



2024 Juvenile Justice Legislation S.L. 2024-17, H834 (“Juvenile Justice Modifications”)

I. Introduction

During the 2024 short session, the General Assembly enacted [S.L. 2024-17](#) (H834), which modifies key provisions of the Raise the Age (RtA) legislation. H834 also includes changes to the Juvenile Code and other General Statutes that are unrelated to RtA. All changes are **effective December 1, 2024**, and apply to offenses committed on or after that date.

II. “Delinquent Juvenile” / Exclusion of 16- & 17-year-olds

H834 *partially* reverses a key RtA provision by excluding certain offenses committed at ages 16 and 17 from juvenile court jurisdiction. This change means that 16- and 17-year-olds will once again be charged as adults for the excluded offenses, which are described below.

- **New “Delinquent Juvenile” Definition:** Pursuant to revised G.S. 7B-1501(7)(b), the following offenses are excluded from the definition of “delinquent juvenile” when committed at ages 16 or 17:
 - All violations of the Chapter 20 motor vehicle laws; and
 - All Class A-E felonies, together with any offense based on the same act or transaction or on a series of acts or transactions connected together or constituting parts of a single scheme or plan of that offense, and any greater or lesser included offenses.
- **Exclusion of Related Offenses:** Note that H834 excludes Class A-E felonies committed at ages 16 and 17 from juvenile court jurisdiction, along with any offenses that are transactionally related. However, the exclusion of related offenses does not apply to Chapter 20 motor vehicle violations committed by a 16- or 17-year-old, unless the Chapter 20 offense is a Class A-E felony. Thus, it is still possible to have dual jurisdiction when a 16- or 17-year-old is charged with a Chapter 20 offense (that is less than a Class A-E felony) and a non-Chapter 20 offense based on the same incident.

For example, assume that a single traffic stop results in a 16-year-old being charged with driving after consuming alcohol while under age 21 (G.S. 20-138.3), a Class 2 misdemeanor, and



possession of a stolen vehicle (G.S. 14-71.2), a class H felony. In this case, there is a dual jurisdiction issue because the Chapter 20 offense is a misdemeanor (*i.e.*, less than a Class A-E felony). Therefore, the 16-year-old would receive an adult criminal charge for driving after consuming while under 21, but the officer would need to submit a juvenile complaint for the possession of a stolen vehicle offense.

On the other hand, if the 16-year-old in the above scenario was charged with felony death by vehicle (G.S. 20-141.4(b)(2)), a class D felony, instead of the misdemeanor Chapter 20 offense, there would be no dual jurisdiction issue. In the revised scenario, the Class D felony committed by a 16-year-old would also exclude any related offenses from juvenile court jurisdiction under G.S. 7B-1501(7)(b)(2). Therefore, the 16-year-old would receive adult criminal charges for both offenses, *i.e.*, felony death by vehicle and possession of a stolen vehicle.

III. Removal to Juvenile Court for Class A-E Felonies at 16 or 17

Although H834 will require that 16- and 17-year-olds are once again charged as adults for certain offenses, there is an option for these offenses to be prosecuted in juvenile court under a new “removal” process governed by G.S. 15A-960.

▪ **New Removal Process:**

- Removal can be ordered for any Class A-E felony committed at ages 16 or 17, excluding violations of the Chapter 20 motor vehicle laws, any time after an indictment or criminal information has been issued and before the jury is sworn and impaneled;
- The court shall order removal of the action to juvenile court upon the joint motion of the prosecutor and defense attorney;
- The prosecutor must provide a copy of the joint motion to the chief court counselor/designee prior to submitting it to the court;
- The chief court counselor/designee must file a juvenile petition within 10 calendar days after removal is ordered;
- The superior court may issue a secure custody order upon the request of the prosecutor, and the prosecutor must provide a copy of the secure custody order to the chief court counselor/designee within 24 hours; and
- The superior court must expunge the criminal charges and superior court record.

After the case is removed from superior court, the matter must be scheduled for a first appearance within 10 calendar days of the filing of a juvenile petition, in accordance with G.S. 7B-1808(a). If the juvenile is in secure custody, a secure custody review hearing also must be held within 10 calendar days, as required by G.S. 7B-1906(b2).

IV. Transfer to Superior Court

H834 modifies several procedures related to transfer to superior court, which are summarized below.

