



Juvenile Jurisdiction Advisory Committee
Subcommittee: Legislative Revisions and Legal Issues
3010 Hammond Business Place
Raleigh, NC 27603

Friday, June 29, 2018

Subcommittee Members: Heather Taraska, Chair; Ronnie Ansley; Maxine Evans-Armwood; Dawn Blagrove; Tarrah Callahan (m); Michelle Hall (m); Garry Frank (m); Jennifer Knox (m); Chuck Mallonee; Marty McGee (m); LaToya Powell; Robert Rader (m); Carrie Randa; Mary Stansell (m); Joe Testino; Ricky Watson; Robyn Withrow, Eric Zogry (m)

Present: Voting Members Tarrah Callahan (m), Michelle Hall (m), Krista Hiatt (m), Jennifer Knox (m), William Lassiter (m), Marty McGee (m), Robert Rader (m), Mary Stansell (m), Heather Taraska (m- chair of subcommittee), and Eric Zogry (m) were present. Dawn Blagrove, Andy Brandon, Bonnie Clark, Frank Crawford, Erin Hickey, Matthew Jenkins, John Madler, LaToya Powell, Kimberly Quintus, Carrie Randa, Monica Shabo, Sam Thorp, and Ricky Watson were also present.

Call to order: 10:01 AM

Discussion of S.L. 2017-57, § 7B-2200.5 (a)(1)

A motion to amend S.L. 2017-57, 7B-2200.5(a)(1) to include "E" was made by Heather Taraska and seconded by Eric Zogry. No one opposed. Motion carried.

Discussion of S.L. 2017-57, § 7B-2200. (Transfer process to Superior Court for juveniles aged 16 and 17 charged with A thru G felonies)

Discussion of time line for transfer of jurisdiction of a juvenile at least 16 years of age to superior court.

- 30 days not enough, 90 days may be too much.
- Add the following sentence to section (1) "The State must submit the bill of indictment to the grand jury within 60 days of the juvenile's first appearance."
- Add to section (2) "The hearing shall be conducted within 60 days of the date of the juvenile's first appearance. The court may continue the hearing for good cause."
- An indictment cannot be continued.
- The more time built in the better for the juvenile. The more serious the case, the longer it will take to get the information.
- If case goes beyond 60 or 90 days, the DA would not have the option to go to the grand jury.
- It's 15 days for probable cause. It can be continued for good cause.
- Stansell is against setting an end date because if you rush to grand jury you won't have all the information you need.
- We're deciding whether to change an entire system if we do this. May not be able to bring it back once it's done.
- Feel we need to have a time limit. Time limit for probable cause.
- Zogry encouraged more flexibility with probable cause.
- Lassiter conveyed that some small jurisdictions only meet every 2 or 3 month.
- Suggestion to make both read 90 days and can get continuances.

- Use the language “The court may grant an extension to seek an indictment for good cause.”
- Recommendation made to change 15 days to 90 days. There was discussion on the consequences of making this change.
- Would varying from the adult side process cause the change to be denied?
- McGee asked what happens if the timeline isn’t met. If 90 days isn’t met, what happens? Does the case stay in Juvenile Court; is it dismissed?
- Now the PC hearing would be held and they would be indicted.
- Could there be some language to say that if the timeline isn’t met, a PC hearing will take place?
- Must decide what the consequence is.
- It doesn’t matter how many days, it can always be continued. There has never been a restriction on indictments.
- Have to come back more frequently and that causes concerns with the docket filling up.
- Zogry asked if this more of a training piece?
- Hiatt feels we should follow same PC timeline that we follow now.
- McGee asked if 15A-606 would be the structure that we would follow?
- Taraska recommended keeping language but just changing the days.
- Lassiter advised that previous JJAC legislative language requests weren’t adopted because we didn’t meet the timeline for introduction of the bill. Non-controversial requests can be made with technical corrections, large changes go through full legislation.
- McGee asked about the consequence – should we suggest what the consequences should be?
- Taraska argued against including a consequence, because we cannot anticipate the volume of cases coming through, and the potential for a case to fall through the cracks.
- Zogry advised that the 90 days only applies to 2200.5. Separate statutes to deal with separate sets of kids.
- Taraska asked if the subcommittee should increase it to 90 in the other statutes as well?
- Zogry advised that it is different for 13, 14 & 15 year olds.
- Discussion of differences in age ranges and the consequences. Discussed timelines for state to review. Need to first discuss “Retaining or Returning” to juvenile court.

A motion to amend 7B-2200.5, to add “(c): **The probable cause hearing shall be conducted within 90 days of the date of the juvenile’s first appearance. The court may continue the hearing for good cause.**” was made by Heather Taraska and seconded by Mary Stansell. No one opposed. Motion carried.

