

Raise the Age: Modifications and Training Opportunities

[Session Law 2019-186](#), enacted on August 1, 2019, put the finishing touches on the new law that will raise the age of juvenile court jurisdiction in North Carolina beginning on December 1, 2019. The modifications include clarification on which offense will remain outside of juvenile court jurisdiction, an expanded timeline for probable cause hearings in some instances, and a new option to remand some cases that have been transferred to superior court back to district court for juvenile processing. If you are feeling a bit overwhelmed or confused by raise the age, fear not. A raise the age workshop is coming to an area near you this fall. Stick with me to the end of this blog and you will find links to get to the registration page.

Offenses that will NOT be included in juvenile jurisdiction

1. Motor vehicle offenses committed at age 16 and 17

The recent legislation clarified that the original exclusion of all motor vehicle offenses alleged to have been committed by youth at age 16 and 17 from juvenile jurisdiction includes any offense under Chapter 20 of the General Statutes. Motor vehicle offenses committed by youth at ages 6 through 15 remain under juvenile court jurisdiction, just as they are now.

This motor vehicle carve-out for 16- and 17-year-olds means that the criminal process found in Chapter 15A of the General Statutes must be followed for any Chapter 20 offense charges. Any misdemeanor or infraction can be handled by law enforcement through the issuance of a citation. [G.S. 15A-302](#). Law enforcement will also have the option of arrest if they believe that a 16- or 17-year-old committed a misdemeanor or felony violation of Chapter 20. [G.S. 15A-401\(b\)](#). If a youth is arrested for a criminal violation of the motor vehicle law, that youth must be taken before a judicial official without unnecessary delay in the same way that all adults who are arrested must be processed. [G.S. 15A-501\(2\)](#).

It is possible that a 16- or 17-year-old youth may be charged with both a Chapter 20 offense and a non-Chapter 20 offense. For example, a motor vehicle stop may result in both a speeding violation and a violation of the [North Carolina Controlled Substances Act](#). In this instance, only the system with relevant jurisdiction can process the charges. Therefore, the motor vehicle offense must be processed in the criminal system and the case related to the drug offense must be initiated through a complaint in the juvenile system.

2. Charges against juveniles who fall under “once an adult, always an adult”

The recent amendments to the raise the age construct clarify when a previous criminal conviction will bar a youth from any future juvenile court jurisdiction. Often referred to as “once an adult, always an adult,” [G.S. 7B-1604\(b\)](#) will provide that any youth who has a previous conviction in criminal court can never subsequently be subject to the jurisdiction of the juvenile court.

There is one significant exception to this requirement. Violations of the motor vehicle laws that are punishable as misdemeanors or infractions, other than those that involve impaired driving, are not considered convictions for this purpose. Therefore, a youth who is convicted of a misdemeanor traffic offense, other than one that involves impaired driving, (or is found responsible for a motor vehicle infraction) in criminal court and who subsequently commits a non-Chapter 20 offense while under the age of 18 can be processed through the juvenile justice system for that subsequent offense. If the youth has any other type of criminal conviction—a felony motor vehicle law violation or any non-motor vehicle law conviction—then the subsequent offense must be processed in the criminal system.

Expanded timelines for Class A- G felonies alleged against 16- and 17-year-olds

The Juvenile Code currently requires a probable cause hearing in every case in which a juvenile age 13 through 15 is charged with a felony offense. [G.S. 7B-2202\(a\)](#). That hearing must be held within 15 days of the juvenile's first appearance. In addition, the Juvenile Code requires that any juvenile being held in secure custody have a hearing on the need for continued secure custody every 10 calendar days. [G.S. 7B-1906\(b\)](#).

Session law 2019-186 created an exception to these timelines. The exception applies only in relation to:

- Class A – Class G felony offense charges
- Alleged to have been committed at ages 16 and 17.

These are the cases in which transfer to superior court will be mandatory upon a finding of probable cause or the return of an indictment. [G.S. 7B-2200.5\(a\)](#). In these instances, a probable cause hearing must be conducted within 90 days of the juvenile's first appearance. In addition, ongoing secure custody hearings need only be held every 30 calendar days. [S.L. 2019-186 §7](#). The timeline for ongoing secure custody hearings can be returned to the standard 10-day requirement upon request of the juvenile and a good cause determination by the court.

Mandatory remand to district court following transfer

[S.L. 2019-186 §8](#) adds a new procedure for certain cases that are transferred from juvenile to superior court. The exception applies only to cases in which the juvenile is at least 16 years of age at the time of the alleged offense. The new statute requires remand (back to juvenile jurisdiction in district court) of any case in which jurisdiction over such a juvenile has been transferred to superior and then a joint motion is made for remand by the prosecutor and the juvenile's attorney. There are no statutory requirements or specific findings required for such a remand beyond the joint motion and there is no discretion to deny the motion for remand. This new process may be a valuable tool for cases in which plea arrangements lead to admission of an offense less severe than a Class A – Class G felony. It is certainly possible that prosecutors and juvenile defense

counsel may find other appropriate circumstances as well.

The new legislation also creates an expungement statute that applies on any remand ordered pursuant to this new procedure—G.S. 15A-145.8. [S.L. 2019-186 §11](#). The court will be required to order expunction of all remanded charges upon remand. The court must also order expunction of DNA records related to the remanded charges. The clerk is tasked with notifying state and local agencies of the expunction order pursuant to existing procedures for expunction notifications in the criminal procedure law. [G.S. 15A-150](#).

Raise the age training opportunities

The modifications discussed in this post are a few of the many changes that will be required once the Juvenile Jurisdiction Reinvestment Act takes effect on December 1, 2019. I am excited that the School of Government (SOG) has partnered with the Division of Adult Correction and Juvenile Justice (DACJJ) at the Department of Public Safety to offer free regional training on the new law this fall.

The half-day workshops will offer instruction on the new raise the age legal framework, from initial investigation through a transfer to superior court or a juvenile disposition. The DACJJ will also provide attendees information regarding juvenile justice system preparation for implementation. Workshops will be held as follows:

- Asheville – 10/2/19
- Charlotte – 10/3/19
- Winston-Salem – 10/7/19
- Raleigh – 10/9/19
- Winterville – 10/29/19
- Fayetteville – 11/6/19
- Wilmington – 11/7/19

The workshops are intended for any practitioner whose work touches the processing of offenses charged against youth under age 18, such as law enforcement officers (including school resource officers), school officials, juvenile court counselors, magistrates, clerks, judges, prosecutors, and defense counsel. The registration link can be found [here](#).

We will also be hosting a day and a half Juvenile Justice Reinvestment Seminar for judges here at the SOG on November 18 -19, 2019. This seminar will provide additional in-depth content on the processes that may become more common for district court judges as a result of raise the age, such as transfer hearings and determining conditions for pretrial release. It will also include a session on school-justice partnerships. Magistrates who are interested in this more in-depth information are also welcomed to attend the seminar. Judges and magistrates can [register here](#).