

HOUSE BILL 272: JUVENILE CODE; JUVENILE COURT TO INCLUDE CHILDREN WHO
ARE UNDER 18 YEARS OF AGE; CHANGE JURISDICTION

Amending O.C.G.A. § 15-11-1

First signature: Representative Mandi Ballinger (23rd)

Co-Sponsors: Representative Don Hogan (179th), Representative Houston Gaines (117th), Representative Bonnie Rich (97th), Representative James Burchett (176th), and Representative Chuck Efration (104th)

Summary: “A BILL to be entitled an Act to amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile Code, so as to establish an implementation study committee; to provide for the powers, composition and appointment of such committee; to provide for reporting; to provide for automatic repeal; to provide for an effective date; to provide for related matters; to repeal conflicting laws; and for other purposes.”²

Status: Senate Committee favorably reported by substitute.³

TEXT OF HOUSE BILL 272⁴

SECTION 1.

Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile Code, is amended in Article 1, relating to general provisions, by adding a new Code section to read as follows:

"15-11-42.

(a) There shall be established an implementation study committee that shall consist of eleven members with the chairpersons of the House Committee on Juvenile Justice and the Senate Judiciary Committee serving as the chairpersons of such committee. Members of such committee shall include:

¹H.B. 272, 156th Gen. Assembly, 1st Reg. Sess. (Ga. 2021), *available at* <http://www.legis.ga.gov/api/legislation/document/20212022/210997> (last visited Jan. 22, 2023).

²2021-2022 Regular Session – HB 272, *Juvenile Code; Juvenile Court to Include Children Who are Under 18 Years of Age; Change Jurisdiction*, GA. GEN. ASSEMB., <http://www.legis.ga.gov/legislation/59281> (last visited Jan. 22, 2023) [hereinafter H.B. 272 Status Sheet].

³*Id.*

⁴H.B. 272, *supra* note 1.

(1) The commissioner of the Department of Juvenile Justice or his or her designee;

(2) The president of the Georgia Sheriffs' Association or his or her designee;

(3) The executive director of the Georgia Sheriffs' Association or his or her designee;

(4) The executive director of the Prosecuting Attorneys' Council of the State of Georgia or his or her designee;

(5) The executive director of the Georgia Association of Criminal Defense Lawyers or his or her designee;

(6) The executive director of the Criminal Justice Coordinating Council or his or her designee;

(6) The director of the Governor's Office of Planning and Budget;

(8) The president of the Council of Juvenile Court Judges or his or her designee; and

(9) The executive director of the Association County Commissioners of Georgia or his or her designee.

(b) The committee may confer with any appropriate subject matter experts, state agencies and advisory members to the committees as selected by the chair, including the president of the Georgia Association of Chiefs of Police, the executive director of the Georgia Public Safety Training Center, the president of the Georgia Association of Juvenile Court Clerks, attorneys who regularly practice in the juvenile courts, and advocates for children and youth, on matters relating to studying the implementation of raising the juvenile age, including equipment, security, and technological aspects in connection to raising the age of juvenile offenders regarding:

(1) Standards and practices of other jurisdictions;

(2) The most recent standards promulgated by national standard-setting bodies; and

(3) The views of interested persons, government officials, and entities.

(c) The committee shall commence no later than May 15, 2022, and shall stand abolished on December 31, 2024.

(d) The committee shall provide a detailed written report including all the necessary operational and statutory changes required to include 17 year old children in the juvenile justice system, including cost estimates for capital outlay, operating expenses, and staffing needs, for each part of the implementation plan. The report shall also include the estimated time required for such proposed

implementation, as well as any other data, reports, statistical information, and other facts and figures necessary for the successful implementation of such policy.

(e) This Code Section shall stand repealed in its entirety on January 1, 2025."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.

SPONSOR'S RATIONALE

Representative Mandi Ballinger sponsored this Bill which, if enacted, will create a study committee dedicated to analyzing the matter of raising the criminal juvenile age to eighteen.⁵ To that end, the study committee itself will be composed of members of several institutions that routinely deal with juvenile criminals and will be authorized to confer with whatever experts or agencies it deems necessary.⁶ The expected final product of the study committee will be a detailed report containing all the requirements, from statutory changes to operational costs, that raising the criminal juvenile age will entail in order to aid future decisions of the legislation.⁷

The Bill would, in its original form, also provide for the immediate raising of the criminal juvenile age to eighteen, with the study committee instead serving as an implementation committee.⁸ The purpose of the implementation committee, in the initial form of the Bill, would be to ensure all existing rules, guidelines and regulations of the relevant agencies and entities were aligned and up to date with the change in legislation, as well as to identify any additional changes in the legislation that might be required.⁹ Bill 272, in its original form, was successfully passed by the

⁵*Id.*

⁶*Id.*

⁷*Id.*

⁸*See* H.B. 272, *supra* note 1.

