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SESSION 2021

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SENATE BILL 207
Judiciary Committee Substitute Adopted 3/23/21
House Committee Substitute Favorable 6/30/21
PROPOSED HOUSE COMMITTEE SUBSTITUTE S207-CSSA-34 [v.1]

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Short Title: Various Raise the Age Changes/JJAC Recs.

(Public)

Sponsors:

Referred to:

March 10, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT THE JUVENILE JUSTICE REINVESTMENT ACT BASED ON
3 LEGISLATIVE RECOMMENDATIONS OF THE JUVENILE JURISDICTION
4 ADVISORY COMMITTEE, TO MAKE RELATED CHANGES TO THE JUVENILE
5 CODE, AND TO PROVIDE FOR AN APPROPRIATE MENTAL HEALTH
6 ASSESSMENT TO BE PROVIDED FOR JUVENILES WHO HAVE BEEN
7 ADJUDICATED DELINQUENT.

8 The General Assembly of North Carolina enacts:

9
10 **PART I. YOUTH DETENTION CENTERS COMMITMENT CHANGES**

11 **SECTION 1.(a)** G.S. 7B-2513 reads as rewritten:

12 **"§ 7B-2513. Commitment of delinquent juvenile to Division.**

13 ...

14 (a2) For an offense the juvenile committed while the juvenile was at least 16 years of age
15 but less than 17 years of age, the term shall not ~~exceed the~~ exceed:

16 (1) The twenty-first birthday of the juvenile if the juvenile has been committed to
17 the Division for an offense that would be first degree murder pursuant to
18 G.S. 14-17, first-degree forcible rape pursuant to G.S. 14-27.21, first-degree
19 statutory rape pursuant to G.S. 14-27.24, first-degree forcible sexual offense
20 pursuant to G.S. 14-27.26, or first-degree statutory sexual offense pursuant to
21 G.S. 14-27.29 if committed by an adult;

22 (2) The twentieth birthday of the juvenile if the juvenile has been committed to
23 the Division for an offense that would be a Class B1, B2, C, D, or E felony if
24 committed by an adult, other than an offense set forth in subdivision (1) of
25 this subsection; or

26 (3) The juvenile's nineteenth birthday birthday if the juvenile has been committed
27 to the Division for an offense other than an offense that would be a Class A,
28 B1, B2, C, D, or E felony if committed by an adult.

29 (a3) For an offense the juvenile committed while the juvenile was at least 17 years of age,
30 the term shall not ~~exceed the~~ exceed:

31 (1) The twenty-first birthday of the juvenile if the juvenile has been committed to
32 the Division for an offense that would be a Class A, B1, B2, C, D, or E felony
33 if committed by an adult; or



(2) The juvenile's twentieth birthday-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.
...."

SECTION 1.(b) G.S. 7B-1601(b1) reads as rewritten:

"(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~~-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~~-years, except as provided otherwise in this Article."

SECTION 1.(c) G.S. 7B-1602 reads as rewritten:

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

...

(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.

(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."

SECTION 1.(d) G.S. 7B-2514(c) reads as rewritten:

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

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

(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.

(3) ~~The juvenile's nineteenth birthday if~~ 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). G.S. 7B-1602(a):

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 years of age.

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

- (4) ~~The juvenile's eighteenth birthday if~~ 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.
- a. The eighteenth birthday of the juvenile, if the juvenile committed the offense prior to reaching the age of 16 years.
- 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.
- c. The twentieth birthday of the juvenile, if the juvenile committed the offense while the juvenile was at least 17 years of age."

SECTION 1.(e) G.S. 7B-2516(c) reads as rewritten:

"(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~~ past the maximum term of commitment allowed pursuant to G.S. 7B-2513(a1), 7B-2513(a2), and 7B-2513(a3).

- (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."~~

SECTION 1.(f) G.S. 7B-2600 reads as rewritten:

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

...

(c) In any case where the court finds the juvenile to be ~~delinquent or undisciplined~~, the jurisdiction of the court to modify any order or disposition made in the case shall continue ~~(i)~~ during the minority of the juvenile, ~~(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, juvenile or (iv) 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 or disposition made in the case shall continue until one of the following first occurs:

- (1) Unless subdivision (4) of this subsection applies, the juvenile reaches the age of 18 for an offense committed prior to the juvenile reaching the age of 16.
- (2) Unless subdivision (4) of this subsection applies, the juvenile reaches the age of 19 for an offense committed while the juvenile was at least 16 years of age but less than 17 years of age.

- (3) Unless subdivision (4) of this subsection applies, the juvenile reaches the age of 20 for an offense committed while the juvenile was at least 17 years of age.
- (4) The juvenile reaches the maximum term of commitment as authorized pursuant to G.S. 7B-2513(a1), 7B-2513(a2), and 7B-2513(a3), if the juvenile was committed to the Division for placement in a youth development center.
- (5) Termination by order of the court."

