
(effective July 1, 2017)

- **Statewide Implementation** – New G.S. 7A-343(9g) authorizes the Director of the AOC to prescribe policies and procedures for chief district court judges to establish school-justice partnerships in collaboration with local law enforcement agencies, local boards of education, and local school administrative units for the purpose of reducing in-school arrests, out-of-school suspensions, and expulsions.

Juvenile Justice Training for Law Enforcement Officers and Sheriffs
(effective July 1, 2017)

- **Entry-level Training** – New G.S. 17C-6(a)(2)(b) and new G.S. 17E-4(a)(2)(b) provide that the minimum standards for entry-level employment established by the NC Criminal Justice Education and Training Standards Commission and the NC Sheriffs' Education and Training Standards Commission must include education and training on juvenile justice issues. The minimum standards must include education and training regarding (1) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (2) best practices for handling incidents involving juveniles; (3) adolescent development and psychology; and (4) promoting relationship building with youth as a key to delinquency prevention.
- **In-Service Training** – New G.S. 17C-6(a)(14)(b) and new G.S. 17E-4(a)(11)(b) provide that the minimum standards for in-service training established by both Commissions must include training on juvenile justice issues that includes the same information required for entry-level employment.
- **Instructor Certification** – Amended G.S. 17C-6(a)(15) and amended G.S. 17E-4(a)(12) authorize both Commissions to establish minimum standards for certification of instructors for the entry-level and in-service juvenile justice training for criminal justice officers and sheriffs.
- **Consultation with Juvenile Justice** – Section 16D.4.(dd) directs both Commissions to work with the Division of Adult Correction and Juvenile Justice to establish juvenile justice training.

Juvenile Jurisdiction Advisory Committee
(effective July 1, 2017)

- Sections 16D.4.(kk) through 16D.4.(ss) provide for the establishment of a 21-member Juvenile Jurisdiction Advisory Committee within the Division of Adult Correction and Juvenile Justice to plan for the implementation of these changes. Appointments to the Advisory Committee must be made no later than October 1, 2017. The Advisory Committee must submit an interim report to the General Assembly by March 1, 2018, and must submit a final report by January 15, 2023.