House of Representatives.¹⁰ However, the Bill then passed through several iterations until it reached its current form where it excluded the enactment of raising the age and kept only the implementation of the committee, which was then adapted into a study committee tasked with creating a report for future decisions.¹¹

The policy behind Bill 272 is the protection of at-risk youth.¹² Sponsors of the bill presented information not only that criminals adjudicated at youth facilities are less likely to reoffend, but that there is no neurological difference (and consequently no justification for different treatment) between the brain of a sixteen year-old youth and a seventeen year-old.¹³

Judge Steve Teske of the Juvenile Court of Clayton County (“Judge Teske”), who spoke before the Senate Committee on Judiciary, offered his testimony in favor of the Bill that the juvenile court system, due to its experience and configuration, is better suited to handle seventeen year-olds.¹⁴ Judge Teske also pointed out that the juvenile system, with its rehabilitation-oriented method (similarly to the accountability courts present in the adult system), produces better results by addressing the underlying causes of a youth’s delinquent behavior, being much more likely to redirect an admitted youth towards a positive future.¹⁵

It is a statistical fact that most kids age out of delinquency, and the first step to reduce crime is not to tolerate laws that impede these nonviolent youths from aging out. So long as we hold seventeen year-olds criminally liable and subject them to an adult system ill-equipped to handle them, we are creating criminals, not reducing them.¹⁶

Finally, Judge Teske also pointed out that the Prison Rape Elimination Act (“PREA”) mandates the separation of youths seventeen years-old and younger from adults in prison facilities.¹⁷ Compliance with

⁹Georgia State Senate, *Senate Committee on Judiciary – 3/22/21* (beginning at 01:10), VIMEO (Apr. 29, 2022) <https://vimeo.com/showcase/8821960/video/704662478> [hereinafter Committee of March 22, 2021]

¹⁰H.B. 272 Status Sheet, *supra* note 2.

¹¹Georgia State Senate, *Senate Committee on Judiciary – 3/29/22* (beginning at 35:26), VIMEO (April 21, 2022) <https://vimeo.com/showcase/8821960/video/701714879> [hereinafter Committee of March 29, 2022]

¹²Committee of March 22, 2021, *supra* note 9.

¹³*Id* at 18:10.

¹⁴*Id* at 17:12.

¹⁵*Id* at 18:40.

¹⁶*Id* at 20:13. (statement of Steve Teske, Judge of the Juvenile Court of Clayton County).

said federal statute naturally incurs costs to prison facilities.¹⁸ Consequently, decreasing the number of youths in adult facilities by raising the criminal age could potentially be a cost-saving measure.¹⁹ Likewise, states that recently changed their own criminal age to eighteen (such as North Carolina, which changed its criminal age from sixteen to eighteen), “have not been overrun with [new] cases,” and in fact had their youth courts burdened with much less cases than originally projected.²⁰ This might indicate that the cost to courtrooms might also not be as hefty as expected, should the criminal age be raised.²¹

Ultimately, sponsors of the Bill presented data that allowing nonviolent seventeen year-olds to be treated in a youth rehabilitation facility, rather than sent to an adult correction facility, would decrease overall crime in the long term.²² While violent youth, who commit more heinous felonies and certain prescribed offenses, will continue being treated the same way and sent to the adult system as prescribed by present state legislation, not being reached by the raising of criminal age.²³

OPPOSITION’S RATIONALE

In opposition to the Bill, both the Georgia Sheriff’s Association and the Georgia Association of Chiefs of Police presented arguments that the Bill might not only run opposite to its desired effect, but also that its execution might stretch Georgia’s resources to their breaking point.²⁴

Speakers in opposition of the Bill put forth the fact that Georgia currently has only twenty-five juvenile facilities throughout the state.²⁵ Those facilities, divided into short and long-term detention centers, were stated not to be enough, either in numbers, available beds, or staff to process the additional population of seventeen year-olds who would be introduced into the system.²⁶ Furthermore, a very grave logistical problem exists in the fact that transportation to and from juvenile detention facilities is made entirely by local law enforcement agents.²⁷ However, the otherwise

¹⁷*Id.* at 23:35.

¹⁸*Id.* at 23:50.

¹⁹*Id.* at 23:23.

²⁰*Id.* at 22:40.

