

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

H

1

HOUSE BILL 609

Short Title: Raise the Age Modifications. (Public)

Sponsors: Representatives McNeill, Faircloth, R. Turner, and Richardson (Primary Sponsors).

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Judiciary, if favorable, Rules, Calendar, and Operations of the House

April 8, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CERTAIN MODIFICATIONS TO THE GENERAL STATUTES IN  
3 ORDER TO FACILITATE IMPLEMENTATION OF THE LEGISLATION KNOWN AS  
4 RAISE THE AGE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** G.S. 7B-1501(7) reads as rewritten:

7 "(7) Delinquent juvenile. –

8 ...

9 b. Any juvenile who, while less than 18 years of age but at least 16 years  
10 of age, commits a crime or an infraction under State law or under an  
11 ordinance of local government, excluding ~~violation~~all violations  
12 of the motor vehicle ~~laws,~~laws under Chapter 20 of the General Statutes,  
13 or who commits indirect contempt by a juvenile as defined in  
14 G.S. 5A-31."

15 **SECTION 1.(b)** G.S. 143B-805(6) reads as rewritten:

16 "(6) Delinquent juvenile. –

17 ...

18 b. Any juvenile who, while less than 18 years of age but at least 16 years  
19 of age, commits a crime or an infraction under State law or under an  
20 ordinance of local government, excluding ~~violation~~all violations  
21 of the motor vehicle ~~laws,~~laws under Chapter 20 of the General Statutes,  
22 or who commits indirect contempt by a juvenile as defined in  
23 G.S. 5A-31."

24 **SECTION 1.(c)** G.S. 20-106 is recodified as G.S. 14-71.2.

25 **SECTION 2.** G.S. 7B-1604(b) reads as rewritten:

26 "(b) A juvenile (i) who is transferred to and convicted in superior court or (ii) who has  
27 previously been convicted in either district or superior court for a felony or a misdemeanor,  
28 ~~including~~excluding a misdemeanor violation of the motor vehicle laws under State ~~law,~~law  
29 other than an offense involving impaired driving as defined by G.S. 20-4.01(24a), shall be  
30 prosecuted as an adult for any criminal offense the juvenile commits after the district or superior  
31 court conviction."

32 **SECTION 3.** G.S. 7B-1901 is amended by adding a new subsection to read:



1       "(d) A person who takes an individual who is 18 years of age or older into temporary  
2 custody for an offense committed when the individual was a juvenile shall proceed in accordance  
3 with the provisions of Article 23 of Subchapter V of Chapter 15A of the General Statutes."

4               **SECTION 4.** G.S. 7B-1903(e) reads as rewritten:

5       "(e) If the criteria for secure custody as set out in subsection (b), (c), or (d) of this section  
6 are met, the court may enter an order directing an officer or other authorized person to assume  
7 custody of the juvenile and to take the juvenile to the place designated in the order. If, pursuant  
8 to the criteria in subsection (b) of this section, secure custody is ordered for any person 18 years  
9 of age or older who falls within the jurisdiction of the court pursuant to G.S. 7B-1601(d) or  
10 G.S. 7B-1601(d1), the order shall designate that the person be temporarily detained in the county  
11 jail where the charges arose."

12               **SECTION 5.** G.S. 7B-1905 reads as rewritten:

13       "**§ 7B-1905. Place of secure or nonsecure custody.**

14       (a) A juvenile meeting the criteria set out in G.S. 7B-1903(a), may be placed in nonsecure  
15 custody with a department of social services or a person designated in the order for temporary  
16 residential placement in:

- 17               (1) A licensed foster home or a home otherwise authorized by law to provide such  
18 care;  
19               (2) A facility operated by a department of social services; or  
20               (3) Any other home or facility approved by the court and designated in the order.

21       In placing a juvenile in nonsecure custody, the court shall first consider whether a relative of  
22 the juvenile is willing and able to provide proper care and supervision of the juvenile. If the court  
23 finds that the relative is willing and able to provide proper care and supervision, the court shall  
24 order placement of the juvenile with the relative unless the court finds that placement with the  
25 relative would be contrary to the best interest of the juvenile. Placement of a juvenile outside of  
26 this State shall be in accordance with the Interstate Compact on the Placement of Children set  
27 forth in Article 38 of this Chapter.