PART II. JUVENILE TRANSFER HOUSING CHANGES

SECTION 2. G.S. 7B-2204(d) reads as rewritten:

"(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. ~~The juvenile may not be detained in a facility or detention facility pending transfer to approved by 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)-Section."~~

PART III. SECURE CUSTODY ORDER CHANGES

SECTION 3.(a) G.S. 7A-271 is amended by adding a new subsection to read:

"(g) The superior court has jurisdiction to issue a secure custody order pursuant to G.S. 7B-1903 when a juvenile matter that has been transferred to superior court is remanded to district court pursuant to G.S. 7B-2200.5(d)."

SECTION 3.(b) G.S. 7B-1902 reads as rewritten:

"§ 7B-1902. Authority to issue custody orders; delegation.

In the case of any juvenile alleged to be within the jurisdiction of the court, when the court finds it necessary to place the juvenile in custody, the court may order that the juvenile be placed in secure or nonsecure custody pursuant to criteria set out in G.S. 7B-1903.

Any district court judge may issue secure and nonsecure custody orders pursuant to G.S. 7B-1903. The chief district court judge may delegate the court's authority to the chief court counselor or the chief court counselor's counseling staff by administrative order filed in the office of the clerk of superior court. The administrative order shall specify which persons may be contacted for approval of a secure or nonsecure custody order. The chief district court judge shall not delegate the court's authority to detain or house juveniles in holdover facilities pursuant to G.S. 7B-1905 or G.S. 7B-2513.

Any superior court judge may issue a secure custody order pursuant to G.S. 7B-1903 when a juvenile matter that has been transferred to superior court is remanded to district court pursuant to G.S. 7B-2200.5(d)."

SECTION 3.(c) G.S. 7B-1906 is amended by adding a new subsection to read:

"(b2) A hearing to determine the need for continued secure custody shall be held no more than 10 calendar days following the issuance of a secure custody order on remand of the matter from superior court pursuant to G.S. 7B-2200.5(d). A hearing conducted under this subsection may not be continued or waived. Subsequent hearings on the need for continued secure custody shall be held pursuant to subsection (b1) of this section. The district court has authority to modify any secure custody order pursuant to the provisions of this section following the issuance of that order by the superior court."

SECTION 3.(d) G.S. 7B-2200.5(d) reads as rewritten:

"(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 and court~~. The prosecutor shall provide the chief court counselor or his or her designee with a copy of the joint motion prior to submitting the motion to the court. The

superior court shall expunge the superior court record in accordance with G.S. 15A-145.8. G.S. 15A-145.8 at the time of remand, and, if the juvenile meets the criteria established in G.S. 7B-1903, may issue an order for secure custody upon the request of a prosecutor. The prosecutor shall provide a copy of any secure custody order issued to the chief court counselor or his or her designee, as soon as possible and no more than 24 hours after the order is issued."

PART IV. PROSECUTORIAL DISCRETION FOR E THROUGH G FELONIES FOR JUVENILES

SECTION 4. G.S. 7B-2200.5 reads as rewritten:

"§ 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 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 juvenile has allegedly committed an offense that would be a Class D, E, F, or G felony if committed by an adult. If the prosecutor declines to prosecute the matter in superior court, jurisdiction over the juvenile shall remain in juvenile court following a finding of probable cause pursuant to G.S. 7B-2202. Prior to adjudication, the prosecutor may choose to transfer the matter pursuant to subsection (a) of this section if the juvenile has allegedly committed an offense that would be a Class D, E, F, or G felony if committed by an adult.

...."

PART V. MODIFY MINIMUM AGE OF DELINQUENT AND UNDISCIPLINED JUVENILES

SECTION 5.(a) G.S. 7B-101 reads as rewritten:

"§ 7B-101. Definitions.

As used in this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings:

...

- (15) Neglected juvenile. – Any juvenile less than 18 years of age (i) who is found to be a minor victim of human trafficking under G.S. 14-43.15 or (ii) whose parent, guardian, custodian, or caretaker does not provide proper care, supervision, or discipline; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or whose parent, guardian, or custodian has refused to follow the recommendations of the Juvenile and Family Team made pursuant to Article 27A of this Chapter; or who lives in an environment injurious to the juvenile's welfare; or the custody of whom has been unlawfully transferred under G.S. 14-321.2; or who has been placed for care or adoption in violation of law. In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile has died as a result of

1 suspected abuse or neglect or lives in a home where another juvenile has been
2 subjected to abuse or neglect by an adult who regularly lives in the home.

3 ...

4 The singular includes the plural, the masculine singular includes the feminine singular and
5 masculine and feminine plural unless otherwise specified."

6 **SECTION 5.(b)** G.S. 7B-1501 reads as rewritten:

7 **"§ 7B-1501. Definitions.**

8 In this Subchapter, unless the context clearly requires otherwise, the following words have
9 the listed meanings. The singular includes the plural, unless otherwise specified:

10 ...

11 (1a) Juvenile Consultation. – The provision of services to a vulnerable juvenile and
12 to the parent, guardian, or custodian of a vulnerable juvenile pursuant to
13 G.S. 7B-1706.1. Juvenile Consultation cases are subject to confidentiality
14 laws provided in Subchapter III of this Chapter.