Discussion of § 7B-1906.

- Under this statute, the consequence for failure to meet the 90 days is not a prohibition against transfer.
- Reference Material #3: Discussion of recommendation and explanation of “10 day intervals.” 10-day interval is a failsafe issue.
- “Further hearing on the need to determine secure custody . . .” take out “30 day”. Further hearings on the need for continued secure custody may be waived only . . .”
- A motion to amend 7B-1906 to add “(b1): **As long as the 16 and 17 year old remains in secure custody, if the 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, further hearings to determine the need for secure custody shall be held at intervals of no more**

than 30 calendar days. Further hearings on the need for continued secure custody may be waived only with the consent of the juvenile. Upon request of the juvenile, through counsel for the juvenile, further hearings may be held at intervals of 10 days for good cause determined by the court." was made by Robert Rader and was seconded by Mary Stansell. No one opposed. Motion carried.

Discussion of § 7B-2200.5.

Reference Material #6: "(a) Upon motion of the prosecutor, if a juvenile was 16 or older and committed an A thru G felony, the Court shall transfer jurisdiction upon indictment or a finding of probable cause."

- Where does this language need to be? After the comma after "adult,"
- Discussed concerns of unequal justice across the state. Giving extraordinary discretion to the DA. No perfect way to do this but putting it on the front end creates a better balance. It could also be put on the back end.
- Will the Conference of DAs support this? Judicial review in the process?
- Are we following the same procedures across the state?
- The Conference of DAs will have to support this and explain the reasoning to the legislature.
- Should discuss this along with the reverse waiver as substantive changes.
- Should there be other groups that we float this to before we decide on whether or not to move forward? Sheriff's Association, DAs, Prosecutors, Legislature.
 - Taraska agreed to consult with the Conference of DAs
 - Lassiter agreed to consult with law enforcement
 - Start with the Conference of DAs. If they support the proposed language, designees should consult with others.

Discussion of Reverse Waiver and Reference Material #5

Reference Material #5: "In any case where jurisdiction of a juvenile has been transferred to Superior Court, upon joint motion of the prosecutor and juvenile's (defendant's) attorney, the court shall remand the case back to Juvenile Court."

- Blended sentencing vs. having the discretion up front.
- If charged with a G and found guilty of an A1 misdemeanor, should it go back to Juvenile Court for disposition?
- Discussed cost of remanding to Juvenile Court. Fiscal note did not take this into account.

A Plan – Transfer on Front end

B Plan – Transfer on Back end

C Plan – Transfer on Both ends

- Return to Juvenile Court based on evidence, on the front end.
- When would this take place, during the plea negotiation phase?
- Will there be some type of automatic expunction from criminal court if it gets returned to Juvenile Court?

A motion to amend 7B-2200.5, to include "**(d): In any case where jurisdiction of a juvenile has been transferred to Superior Court, upon joint motion of the prosecutor and juvenile's (defendant's) attorney, the court shall remand the case back to Juvenile Court. The record is then automatically expunged following remand to Juvenile Court.**" was made and seconded. No one opposed. Motion carried.

Upcoming Issues:

- Once an adult, always an adult
- Email Heather Taraska if there is something you want to add to the agenda for the next meeting.

1:50 pm motion to adjourn. Seconded. Adjourned.

Summary (motions approved for full committee consideration)

- Amend S.L. 2017-57, 7B-2200.5(a)(1) to include "E".
- Add to 7B-2200.5, a new (c): The probable cause hearing shall be conducted within 90 days of the date of the juvenile's first appearance. The court may continue the hearing for good cause.
- Add to 7B-1906, a new (b1): As long as the 16 and 17 year old remains in secure custody, if the 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, further hearings to determine the need for secure custody shall be held at intervals of no more than 30 calendar days. Further hearings on the need for continued secure custody may be waived only with the consent of the juvenile. Upon request of the juvenile, through counsel for the juvenile, further hearings may be held at intervals of 10 days for good cause determined by the court.
- Add to 7B-2200.5, a new (d): In any case where jurisdiction of a juvenile has been transferred to Superior Court, upon joint motion of the prosecutor and juvenile's (defendant's) attorney, the court shall remand the case back to Juvenile Court. The record is then automatically expunged following remand to Juvenile Court.

Additional Instructions: **Any changes to your contact information should be sent to Kimberly.Quintus@ncdps.gov.**

Next Juvenile Jurisdiction Advisory Committee meeting: **August 24, 2018 from 10am-2pm at 3010 Hammond Business Pl, Raleigh, NC**