²¹*Id.*.

²²*Id.*

²³Georgia State Senate, *Senate Committee on Judiciary – 3/24/21* (beginning at 03:19:45), VIMEO (Apr. 29, 2022) <https://vimeo.com/showcase/8821960/video/704662448> [hereinafter Committee of March 24, 2021]

²⁴Committee of March 22, 2021, *supra* note 9.

²⁵*Id.* at 7:25.

²⁶*Id.* at 11:25.

²⁷Committee of March 24, 2021, *supra* note 23.

regular duty of transporting prisoners becomes a heavy burden when the lack of available space in one facility requires that a juvenile be transported to another facility, sometimes several jurisdictions away.²⁸ Presently, without the added population of seventeen year-olds as juveniles, said transportation duties are already burdensome to law enforcement officers.²⁹ Additionally speakers against the Bill pointed out that the time spent transporting juveniles directly translate into hours in which already understaffed local police offices are not fulfilling more pressing duties towards their communities.³⁰

J. Terry Norris, Executive Director of Georgia Sherriff's Association, stated that "when we remove or use a deputy sheriff or a police officer to transport a juvenile to another jurisdiction, oftentimes faraway, we are removing limited resources in that community."³¹

Speakers opposing the Bill also expressed their concern that this measure might be seen as "going easy on crime", or that seventeen year-old youths would be encouraged to commit more crimes given how they would not be punished as harshly.³² And indeed, there have already been occasions where seventeen year-olds have committed crimes in Georgia, unaware that they were not "juvies" by the state's law, only to be surprised when they discovered they would be tried as adults.³³ Law enforcement agents believe that to be a very effective tool in dissuading juvenile crime.³⁴

However, all the arguments opposing the Bill were focused on the immediate enactment of raising the criminal age to eighteen.³⁵ There was no opposition to the Bill in its current iteration, where the only effect of its enactment would be the implementation of a study group tasked with researching the subject of raising the criminal age.³⁶

IMPLICATIONS IN GEORGIA

In its current iteration, the only effect of the Bill would be the implementation of a study committee that would create a report on the possible effects of raising the criminal age in Georgia, as well as the expected costs, savings, complications or improvements that said change

²⁸*Id.* at 3:30:15.

²⁹*Id.*

³⁰*See id.*

³¹*Id.* at 3:46:27. (statement of J. Terry Norris, Executive Director of Georgia Sherriff's Association)

³²*Id.*

³³*Id.* at 3:33:00.

³⁴*Id.* 3:33:20.

³⁵*See id.*

³⁶*See id.*

would bring.³⁷ The result of said study would most likely be favorable, seeing how there is ample statistical data showing that the increase in criminal age to eighteen years-old results in a decrease in reoffences and long-term decrease in juvenile crime.³⁸

Currently, Georgia is one of the last few states to have not yet raised its criminal age to eighteen.³⁹ A favorable report from a study committee would likely go a long way to aiding the legislature in making that decision. However, the true implications in Georgia of this Bill's passing would heavily depend on what iteration of the Bill is ultimately decided and voted upon.

LEGISLATIVE GENEALOGY

The Bill was first introduced into the House of Representative's Bill Hopper on February 3, 2021.⁴⁰ The House had its first reading of the Bill on the day after, and its second reading on February 8, 2021.⁴¹ The House Committee favorably reported it by substitute on February 22, 2021.⁴² The House had its third reading of the Bill on March 8, 2021, and passed and adopted the Bill by substitute on the same day with a 113 Yea and 51 Nay vote (with 11 not voting and 5 excused).⁴³ The Bill was read and referred to the Senate on March 9, 2021.⁴⁴ The Senate Committee of Judiciary favorably reported the Bill by substitute on March 25, 2021, and the Senate had a second reading of the Bill on the same day.⁴⁵ The Senate recommitted the Bill on January 10, 2022.⁴⁶ Lastly, the Senate Committee favorably reported the Bill by substitute on March 30, 2022.⁴⁷

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³⁷H.B. 272, *supra* note 1.

³⁸*Raising the Age in Georgia*, Voices for Georgia's Children (Nov. 13, 2022), <https://georgiavoices.org/wp-content/uploads/2022/03/Raise-the-Age.pdf>.

³⁹*Id.*

⁴⁰ H.B. 272 Status Sheet, *supra* note 2.

⁴¹*Id.*

⁴²*Id.*

⁴³*Id.*

⁴⁴*Id.*

⁴⁵ H.B. 272 Status Sheet, *supra* note 2.

⁴⁶*Id.*

⁴⁷*Id.*