15 ...

16 (7) Delinquent juvenile. –

17 a. Any juvenile who, while less than 16 years of age but at least ~~6~~10
18 years of age, commits a crime or infraction under State law or under
19 an ordinance of local government, including violation of the motor
20 vehicle laws, or who commits indirect contempt by a juvenile as
21 defined in G.S. 5A-31.

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

27 c. Any juvenile who, while less than 10 years of age but at least 8 years
28 of age, commits a Class A, B1, B2, C, D, E, F, or G felony under State
29 law.

30 d. Any juvenile who, while less than 10 years of age but at least 8 years
31 of age, commits a crime or an infraction under State law or under an
32 ordinance of local government, including violation of the motor
33 vehicle laws, and has been previously adjudicated delinquent.

34 ...

35 (27) Undisciplined juvenile. –

36 a. A juvenile who, while less than 16 years of age but at least ~~6~~10 years
37 of age, is unlawfully absent from school; or is regularly disobedient to
38 and beyond the disciplinary control of the juvenile's parent, guardian,
39 or custodian; or is regularly found in places where it is unlawful for a
40 juvenile to be; or has run away from home for a period of more than
41 24 hours; or

42 b. A juvenile who is 16 or 17 years of age and who is regularly
43 disobedient to and beyond the disciplinary control of the juvenile's
44 parent, guardian, or custodian; or is regularly found in places where it
45 is unlawful for a juvenile to be; or has run away from home for a period
46 of more than 24 hours.

47 ...

48 (27b) Vulnerable juvenile. - Any juvenile who, while less than 10 years of age but
49 at least 6 years of age, commits a crime or infraction under State law or under
50 an ordinance of local government, including violation of the motor vehicle
51 laws, and is not a delinquent juvenile.

...."

SECTION 5.(c) Article 17 of Chapter 7B reads as rewritten:

"Article 17.

"Screening of ~~Delinquency and Undisciplined~~ Delinquency, Undisciplined, and Vulnerable
Complaints.

"§ 7B-1700. Intake services.

The chief court counselor, under the direction of the Division, shall establish intake services in each judicial district of the State for all delinquency and undisciplined ~~cases~~ cases and all complaints against vulnerable juveniles.

The purpose of intake services shall be to determine from available evidence whether there are reasonable grounds to believe the facts alleged are true, to determine whether the facts alleged constitute a delinquent or undisciplined offense within the jurisdiction of the court, to determine whether the facts alleged are sufficiently serious to warrant court action, and to obtain assistance from community resources when court referral is not ~~necessary~~ necessary or allowed. The juvenile court counselor shall not engage in field investigations to substantiate complaints or to produce supplementary evidence but may refer complainants to law enforcement agencies for those purposes.

...

"§ 7B-1701. Preliminary inquiry.

(a) When a complaint is received, received against a juvenile at least 10 years of age, the juvenile court counselor shall make a preliminary determination as to whether the juvenile is within the jurisdiction of the court as a delinquent or undisciplined juvenile. If the juvenile court counselor finds that the facts contained in the complaint do not state a case within the jurisdiction of the court, that legal sufficiency has not been established, or that the matters alleged are frivolous, the juvenile court counselor, without further inquiry, shall refuse authorization to file the complaint as a petition.

If a complaint against the juvenile has not been previously received, as determined by the juvenile court counselor, the juvenile court counselor shall make reasonable efforts to meet with the juvenile and the juvenile's parent, guardian, or custodian if the offense is ~~divertable~~ divertible.

When requested by the juvenile court counselor, the prosecutor shall assist in determining the sufficiency of evidence as it affects the quantum of proof and the elements of offenses.

The juvenile court counselor, without further inquiry, shall authorize the complaint to be filed as a petition if the juvenile court counselor finds reasonable grounds to believe that the juvenile has committed one of the following nondivertible offenses:

- (1) Murder;
- (2) First-degree rape or second degree rape;
- (3) First-degree sexual offense or second degree sexual offense;
- (4) Arson;
- (5) Any violation of Article 5, Chapter 90 of the General Statutes that would constitute a felony if committed by an adult;
- (6) First degree burglary;
- (7) Crime against nature; or
- (8) Any felony which involves the willful infliction of serious bodily injury upon another or which was committed by use of a deadly weapon.

(b) When a complaint is received against a juvenile less than 10 years of age, the juvenile court counselor shall make a preliminary determination as to whether the juvenile a vulnerable juvenile or is within the jurisdiction of the court as a delinquent juvenile. If the juvenile court counselor determines the juvenile is within the jurisdiction of the court as a delinquent juvenile, the juvenile court counselor shall proceed with the complaint pursuant to subsection (a) of this section. If the juvenile court counselor determines the juvenile is a vulnerable juvenile, the

juvenile court counselor shall handle the complaint as a juvenile consultation for a vulnerable juvenile.