28       (b) Pursuant to G.S. 7B-1903(b), (c), or (d), a juvenile may be temporarily detained in an  
29 approved detention facility ~~which shall be separate from any jail, lockup, prison, or other adult~~  
30 ~~penal institution, except as provided in subsection (c) of this section.~~ facility. It shall be unlawful  
31 for a ~~county sheriff~~ or any unit of government to operate a juvenile detention facility unless the  
32 facility meets the standards and rules adopted by the Department of Public ~~Safety.~~ Safety and has  
33 been approved by the Juvenile Justice Section of the Division for operation as a juvenile detention  
34 facility.

35       (c) A juvenile who has allegedly committed an offense that would be a Class A, B1, B2,  
36 C, D, or E felony if committed by an adult may be detained in secure custody in a holdover  
37 facility up to 72 hours, if the court, based on information provided by the juvenile court  
38 counselor, determines that no acceptable alternative placement is available and the protection of  
39 the public requires the juvenile be housed in a holdover facility.

40       (d) If, pursuant to the criteria in G.S. 7B-1903(b), secure custody is ordered for any  
41 person 18 years of age or older who falls within the jurisdiction of the court pursuant to  
42 G.S. 7B-1601(d) or G.S. 7B-1601(d1), the person shall be temporarily detained in the county jail  
43 where the charges arose."

44               **SECTION 6.** G.S. 7B-1906 reads as rewritten:

45       "**§ 7B-1906. Secure or nonsecure custody hearings.**

46       ...

47       (b) As long as the juvenile remains in secure or nonsecure custody, further hearings to  
48 determine the need for continued secure custody shall be held at intervals of no more than 10  
49 calendar ~~days.~~ days, except as otherwise provided in this section. A subsequent hearing on  
50 continued nonsecure custody shall be held within seven business days, excluding Saturdays,  
51 Sundays, and legal holidays when the courthouse is closed for transactions, of the initial hearing

1 required in subsection (a) of this section and hearings thereafter shall be held at intervals of no  
2 more than 30 calendar days. In the case of a juvenile alleged to be delinquent, further hearings  
3 may be waived only with the consent of the juvenile, through counsel for the juvenile.

4 (b) For a juvenile who was 16 years of age or older at the time the juvenile allegedly  
5 committed an offense that would be a Class A, B1, B2, C, D, E, F, or G felony if committed by  
6 an adult, further hearings to determine the need for secure custody shall be held at intervals of no  
7 more than 30 calendar days. Further hearings may be waived only with the consent of the  
8 juvenile, through counsel for the juvenile. Upon request of the juvenile, through counsel for the  
9 juvenile, and for good cause as determined by the court, further hearings to determine the need  
10 for secure custody may be held at intervals of 10 days.

11 ...."

12 **SECTION 7.(a)** G.S. 7B-2200.5 reads as rewritten:

13 "**§ 7B-2200.5. Transfer of jurisdiction of a juvenile at least 16 years of age to superior court.**

14 (a) If a juvenile was 16 years of age or older at the time the juvenile allegedly committed  
15 an offense that would be a Class A, B1, B2, C, D, E, F, or G felony if committed by an adult, the  
16 court shall transfer jurisdiction over the juvenile to superior court for trial as in the case of adults  
17 after either of the following:

- 18 (1) Notice to the juvenile and a finding by the court that a bill of indictment has  
19 been returned against the juvenile charging the commission of an offense that  
20 constitutes a Class A, B1, B2, C, D, E, F, or G felony if committed by an adult.
- 21 (2) Notice, hearing, and a finding of probable cause that the juvenile committed  
22 an offense that constitutes a Class A, B1, B2, C, D, E, F, or G felony if  
23 committed by an adult.

24 (b) If the juvenile was 16 years of age or older at the time the juvenile allegedly  
25 committed an offense that would be a Class H or I felony if committed by an adult, after notice,  
26 hearing, and a finding of probable cause, the court may, upon motion of the prosecutor or the  
27 juvenile's attorney or upon its own motion, transfer jurisdiction over a juvenile to superior court  
28 pursuant to G.S. 7B-2203.

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

32 (d) In any case where jurisdiction over a juvenile has been transferred to superior court,  
33 upon joint motion of the prosecutor and the juvenile's attorney, the court shall remand the case  
34 to district court and shall expunge the superior court record in accordance with G.S. 15A-145.8."

