

AGENDA

Juvenile Jurisdiction Advisory Committee

Legislative Revisions and Legal Issues Subcommittee

November 5, 2020

3:00 P.M. – 5:00 P.M.

Members: Heather Taraska*(Subcommittee Chair), Garry Frank* (JJAC Chair), Robert Rader*, Jennifer Knox*, Mary Stansell*, Tarrah Callahan*, Marty McGee*, Eric Zogry*, Michelle Hall*, Krista Hiatt*, Beth Freshwater-Smith*, William Lassiter*, Maxine Evans-Armwood, Carrie Randa, Ricky Watson, LaToya Powell, Dawn Blagrove, Ronnie Ansley, Chuck Mallonee, Joe Testino, Robyn Withrow, Juliana Cherry, Justin Davis, Tawanda Foster Artis, Jacqui Greene

*=JJAC Member

- 1) Maximum YDC Commitment Age for 16- and 17-year-olds
G.S. 1601, G.S. 7B-1602 ([extended jurisdiction](#))
- 2) Conforming [amendments](#) to G.S. 7B-2514(c), G.S. 7B-2516(c), and G.S. 7B-2600(c)
- 3) Proposal to allow TSC youth to be housed in detention post-sentencing: [NCGS § 7B-2204\(d\)](#)
- 4) Secure Custody Order on [Remand](#)
- 5) Prosecutorial [Discretion](#) to Retain A thru G felonies in Juvenile Court (16/17)
- 6) [Jurisdiction](#) Over Parent, Guardian, Custodian of Persons 18 Years of Age or Older
- 7) Proposal to [Control Access](#) to Superior Courtroom
- 8) [Recodify](#) NCGS 20-107, Injuring or tampering with vehicle.

1) Maximum YDC Commitment Age for 16- and 17-year-olds

Extended commitments

Age at offense	Offense type	Commitment to age
Any	first degree murder, first-degree forcible rape, first-degree statutory rape pursuant, first-degree forcible sexual offense, or first-degree statutory sexual offense	21
Under 16	B1 - E	19
16	B1 - E	20
17	B1 - E	21

Regular Jurisdictional Limits

Age at offense	Jurisdictional Age Limit
Under 16	18 th birthday
16	19 th birthday
17	20 th birthday

§ 7B-1601. Jurisdiction over delinquent juveniles.

(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, except as provided otherwise in this Article. 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, except as provided otherwise in this Article.

§ 7B-1602. Extended jurisdiction over a delinquent juvenile under certain circumstances.

(a) When a juvenile is committed to the Division for placement in a youth development center 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, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 21 years, whichever occurs first.

(b) When a juvenile is committed to the Division for placement in a youth development center for an offense committed under the age of 16 that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in subsection (a) of this section, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 19 years, whichever occurs first. (1979, c. 815, s. 1; 1981, c. 469, s. 4; 1996, 2nd Ex. Sess., c. 18, s. 23.2(d); 1998-202, s. 6; 2000-137, s. 3; 2001-95, s. 5; 2011-145, s. 19.1(l); 2015-181, s. 25.)

(c) When a juvenile is committed to the Division for placement in a youth development center for an offense committed while the juvenile was at least 16 years of age but less than 17 years of age that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in

subsection (a) of this section, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 20 years, whichever occurs first.

(d) When a juvenile is committed to the Division for placement in a youth development center for an offense committed while at least 17 years of age that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in subsection (a) of this section, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 21 years, whichever occurs first.

2) Conforming amendments to G.S. 7B-2514(c), G.S. 7B-2516(c), and G.S. 7B-2600(c) § 7B-2514. Post-release supervision planning; release.