"§ 7B-1702. Evaluation.

Upon a finding of legal sufficiency, except in cases involving nondivertible offenses set out in ~~G.S. 7B-1701~~, G.S. 7B-1701(a), the juvenile court counselor shall determine whether a complaint should be filed as a petition, the juvenile diverted pursuant to G.S. 7B-1706, or the case resolved without further action. In making the decision, the counselor shall consider criteria provided by the Department and shall conduct a gang assessment for juveniles who are 12 years of age or older. The intake process shall include the following steps if practicable:

- (1) Interviews with the complainant and the victim if someone other than the complainant;
- (2) Interviews with the juvenile and the juvenile's parent, guardian, or custodian;
- (3) Interviews with persons known to have relevant information about the juvenile or the juvenile's family.

Interviews required by this section shall be conducted in person unless it is necessary to conduct them by telephone.

"§ 7B-1703. Evaluation decision.

(a) The juvenile court counselor shall complete evaluation of a complaint within 15 days of receipt of the complaint, with an extension for a maximum of 15 additional days at the discretion of the chief court counselor. The juvenile court counselor shall decide within this time period whether a complaint shall be filed as a juvenile ~~petition~~ petition, handled as a juvenile consultation for a vulnerable juvenile, or handled in some other manner authorized by this Article.

(b) Except as provided in G.S. 7B-1706, if the juvenile court counselor determines that a complaint should be filed as a petition, the counselor shall file the petition as soon as practicable, but in any event within 15 days after the complaint is received, with an extension for a maximum of 15 additional days at the discretion of the chief court counselor. The juvenile court counselor shall assist the complainant when necessary with the preparation and filing of the petition, shall include on it the date and the words "Approved for Filing", shall sign it, and shall transmit it to the clerk of superior court.

(c) If the juvenile court counselor determines that a petition should not be ~~filed~~ filed or the complaint handled as a juvenile consultation, the juvenile court counselor shall notify the complainant and the victim, if the complainant is not the victim, immediately in writing with specific reasons for the decision, whether or not legal sufficiency was found, and whether the matter was closed or diverted and retained, and shall include notice of the complainant's and victim's right to have the decision reviewed by the prosecutor. The juvenile court counselor shall sign the complaint after indicating on it:

- (1) The date of the determination;
- (2) The words "Not Approved for Filing"; and
- (3) Whether the matter is "Closed" or "Diverted and Retained".

Except as provided in G.S. 7B-1706, any complaint not approved for filing as a juvenile petition or handled as a juvenile consultation shall be destroyed by the juvenile court counselor after holding the complaint for a temporary period to allow review as provided in G.S. 7B-1705.

(d) If the juvenile court counselor determines that a complaint should be handled as a juvenile consultation, the juvenile court counselor shall obtain referral information.

...

"§ 7B-1706. Diversion plans and referral.

(a) Unless the offense is one in which a petition is required by ~~G.S. 7B-1701~~, G.S. 7B-1701(a), upon a finding of legal sufficiency the juvenile court counselor may divert the juvenile pursuant to a diversion plan, which may include referring the juvenile to any of the following resources:

- (1) An appropriate public or private resource;
- (2) Restitution;
- (3) Community service;
- (4) Victim-offender mediation;
- (5) Regimented physical training;
- (6) Counseling;
- (7) A teen court program, as set forth in subsection (c) of this section.

As part of a diversion plan, the juvenile court counselor may enter into a diversion contract with the juvenile and the juvenile's parent, guardian, or custodian.

(b) Unless the offense is one in which a petition is required by ~~G.S. 7B-1701~~, G.S. 7B-1701(a), upon a finding of legal sufficiency the juvenile court counselor may enter into a diversion contract with the juvenile and the parent, guardian, or custodian; provided, a diversion contract requires the consent of the juvenile and the juvenile's parent, guardian, or custodian. A diversion contract shall:

- (1) State conditions by which the juvenile agrees to abide and any actions the juvenile agrees to take;
- (2) State conditions by which the parent, guardian, or custodian agrees to abide and any actions the parent, guardian, or custodian agrees to take;
- (3) Describe the role of the juvenile court counselor in relation to the juvenile and the parent, guardian, or custodian;
- (4) Specify the length of the contract, which shall not exceed six months;
- (5) Indicate that all parties understand and agree that:
 - a. The juvenile's violation of the contract may result in the filing of the complaint as a petition; and
 - b. The juvenile's successful completion of the contract shall preclude the filing of a petition.

After a diversion contract is signed by the parties, the juvenile court counselor shall provide copies of the contract to the juvenile and the juvenile's parent, guardian, or custodian. The juvenile court counselor shall notify any agency or other resource from which the juvenile or the juvenile's parent, guardian, or custodian will be seeking services or treatment pursuant to the terms of the contract. At any time during the term of the contract if the juvenile court counselor determines that the juvenile has failed to comply substantially with the terms of the contract, the juvenile court counselor may file the complaint as a petition. Unless the juvenile court counselor has filed the complaint as a petition, the juvenile court counselor shall close the juvenile's file in regard to the diverted matter within six months after the date of the contract.