- **Remand to District Court:** H834 enacts a new statute, G.S. 7B-2200(c), which extends remand to district court (*i.e.*, “reverse waiver”) to any case in which a juvenile was transferred to superior court for an offense committed at ages 13, 14, or 15. Under existing law, remand is only authorized in cases involving the transfer of felony offenses committed at ages 16 and 17.
 - Upon the joint motion of the prosecutor and juvenile defender, the superior court must remand the matter to district court for juvenile adjudication. The prosecutor must provide the chief court counselor with a copy of the motion prior to submitting it to the court, and following remand, the prosecutor must provide the chief court counselor with a copy of any secure custody order within 24 hours after the order is issued by the superior court. The superior court also must expunge the superior court record.
- **Mandatory Transfer of Class F and G felonies at 16 & 17:** H834 modifies G.S. 7B-2200.5(a) to require mandatory transfer to superior court of any Class F or G felony committed at ages 16 or 17 after either of the following: (1) a true bill of indictment, or (2) a finding of probable cause. This change was necessary because Class A-E felonies committed at ages 16 and 17 will now originate in criminal court, and thus, will no longer be eligible for transfer.
- **Prosecutorial Discretion for Class F and G felonies at 16 & 17:** H834 modifies G.S. 7B-2200.5(a1) to clarify that prosecutors will maintain the discretion to decline the mandatory transfer of a Class F or G felony committed at ages 16 or 17 and keep the matter in juvenile court.
- **Indictment Return Appearance:** H834 enacts a new statute, G.S. 7B-2202.5, which requires the prosecutor to *immediately notify* the juvenile court when a true bill of indictment is returned for a (1) Class A felony committed at ages 13, 14, or 15, or (2) Class F or G felony committed at ages 16 or 17. The court must schedule an “indictment return appearance” within 5 business days of the date the indictment was returned. At the appearance, the court must determine if notice of the indictment was provided in accordance with G.S. 15A-630, and if the court finds that such notice was provided, the court *shall* transfer the case to superior court and determine conditions of pretrial release, as required by G.S. 7B-2204. Note that this “appearance” is not a transfer hearing, and transfer is mandatory if notice of the indictment was provided.
- **Right to Appeal Transfer Order:** Under existing law, juveniles have the right to appeal any transfer order to the superior court after transfer is ordered. H834 modifies G.S. 7B-2603 to eliminate the right to appeal a transfer order entered for a Class A felony committed at ages 13, 14, or 15, or a Class F or G felony committed at ages 16 or 17. In other words, there is no longer a right to appeal a transfer order in any case in which transfer is mandatory. However, the issue of transfer in these cases may be appealed to the Court of Appeals after the juvenile has been

convicted in superior court. This change should expedite the creation of the superior court file number following transfer due to the elimination of the 10-day appeal period.

V. Probable Cause Hearings

H834 enacts several changes regarding how and when probable cause hearings must be held, pursuant to G.S. 7B-2202. The revised statute provides that:

- A PC hearing is required in all felony cases in which a juvenile was age 13 or older at the time of the offense, except in cases that have been indicted under G.S. 7B-2200(b) or G.S. 7B-2200.5(a); or removed from superior court pursuant to G.S. 15A-960;
- The prosecutor is required to calendar the date of the PC hearing;
- The court must provide notice of the PC hearing;
- In most cases, a PC hearing must be held within 15 days of the juvenile's first appearance but may be continued for good cause; and
- A PC hearing must be held within 90 days of the juvenile's first appearance for any Class A felony committed at ages 13, 14, or 15; and any Class F or G felony committed at ages 16 or 17. The hearing may be continued for good cause.

VI. Non-Raise the Age Related Changes

H834 enacts a handful of other changes to the Juvenile Code, and other General Statutes affecting minors, that are unrelated to RtA. Those changes are outlined below.

- **Prosecutor Review of Intake Decisions:** H834 modifies the timeline for requesting review of an intake decision by the prosecutor under G.S. 7B-1704. The revised statute provides that the complainant and the victim have 10 working days (previously 5 days) from receipt of the court counselor's decision not to approve the filing of a petition to request review by the prosecutor. Additionally, the prosecutor can "waive" the 10-day time period.
- **Secure Custody Hearings:** H834 modifies G.S. 7B-1906(b) to require that continued custody hearings shall be held at intervals of no more than 30 calendar days, as opposed to every 10 calendar days. However, any party may request and the court may order that custody review hearings be held within 10 calendar days of the request.
 - Note that these changes apply to secure custody hearings held in non-mandatory transfer cases. The timeline for secure custody review hearings in mandatory transfer cases (*i.e.*, Class A felony at 13, 14, or 15; and Class F or G felony at 16 or 17) is already every 30 calendar days, pursuant to G.S. 7B-1906(b1).

- **Restitution Orders:** H834 modifies G.S. 7B-2506(4) and (22), which governs Level 1 and Level 2 restitution dispositions, respectively. Currently, the statute requires the court to order joint and several liability whenever ordering restitution in a case with multiple juvenile respondents. However, under the revised statutes, the court “may,” but is not required to, order joint and several liability if the juvenile participated in the offense with another person or persons.
- **Felony School Notifications:** H834 modifies G.S. 7B-3101 to limit notification of a juvenile’s school to only those cases in which a juvenile is alleged to have committed an offense that would be a Class A-E felony, if committed by an adult. Additionally, the revised statute requires that principals make individualized decisions related to students and prohibits automatic suspension. A conforming change was also made to G.S. 115C-404(b) regarding the requirement of individualized decisions and the prohibition on automatic suspension.
- **Solicitation of a Minor to Commit Crimes:** H834 modifies G.S. 14-2.6, which outlines the punishment for the solicitation of another to commit a crime. Changes to the statute clarify the penalties for minors (persons under 18) who solicit other minors to commit crimes and increase penalties for adults who solicit minors to commit crimes. The revised statute provides that:
 - If a minor solicits another minor:
 - Solicits a Class A or Class B1 → punished as a Class C felony.
 - Solicits a Class B2 → punished as a Class D felony.
 - Solicits a Class H → punished as a Class 1 misdemeanor.
 - Solicits a Class I → punished as a Class 2 misdemeanor.
 - Solicits any other Class felony → punished as a felony two classes lower.
 - Solicits a misdemeanor → punished as a Class 3 misdemeanor.
 - If an adult solicits a minor:
 - An adult is guilty of the same Class felony or misdemeanor the adult solicited the minor to commit.

VII. Effective Date

The legislation summarized in this memorandum is **effective December 1, 2024**, and applies to offenses committed on or after that date.