

2015 Pending Juvenile Justice Legislation

*** Note, since this blog post was published, the General Assembly enacted [S.L. 2015-58](#), which replaces SB 331. For more information, see this [blog post](#) on juvenile code reform legislation.

Subchapter II of the North Carolina Juvenile Code has seen few changes, since the Juvenile Code was rewritten in 1998. However, several bills are currently pending that suggest change may be coming. Some of these pending bills seek to clarify existing statutory procedures or create new procedures to provide guidance where the Juvenile Code is currently silent. However, two of the proposed changes are intended to reverse recent appellate court decisions interpreting the Juvenile Code. This list, although not exhaustive, describes pending bills that are likely to be of interest to juvenile court officials.

- [SB 331](#), **Juvenile Code Reform**, would make the following changes to the Juvenile Code:
 - Amend G.S. 7B-2101(b) to require the presence of a parent or attorney during a custodial interrogation of a juvenile who is less than 16 (currently, less than 14) in order for the juvenile's statement to be admissible.
 - Amend G.S. 7B-2202(f) and G.S. 7B-2203(d) to require that an adjudication hearing shall be held separately from hearings to determine probable cause and transfer. This bill would reverse [In re J.J., Jr.](#), 216 N.C. App. 366 (2011), and other appellate court decisions, which hold that the Juvenile Code does not require entirely separate hearings for these proceedings.
 - Enact new G.S. 7B-2408.5 to establish a procedure for filing and appealing motions to suppress in juvenile court. The proposed G.S. 7B-2408.5 is nearly identical to the criminal procedure statute for filing motions to suppress in superior court, G.S. 15A-977.
 - Amend G.S. 7B-1701 to require that upon receipt of a complaint alleging a divertible offense, juvenile court counselors must "make reasonable efforts" to meet with the juvenile and the juvenile's parent or guardian, if the Division has not previously received a complaint against the juvenile.
 - Amend G.S. 7B-2404 to establish a procedure for prosecutors to voluntarily dismiss a juvenile petition with or without leave. Currently, the Juvenile Code does not specifically authorize voluntary dismissals by the state, although prosecutors routinely dismiss petitions in some districts.
 - Amend G.S. 7B-2507 to define a "prior adjudication" as an adjudication of an offense that occurs before the adjudication of the offense before the court. This bill would reverse [In re P.Q.M.](#), 754 S.E.2d 431 (2014), which defined a prior adjudication as an adjudication that occurred prior to the disposition hearing and entry of the disposition for the offense before the court.
 - Amend G.S. 7B-2510(c) to provide that prior to the expiration of an order of

probation, the court may extend the term for an additional period of one year, after notice and a hearing (currently, after a hearing), and provide that in the court's discretion, the extension hearing may occur after the probation term has expired, if the juvenile fails to appear in court. The bill would also amend G.S. 7B-2510(e) to provide that when a juvenile violates probation, the court may either increase the disposition level to the next higher level on the disposition chart or order twice the amount of detention days originally authorized by G.S. 7B-2508, but may not do both.

- Amend G.S. 3200 to add new subsection (e1) to provide an expedited procedure for the expunction of records related to adjudications of delinquency for minor offenses, as defined by G.S. 7B-2508, when the juvenile has reached the age of 16. Currently, a juvenile must be at least 18 in order to request an expunction.
- Amend G.S. 7B-1902 to remove the court's ability to delegate its authority to chief court counselors and their staff to issue secure custody orders, and limit the delegation of authority to nonsecure custody orders.
- Amend G.S. 7B-1903(e) to require that secure custody orders be entered following a hearing conducted according to the procedures in G.S. 7B-1906. This change would appear to require a hearing before the court may enter an initial secure custody order. The bill would also require that the order be in writing with appropriate findings of fact that include the evidence relied upon and the purposes for ordering secure custody.
- Amend G.S. 7B-2506 to require the court to determine the timing and imposition (currently, only timing) of intermittent confinement days.
- [HB 134](#), **Soliciting Prostitution/Immunity for Minors**, would amend G.S. 14-205.1 to prohibit the prosecution of minors for solicitation of prostitution. Instead, minors suspected of soliciting prostitution would be treated as undisciplined juveniles and taken into protective custody, pursuant to Article 19 of Chapter 7B. In 2013, a similar law was passed to make minors immune from prosecution for prostitution (see [Session Law 2013-368](#)).
- [HB 294](#), **Prohibit Cell Phones to Delinquent Juveniles**, would amend G.S. 14-258.1(d) to make it a Class H felony to either provide a cell phone directly to a delinquent juvenile in the custody of the Division of Juvenile Justice or to provide a cell phone to another person for delivery to a delinquent juvenile in the Division's custody.
- [HB 295](#), **Juvenile Media Release**, would amend G.S. 7B-3102(a) to require the Division of Juvenile Justice to release a statement about the level of threat posed by an escaped juvenile, only if deemed appropriate by the Division. Currently the statute requires the Division to release such a statement within 24 hours of a juvenile's escape without making a determination of whether it is appropriate to do so.
- [HB 399](#), **Young Offenders Rehabilitation Act (Raise the Age)**, would gradually increase the age of juvenile court jurisdiction to age 17 for misdemeanor crimes. The bill would also make conforming amendments to several other Juvenile Code statutes and establish a civil citation process as an alternative to custody for juveniles who commit a non-serious delinquent act. The bill appears to be identical to HB 725 from 2013, which I discussed [here](#)

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Please note that even if these bills are passed, they may undergo several changes before being enacted. At the end of the legislative session, the School of Government will publish a comprehensive summary of all enacted legislation of interest to court officials. So, stay tuned!