....

"§ 7B-1706.1. Juvenile consultation services.

A juvenile court counselor shall serve a vulnerable juvenile under a juvenile consultation for up to six months providing case management services. An extension of juvenile consultation services may be made for up to three months at the approval of the chief court counselor. As part of case management services, the juvenile court counselor shall provide screenings, assessments, community resources, and programming to the juvenile and the parent, legal guardian, or custodian.

...."

SECTION 5.(d) G.S. 7B-2102(a) reads as rewritten:

"(a) A law enforcement officer or agency shall fingerprint and photograph a juvenile who was 10 years of age or older at the time the juvenile allegedly committed a nondivertible offense as set forth in ~~G.S. 7B-1701~~, G.S. 7B-1701(a), when a complaint has been prepared for filing as a petition and the juvenile is in physical custody of law enforcement or the Division.

...."

"Article 27A.

"§ 7B-2710. Attend all scheduled meetings with juvenile court counselor.

"§ 7B-2711. Attend parental responsibility classes.

"§ 7B-2712. Medical, surgical, psychiatric, or psychological evaluation or treatment of vulnerable juveniles who are receiving juvenile consultation services or parents.

(b) The juvenile court counselor, with written recommendations of a qualified physician, surgeon, or mental health provider, shall advise the parent, guardian, or custodian of the juvenile receiving juvenile consultation services to be directly involved in the juvenile's evaluation or treatment and participate in medical, psychiatric, psychological, or other evaluation or treatment of the juvenile if it is determined to be in the best interests of the juvenile.

(c) The juvenile court counselor may recommend that the parent, guardian, or custodian of the juvenile receiving juvenile consultation services undergo psychiatric, psychological, or other evaluation or treatment or counseling with written orders or recommendations from a qualified mental or physical health provider directed toward remedying behaviors or conditions that led to or contributed to the juvenile's receipt of a juvenile consultation.

(d) With written orders or recommendations from a qualified mental or physical health provider, the juvenile court counselor may recommend that the parent, guardian, or custodian of the juvenile receiving juvenile consultation services seek funding through the Division of Juvenile Justice and/or the local management entity and managed care organization that serves the catchment area to pay the cost of any evaluation or treatment recommended for the parent, guardian, or custodian of the juvenile.

"§ 7B-2713. Compliance with recommendations of the juvenile court counselor for juveniles receiving juvenile consultation services.

(a) In cases in which the juvenile court counselor is providing juvenile consultation services, the juvenile court counselor may transport the parent, guardian, or custodian of a juvenile receiving juvenile consultation services and the juvenile receiving juvenile consultation services, to the extent the juvenile court counselor is able to do so, to keep an appointment or to comply with the recommendations of the juvenile court counselor.

(b) In all cases in which the juvenile court counselor is providing juvenile consultation services, the juvenile court counselor shall work collaboratively with the parent, guardian, or custodian of the juvenile, the Department of Social Services, the local management entity or managed care organization, the local education authority, and all other community stakeholders involved with the juvenile and family. This will be identified as the Juvenile and Family Team.

1 and all local community agencies involved with the juvenile and family shall be invited to all
2 meetings scheduled with the juvenile and parent, guardian, or custodian of the juvenile.

3 (c) If a parent, guardian, or custodian of a juvenile refuses to follow the recommendations
4 of the Juvenile and Family Team, and this refusal puts the juvenile at risk of abuse, neglect, or
5 dependency, the juvenile court counselor shall report to the Department of Social Services who
6 may file an abuse, neglect, or dependency petition pursuant to G.S. 7B-403."

7 **SECTION 5.(f)** G.S. 7B-3100 reads as rewritten:

8 **"§ 7B-3100. Disclosure of information about juveniles.**

9 (a) The Division, after consultation with the Conference of Chief District Court Judges,
10 shall adopt rules designating certain local agencies that are authorized to share information
11 concerning juveniles in accordance with the provisions of this section. Agencies so designated
12 shall share with one another, upon request and to the extent permitted by federal law and
13 regulations, information that is in their possession that is relevant to (i) any assessment of a report
14 of child abuse, neglect, or dependency or the provision or arrangement of protective services in
15 a child abuse, neglect, or dependency case by a local department of social services pursuant to
16 the authority granted under Chapter 7B of the General Statutes or to Statutes, (ii) any case in
17 which a petition is filed alleging that a juvenile is abused, neglected, dependent, undisciplined,
18 or ~~delinquent~~ delinquent, or (iii) any case in which a vulnerable juvenile is receiving juvenile
19 consultation services.~~and~~ Agencies shall continue to ~~do so~~ share information until (i) the
20 protective services case is closed by the local department of social services, ~~or~~ (ii) if a petition is
21 ~~filed when~~ filed, until the juvenile is no longer subject to the jurisdiction of juvenile ~~court~~ court,
22 or (iii) if a vulnerable juvenile is receiving juvenile consultation services, until the juvenile
23 consultation is closed. Agencies that may be designated as "agencies authorized to share
24 information" include local mental health facilities, local health departments, local departments
25 of social services, local law enforcement agencies, local school administrative units, the district's
26 district attorney's office, the Juvenile Justice Section of the Division of Adult Correction and
27 Juvenile Justice of the Department of Public Safety, and the Office of Guardian ad Litem Services
28 of the Administrative Office of the Courts, and, pursuant to the provisions of G.S. 7B-3000(e1),
29 the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice
30 of the Department of Public Safety. Any information shared among agencies pursuant to this
31 section shall remain confidential, shall be withheld from public inspection, and shall be used only
32 for the protection of the juvenile and others or to improve the educational opportunities of the
33 juvenile, and shall be released in accordance with the provisions of the Family Educational and
34 Privacy Rights Act as set forth in 20 U.S.C. § 1232g. Nothing in this section or any other
35 provision of law shall preclude any other necessary sharing of information among agencies.
36 Nothing herein shall be deemed to require the disclosure or release of any information in the
37 possession of a district attorney.