(c) The Division shall release a juvenile under a plan of post-release supervision at least 90 days prior to:

(1) Completion of the juvenile's definite term of commitment; or

(2) The juvenile's twenty-first birthday 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; or

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(3) 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 G.S. 7B-1602(a);

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a. The juvenile's nineteenth birthday if the juvenile committed the offense prior to reaching the age of 16 years,

b. The juvenile's twentieth birthday if the juvenile committed the offense while the juvenile was at least 16 years of age but less than 17, or

c. The juvenile's twenty-first birthday if the juvenile committed the offense while the juvenile was at least 17 years of age; or

(4) 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,

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a. The eighteenth birthday of the juvenile if the juvenile committed the offense prior to reaching the age of 16 years,

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b. The nineteenth birthday of the juvenile if the juvenile committed the offense while the juvenile was at least 16 years of age but less than 17 years of age, or

c. The twentieth birthday of the juvenile if the juvenile committed the offense while the juvenile was at least 17 years of age.

§ 7B-2516. Revocation of post-release supervision.

(c) If the court revokes post-release supervision, the juvenile shall be returned to the Division for placement in a youth development center for an indefinite term of at least 90 days, provided, however, that no juvenile shall remain committed to the Division for placement in a youth development center past [the maximum term of commitment allowed pursuant to G.S. 7B-2513\(a1\), G.S. 7B-2513\(a2\), and G.S. 7B-2513\(a3\)](#).

(1979, c. 815, s. 1; 1998-202, s. 6; 2000-137, s.3; 2001-95, s. 5; 2001-490, s. 2.29; 2011-145, s. 19.1(l); 2015-181, s. 29.)

§ 7B-2600. Authority to modify or vacate.

(c) In any case where the court finds the juvenile to be undisciplined, the jurisdiction of the court to modify any order or disposition made in the case shall continue during the minority of the juvenile, or until terminated by order of the court.

(d) In any case where the court finds the juvenile to be delinquent, the jurisdiction of the court to modify any order of disposition made in the case shall continue:

(i) until the juvenile reaches the age of eighteen for an offense committed prior to reaching the age of 16,

(ii) until the juvenile reaches the age of nineteen for an offense committed while the juvenile was at least 16 years of age but less than 17 years of age, or

(iii) until the juvenile reaches the age of twenty for an offense committed while the juvenile was at least 17 years of age; or

(iv) if the juvenile was committed to the Division for placement in a youth development center, until the juvenile reaches the maximum term of commitment as authorized pursuant to G.S. 7B-2513(a1), G.S. 7B-2513(a2), and G.S. 7B-2513(a3); or

(v) until terminated by order of the court.

3) Proposal to allow TSC youth to be housed in detention post-sentencing: [NCGS § 7B-2204\(d\)](#)

Problem that the proposed language will fix: H 593 requires youth under 18 whose case originates in criminal court to be housed in a juvenile facility pretrial and after sentencing if they would otherwise be confined in a jail. However, [NCGS § 7B-2204\(d\)](#) still applies to youth whose cases originate in juvenile court and are later transferred to superior court. [NCGS § 7B-2204\(d\)](#) prescribes that youth who are sentenced as adults after being transferred from juvenile to superior court cannot be detained in a juvenile detention center after sentencing.

“§ 7B-2204 (d) reads as rewritten:

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Deleted: (1) The juvenile's twenty-first birthday 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 juvenile's nineteenth birthday 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 G.S. 7B-1602(a). ¶

(3) The juvenile's eighteenth birthday 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.

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Deleted: (ii) until the juvenile reaches the age of 19 years if the juvenile has been adjudicated delinquent and 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 G.S. 7B-1602(a), (iii) until the juvenile reaches the age of 21 years if the juvenile has been adjudicated delinquent and committed 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,

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(d) Should the juvenile be found guilty, or enter a plea of guilty or no contest to a criminal offense in superior court and receive an active sentence, then immediate transfer to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall be ordered. Until such time as the juvenile is transferred to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the juvenile may be detained in a holdover facility or detention facility approved by the Juvenile Justice Section. The juvenile may not be detained in a detention facility pending transfer to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, unless the detention facility is operated by the sheriff pursuant to G.S. 7B-1905(b)."

4) Secure Custody Order on Remand

§ 7A-271. Jurisdiction of superior court

(g) When a juvenile matter that has been transferred to superior court is remanded to the district court pursuant to G.S. 7B-2200.5(d), the superior court has jurisdiction to issue a secure custody order pursuant to G.S. 7B-1903 after ordering remand of such matter.