35 **SECTION 7.(b)** G.S. 7B-2202(a) reads as rewritten:

36 "(a) Except as otherwise provided in G.S. 7B-2200.5(a)(1), the court shall conduct a  
37 hearing to determine probable cause in all felony cases in which a juvenile was 13 years of age  
38 or older when the offense was allegedly committed. ~~The~~ Except as otherwise provided in  
39 G.S. 7B-2200.5(c), the hearing shall be conducted within 15 days of the date of the juvenile's  
40 first appearance. The court may continue the hearing for good cause."

41 **SECTION 8.** G.S. 7B-2204 reads as rewritten:

42 "**§ 7B-2204. Right to pretrial release; detention.**

43 (a) Once the order of transfer has been entered, the juvenile has the right to pretrial release  
44 as provided in G.S. 15A-533 and G.S. 15A-534. The release order shall specify the person or  
45 persons to whom the juvenile may be released. Pending release, the court shall order that the  
46 juvenile be detained in a detention facility while awaiting trial. Personnel of the Juvenile Justice  
47 Section of the Division, or personnel approved by the Juvenile Justice Section, shall transport the  
48 juvenile from the detention facility to court.

49 (b) The court may order the juvenile to be held in a holdover facility at any time the  
50 presence of the juvenile is required in court for pretrial hearings or trial, if the court finds that it  
51 would be inconvenient to return the juvenile to the detention facility. Personnel of the Justice

1 Section of the Division, or personnel approved by the Juvenile Justice Section, shall transport the  
2 juvenile from the holdover facility to court and shall transport the juvenile back to the detention  
3 center.

4 (c) If the juvenile reaches the age of 18 years while awaiting the completion of  
5 proceedings in superior court, the juvenile shall be transported by personnel of the Juvenile  
6 Justice Section of the Division, or personnel approved by the Juvenile Justice Section, to the  
7 custody of the sheriff of the county where the charges arose.

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

16 (e) The juvenile may be kept by the Division of Adult Correction and Juvenile Justice of  
17 the Department of Public Safety as a safekeeper until the juvenile is placed in an appropriate  
18 correctional program."

19 **SECTION 9.** G.S. 7B-2508(g1) reads as rewritten:

20 "(g1) Notwithstanding subsection (f) of this section, if a juvenile is adjudicated for an  
21 offense that the court finds beyond a reasonable doubt was committed as part of criminal gang  
22 activity as defined in G.S. 7B-2508.1, the juvenile shall receive a disposition one level higher  
23 than would otherwise be provided for the class of offense and delinquency history level."

24 **SECTION 10.** Article 5 of Chapter 15A of the General Statutes is amended by  
25 adding a new section to read:

26 **§ 15A-145.8 Expunction of records when charges are remanded to district court for**  
27 **juvenile adjudication.**

28 (a) Upon remand pursuant to G.S. 7B-2200.5(d), the court shall order expunction of all  
29 remanded charges. No person as to whom such an order has been entered shall be held thereafter  
30 under any provision of any law to be guilty of perjury, or to be guilty of otherwise giving a false  
31 statement or response to any inquiry made for any purpose, by reason of his failure to recite or  
32 acknowledge any expunged entries concerning apprehension or trial.

33 (b) The court shall also order the expunction of DNA records when the person's case has  
34 been dismissed by the trial court and the person's DNA record or profile has been included in the  
35 State DNA Database and the person's DNA sample is stored in the State DNA Databank as a  
36 result of the case that was dismissed. The order of expungement shall include the name and  
37 address of the defendant and the defendant's attorney and shall direct the North Carolina State  
38 Crime Laboratory to send a letter documenting expungement as required by subsection (c) of this  
39 section.

40 (c) Upon receiving an order of expungement entered pursuant to subsection (b) of this  
41 section, the North Carolina State Crime Laboratory shall purge the DNA record and all other  
42 identifying information from the State DNA Database and the DNA sample stored in the State  
43 DNA Databank covered by the order, except that the order shall not apply to other offenses  
44 committed by the individual that qualify for inclusion in the State DNA Database and the State  
45 DNA Databank. A letter documenting expungement of the DNA record and destruction of the  
46 DNA sample shall be sent by the North Carolina State Crime Laboratory to the defendant and  
47 the defendant's attorney at the address specified by the court in the order of expungement.

48 (d) Upon order of expungement, the clerk shall notify State and local agencies of the  
49 court's order as provided in G.S. 15A-150 and forward the order to the Administrative Office of  
50 the Courts."

1                   **SECTION 11.** This act is effective December 1, 2019, and applies to offenses  
2 committed on or after that date.