38 (b) Disclosure of information concerning any juvenile under ~~investigation~~
39 ~~or investigation~~, alleged to be within the jurisdiction of the ~~court~~ court, or receiving juvenile
40 consultation services that would reveal the identity of that juvenile is prohibited except that
41 publication of pictures of runaways is permitted with the permission of the parents and except as
42 provided in Article 20A of this Chapter and G.S. 7B-3102.

43 (c) The juvenile's guardian ad litem attorney advocate appointed pursuant to G.S. 7B-601
44 may share confidential information about the juvenile with the juvenile's attorney appointed or
45 retained pursuant to G.S. 7B-2000."

46 **SECTION 6.(a)** G.S. 143B-805 reads as rewritten:

47 **"§143B-805. Definitions.**

48 In this Part, unless the context clearly requires otherwise, the following words have the listed
49 meanings:

50 ...

(1a) Juvenile Consultation. – The provision of services to a vulnerable juvenile and to the parent, guardian, or custodian of a vulnerable juvenile pursuant to G.S. 7B-1706.1. Juvenile Consultation cases are subject to confidentiality laws provided in Subchapter III of Chapter 7B of the General Statutes.

...

(6) Delinquent juvenile. –

a. Any juvenile who, while less than 16 years of age but at least ~~6~~10 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31.

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

c. Any juvenile who, while less than 10 years of age but at least 8 years of age, commits a Class A, B1, B2, C, D, E, F, or G felony under State law.

d. Any juvenile who, while less than 10 years of age but at least 8 years of age, commits a crime or an infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws, and has been previously adjudicated delinquent.

...

(20) Undisciplined juvenile. –

a. A juvenile who, while less than 16 years of age but at least ~~6~~10 years of age, is unlawfully absent from school; or is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours; or

b. A juvenile who is 16 or 17 years of age and who is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours.

(20a) Vulnerable juvenile. - Any juvenile who, while less than 10 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws, and is not a delinquent juvenile.

...."

SECTION 6.(b) G.S. 143B-806(b) reads as rewritten:

"(b) In addition to its other duties, the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice shall have the following powers and duties:

...

(8) Plan, develop, and coordinate comprehensive multidisciplinary services and programs statewide for the prevention of juvenile delinquency, early intervention, and rehabilitation of ~~juveniles~~juveniles, including services for vulnerable juveniles receiving juvenile consultation services.

...."

SECTION 6.(c) G.S. 143B-811 reads as rewritten:

1 **"§ 143B-811. Annual evaluation of intensive intervention services.**

2 The Department of Public Safety shall conduct an annual evaluation of intensive intervention
3 services. Intensive intervention services are evidence-based or research-supported
4 community-based or residential services that are necessary for a juvenile in order to (i) prevent
5 the juvenile's commitment to a youth development center or detention ~~facility or facility~~, (ii)
6 facilitate the juvenile's successful return to the community following ~~commitment-commitment~~,
7 or (iii) prevent further involvement in the juvenile justice system. In conducting the evaluation,
8 the Department shall consider whether participation in intensive intervention services results in
9 a diversion from or reduction of court involvement among juveniles. The Department shall also
10 determine whether the programs are achieving the goals and objectives of the Juvenile Justice
11 Reform Act, S.L. 1998-202.

12 The Department shall report the results of the evaluation to the Chairs of the Joint Legislative
13 Oversight Committee on Justice and Public Safety and the Chairs of the Senate and House of
14 Representatives Appropriations Subcommittees on Justice and Public Safety by March 1 of each
15 year."

16 **SECTION 6.(d)** G.S. 143B-831 reads as rewritten:

17 **"§ 143B-831. Duties and powers of juvenile court counselors.**

18 As the court or the chief court counselor may direct or require, all juvenile court counselors
19 shall have the following powers and duties:

20 ...