§ 7B-2200.5. Transfer of jurisdiction of a juvenile at least 16 years of age to superior court

(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, shall expunge the superior court record in accordance with G.S. 15A-145.8, and, if the juvenile meets the criteria established in G.S. 7B-1903, may issue an order for secure custody.

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5) Prosecutorial Discretion to Retain A thru G felonies in Juvenile Court (16/17)

§ 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 unless the prosecutor declines to prosecute in superior court as provided in subsection (a1) of this section. Such transfer shall occur 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, 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 prosecutor declines to prosecute the matter in superior court, jurisdiction over the juvenile shall remain in juvenile court and the matter shall move to adjudication following a finding of probable cause pursuant to G.S. 7B-2202.

(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 court shall remand the case to district court and shall expunge the superior court record in accordance with G.S. 15A-145.8. (2017-57, s. 16D.4(e); 2017-197, s. 5.3; 2018-142, s. 23(b); 2019-186, s. 8(a).)

6) Jurisdiction Over Parent, Guardian, Custodian of Persons 18 Years of Age or Older

Problem to fix: the child aged out of foster care and has no legal parent. And the guardianship statute says that the guardianship must terminate once the juvenile reaches the age of majority (18).

Discussion.

7) Proposal to Control Access to Superior Courtroom

Discussion.

8) Recodify NCGS 20-107, Injuring or tampering with vehicle.

Remove this offense from Chapter 20 so that juveniles, including juveniles who are aged 16 and 17, can be charged with this offense and processed through the juvenile justice system. We think this can be accomplished by completely removing the offense from Chapter 20 and placing it in Chapter 14.

- If GS 20-107 is removed from Chapter 20, then it could be recodified in either Article 16 (Larceny) of Chapter 14 or Article 23 (Trespasses to Personal Property) in Chapter 14.
- If it is placed in the Larceny article, it could be placed under GS 14-71 and potentially labeled **GS 14-71.3** directly beneath former GS 20-106 (which was recodified as GS 14-71.2). This option makes sense because GS 20-106 & GS 20-107 were located together in Chapter 20 and the language in GS 20-107(b) involves the intent to steal.
- If it is placed in the Trespasses to Personal Property article, it could be placed under GS 14-160 (Willful and wanton injury to personal property) as **GS 14-160.4**. This option makes sense because GS 20-107 focuses on injuring and tampering with personal property, much like the other statutes under GS 14-160.

~~§ 20-107. Injuring or tampering with vehicle~~

~~(a) Any person who either individually or in association with one or more other persons willfully injures or tampers with any vehicles or breaks or removes any part or parts of or from a vehicle without the consent of the owner is guilty of a Class 2 misdemeanor.~~

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~~(b) Any person who with intent to steal, commit any malicious mischief, injury or other crime, climbs into or upon a vehicle, whether it is in motion or at rest, or with like intent attempts to manipulate any of the levers, starting mechanism, brakes, or other mechanism or device of a vehicle while the same is at rest and unattended or with like intent sets in motion any vehicle while the same is at rest and unattended, is guilty of a Class 2 misdemeanor. (1937, c. 407, s. 71; 1965, c. 621, s. 1; 1993, c. 539, s. 348; 1994, Ex. Sess., c. 24, s. 14(e).)~~

“§ 20-107. Injuring or tampering with vehicle is recodified in Chapter 14 of the North Carolina General Statutes:

(a) Any person who either individually or in association with one or more other persons willfully injures or tampers with any vehicles or breaks or removes any part or parts of or from a vehicle without the consent of the owner is guilty of a Class 2 misdemeanor.

(b) Any person who with intent to steal, commit any malicious mischief, injury or other crime, climbs into or upon a vehicle, whether it is in motion or at rest, or with like intent attempts to manipulate any of the levers, starting mechanism, brakes, or other mechanism or device of a vehicle while the same is at rest and unattended or with like intent sets in motion any vehicle while the same is at rest and unattended, is guilty of a Class 2 misdemeanor. (1937, c. 407, s. 71; 1965, c. 621, s. 1; 1993, c. 539, s. 348; 1994, Ex. Sess., c. 24, s. 14(c).)”