21 (17a) Provide and coordinate multidisciplinary service referrals for the prevention
22 of juvenile delinquency and early intervention for juveniles, including
23 vulnerable juveniles who are in receipt of juvenile consultation services. If the
24 juvenile court counselor has cause to suspect that a juvenile who is receiving
25 services pursuant to this subdivision is abused, neglected, or dependent, the
26 juvenile court counselor shall make a report to the director of social services
27 as required G.S. 7B-1700.1.

28"

29 **SECTION 6.(e)** G.S. 143B-853(c) reads as rewritten:

30 "(c) The Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice
31 of the Department of Public Safety shall report to the Senate and House of Representatives
32 Appropriations Subcommittees on Justice and Public Safety no later than March 1, 2006, and
33 annually thereafter, on the results of intensive intervention services. Intensive intervention
34 services are evidence-based or research-supported community-based or residential services that
35 are necessary for a juvenile in order to (i) prevent the juvenile's commitment to a youth
36 development center or detention ~~facility or facility~~, (ii) facilitate the juvenile's successful return
37 to the community following ~~commitment-commitment~~, or (iii) prevent further involvement in the
38 juvenile justice system. Specifically, the report shall provide a detailed description of each
39 intensive intervention service, including the numbers of juveniles served, their adjudication status
40 at the time of service, the services and treatments provided, the length of service, the total cost
41 per juvenile, and the six- and 12-month recidivism rates for the juveniles after the termination of
42 program services."

43 **SECTION 7.** The Juvenile Justice Section of the Division of Adult Correction and
44 Juvenile Justice of the Department of Public Safety shall report to the Joint Legislative Oversight
45 Committee on Justice and Public Safety no later than March 1, 2023, and annually thereafter, on
46 all complaints filed against a juvenile less than 10 years of age, but at least 6 years age. The
47 report shall include the following information about the complaints and the juveniles against
48 whom the complaints were made:

49 (1) A summary containing the following information about all complaints filed
50 since the last report:

51 (a) The total number of complaints

- (b) The offenses alleged in the complaints, organized by class of offense.
- (c) The age of the juveniles at the time of the offense.
- (d) The number of complaints that resulted in a juvenile consultation.
- (e) The number of complaints that resulted in juvenile court jurisdiction for delinquency, including a breakdown of the number of those complaints that were handled through diversion and the number that led to the filing of a delinquency petition.
- (f) The number of juveniles receiving a juvenile consultation that have previously received juvenile consultation services.
- (2) A detailed listing of all complaints filed since the last report, with any identifying information removed, containing the following information for each complaint:
- (a) The age of the juvenile.
- (b) The offenses, including class of offense, allegedly committed by the juvenile.
- (c) The initial determination by the juvenile court counselor to treat the complaint as a vulnerable juvenile complaint or a delinquent juvenile complaint.
- (d) If the juvenile is a vulnerable juvenile, whether the juvenile received juvenile consultation services.
- (e) If the juvenile is a vulnerable juvenile, whether the juvenile has received juvenile consultation services for a previous complaint.
- (f) If the juvenile is alleged delinquent, whether the juvenile was diverted or a petition alleging delinquency was filed.

PART VI. JUVENILE COURT MENTAL HEALTH ASSESSMENTS

SECTION 8.(a) G.S. 7B-1501 is amended by adding a new subdivision to read:

"(24a) Severe emotional disturbance. – A diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within the DSM-5 that resulted in functional impairment which substantially interferes with or limits the child's role or functioning in family, school, or community activities in a person who is under the age of 18."

SECTION 8.(b) G.S. 7B-2502 reads as rewritten:

"§ 7B-2502. Evaluation and treatment of undisciplined and delinquent juveniles.

(a) In any case, the court may order that the juvenile be examined by a physician, psychiatrist, psychologist, or other qualified expert as may be needed for the court to determine the needs of the juvenile.

(a1) In the case of a juvenile adjudicated delinquent for committing an offense that involves the possession, use, sale, or delivery of alcohol or a controlled substance, the court shall require the juvenile to be tested for the use of controlled substances or alcohol within 30 days of the adjudication. In the case of any juvenile adjudicated delinquent, the court may, if it deems it necessary, require the juvenile to be tested for the use of controlled substances or alcohol. The results of these initial tests conducted pursuant to this subsection shall be used for evaluation and treatment purposes only. In placing a juvenile in out-of-home care under this section, the court shall also consider whether it is in the juvenile's best interest to remain in the juvenile's community of residence.

(a2) In the case of a juvenile with a suspected mental illness, developmental disability, or intellectual disability that has been adjudicated delinquent, the court shall order that the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety make a referral for a comprehensive clinical assessment or equivalent mental health assessment, unless the court finds a comprehensive clinical assessment or equivalent

1 mental health assessment has been conducted within the last 45 days before the adjudication
2 hearing. An assessment ordered by a court under this subsection shall evaluate the
3 developmental, emotional, behavioral, and mental health needs of the juvenile.

4 (a3) If an assessment is ordered by the court under subsection (a2) of this section, the court
5 shall review the assessment prior to the date of disposition in the case. If the court finds sufficient
6 evidence that the juvenile has severe emotional disturbance, as defined in G.S. 7B-1501(24a), or
7 a developmental disability, as defined in G.S. 122C-3(12a), or intellectual disability, as defined
8 in G.S. 122C-3(17a), that, in the court's discretion, substantially contributed to the juvenile's
9 delinquent behavior, and the juvenile is eligible for a Juvenile Justice Level 3 disposition and/or
10 is recommended for a Psychiatric Residential Treatment Facility (PRTF) placement, the court
11 shall order a care review team to be convened by the Juvenile Justice Section of the Division of
12 Adult Correction and Juvenile Justice of the Department of Public Safety and assigned to the
13 case.

14 (a4) If a care review team is assigned to a case by the court under subsection (a3) of this
15 section, the care review team shall develop a recommendation plan for appropriate services and
16 resources that address the identified needs of the juvenile. The care review team shall submit a
17 recommendation to the court within 30 calendar days of the date of the court order convening the
18 care review team. The court shall review the recommendation plan when determining the
19 juvenile's disposition in accordance with G.S. 7B-2501(c). A care review team shall consist of,
20 at a minimum, all of the following:

21 (1) The juvenile.

22 (2) The juvenile's parents, guardian, or custodian.

23 (3) Representatives from the Juvenile Justice Section of the Division of Adult
24 Correction and Juvenile Justice of the Department of Public Safety.

25 (4) A representative from the local management entity/managed care
26 organization, or prepaid health plan (PHP) in which they are enrolled.

27 (5) Representatives from any State agency or local department of social services
28 that is currently providing services to the juvenile or the juvenile's family.

29 ~~(b) Upon completion of the examination, the~~ If the juvenile does not have health
30 insurance coverage for the recommended treatment, the court shall conduct a hearing to
31 determine whether the juvenile is in need of medical, surgical, psychiatric, psychological, or
32 other evaluation or treatment and who should pay the cost of the assessment, evaluation or
33 treatment pursuant to this section. The county manager, or any other person who is
34 designated by the chair of the board of county commissioners, of the county of the juvenile's
35 residence shall be notified of the hearing, and allowed to be heard. If the court finds the juvenile
36 to be in need of medical, surgical, psychiatric, psychological, or other evaluation or treatment,
37 the The court shall permit the parent, guardian, custodian, or other responsible persons to arrange
38 for evaluation or treatment. If the parent, guardian, or custodian declines or is unable to make
39 necessary arrangements, the court may order the needed evaluation or treatment, surgery, or care,
40 and the court may order the parent to pay the cost of the care pursuant to Article 27 of this
41 Chapter. If the court finds the parent or funding from the Juvenile Justice Section of the Division
42 of Adult Correction and Juvenile Justice of the Department of Public Safety is unable to pay the
43 cost of evaluation or treatment, the court shall order the county to arrange for evaluation or
44 treatment of the juvenile and to pay for the cost of the evaluation or treatment. The county
45 department of social services shall recommend the facility that will provide the juvenile with
46 evaluation or treatment.

47 ~~(c) If the court believes, or if there is evidence presented to the effect that the juvenile~~
48 ~~has a mental illness or a developmental disability, the court shall refer the juvenile to the area~~
49 ~~mental health, developmental disabilities, and substance abuse services director for appropriate~~
50 ~~action. A juvenile shall not be committed directly to a State hospital or State developmental~~
51 ~~center, and orders purporting to commit a juvenile directly to a State hospital or State~~

developmental center, except for an examination to determine capacity to proceed, are void and of no effect. The area mental health, developmental disabilities, and substance abuse director is responsible for arranging an interdisciplinary evaluation of the juvenile and mobilizing resources to meet the juvenile's needs. If institutionalization is determined to be the best service for the juvenile, admission shall be with the voluntary consent of the parent, guardian, or custodian. If the parent, guardian, or custodian refuses to consent to institutionalization after it is recommended by the area mental health, developmental disabilities, and substance abuse director, the signature and consent of the court may be substituted for that purpose. In all cases in which a regional mental hospital refuses admission to a juvenile referred for admission by the court and an area mental health, developmental disabilities, and substance abuse director or discharges a juvenile previously admitted on court referral prior to completion of the juvenile's treatment, the hospital shall submit to the court a written report setting out the reasons for denial of admission or discharge and setting out the juvenile's diagnosis, indications of mental illness, indications of need for treatment, and a statement as to the location of any facility known to have a treatment program for the juvenile in question.

(c1) A juvenile shall not be committed directly to a State hospital or State developmental center, and orders purporting to commit a juvenile directly to a State hospital or State developmental center, except for an examination to determine capacity to proceed, are void and of no effect."

SECTION 8.(c) This section becomes effective December 1, 2021, and applies to petitions filed on or after that date.

PART VII. EFFECTIVE DATE

SECTION 9. Except as otherwise provided, this act becomes effective December 1, 2021, and applies to offenses committed on or after that date.