

Raise the Age Tips and Resources for Law Enforcement

North Carolina sits four days away from implementation of the most significant change to juvenile court jurisdiction since the inception of the juvenile delinquency system 100 years ago. Beginning on December 1, 2019, most offenses alleged to have been committed by 16- and 17-year-olds will begin under juvenile jurisdiction. [G.S. 7B-1501\(7\)b](#), [G.S. 7B-1604\(b\)](#). This change will shift the procedures that law enforcement must follow when processing 16- and 17-year-olds for these now juvenile offenses from criminal procedures to juvenile procedures. The good news, as Jeff Ledford, Chief of Police in Shelby, N.C., put it—if an officer knows how to take a 13-year-old into custody today, that officer knows how to take a 16- or 17-year-old into custody on December 1st. This blog provides three key tips for law enforcement to follow and links to a short training video and job aid developed specifically for law enforcement training on raise the age.

1. Nothing changes about processing Chapter 20 motor vehicle offenses committed at ages 16 or 17

There is only one category of offenses that will not be brought under the original jurisdiction of the juvenile court under raise the age. All chapter 20 motor vehicle offenses committed by youth at age 16 or 17 will remain under the original jurisdiction of the adult criminal justice system. G.S. 7B-1501(7)b. The processes law enforcement will follow for these matters will remain exactly as they are now. This is the case even if the youth is charged with other non-chapter 20 offenses that arise out of the same incident. The chapter 20 offenses must be processed through the magistrate and if a youth is not released, then he or she will be held in an adult jail. Any non-chapter 20 offenses must be processed through the juvenile court counselor and will be under the original jurisdiction of the juvenile court.

2. The existence of a criminal conviction history may bar a youth from original jurisdiction in the juvenile court—and juvenile court counselors are prepared to check for this

The new law includes a provision, often referred to as “once an adult, always an adult,” which prohibits all future juvenile court jurisdiction for youth who have a criminal conviction history that includes

- any felony,
- any non-chapter 20 misdemeanor, or
- any impaired driving offense ([S. 20-138.1](#) or [-138.2](#)). G.S. 7B-1604(b).

The prohibition is triggered by the conviction. Pending charges in criminal court do not prevent juvenile court jurisdiction for new offenses. It will therefore be critical to determine if a youth who would otherwise be under juvenile jurisdiction has one of these previous disqualifying criminal convictions.

There are two pieces of good news on this front. First, juvenile court counselors have been trained to check for any previous disqualifying criminal conviction at intake. Law enforcement officers who are processing any non-chapter 20 offense alleged to have been committed by someone at age 16 or 17 can call the juvenile court counselor to determine whether the youth is barred from juvenile processing under once an adult, always an adult. There is a juvenile court counselor on call at all times in every part of North Carolina. Law enforcement officers can also always choose to check for any previous disqualifying criminal conviction themselves.

Second, the size of the population of youth who are excluded from juvenile jurisdiction under once an adult, always an adult is going to shrink over time. In fact, this population will likely be the largest it will ever be on December 1st. This is a function of shifting the rules about the age of juvenile court jurisdiction on a certain date. There will be a period of time following implementation when youth who are 16 and 17, and who were previously excluded from juvenile court jurisdiction, are now still young enough to be eligible for the newly expanded juvenile jurisdiction. Some of these youth will have been convicted as adults for offenses committed before the law changed. As time passes, these youth will age out of the expanded jurisdiction of the juvenile system. At the same time, many fewer youth under the age of 18 will be convicted in criminal court under the new raise the age framework. Criminal convictions under the new framework will only result from chapter 20 offenses committed at age 16 or 17, felony offenses that are transferred to superior court, and the shrinking population of youth who fall under once an adult, always an adult. While the question of conviction history must be answered in order to know which system has jurisdiction over the offense, it is a question that will become a much smaller issue as time passes.

3. The usual rules of juvenile investigation and custody apply to offenses newly under juvenile jurisdiction

There are two important rules for law enforcement to remember when conducting juvenile investigations:

1. All youth under age 18 have the right to have a parent, guardian, or custodian present during any custodial interrogation and
2. A court order is almost always required before conducting a nontestimonial identification procedure.

All youth under the age of 18 have had the right to have a parent, guardian, or custodian present during any custodial interrogation since 1983 when the North Carolina Supreme Court rejected the argument that a 17-year-old did not have this statutory right because he was not under the age of juvenile court jurisdiction. [State v. Fincher, 309 N.C. 1 \(1983\)](#). Youth age 16 or 17 can waive this right. [G.S. 7B-2101\(b\)](#). The parent, guardian, or custodian cannot waive this right for the youth. *Id.* The Juvenile Code also provides that questioning must stop if the juvenile indicates in any way and at any time that he or she no longer wants to be questioned. [G.S. 7B-2101\(c\)](#).

The use of nontestimonial identification procedures is also different in juvenile matters. There are only two circumstances in which a nontestimonial identification procedure can be conducted during the course of law enforcement investigation and processing without a court order. They both include allegations regarding youth age 10 or older and apply when

1. a complaint is prepared for filing, the youth is in custody, and the allegations include a nondivertible offense (murder, rape in the first or second degree, sexual offense in the first or second degree, arson, any felony drug offense, first degree burglary, crime against nature, or any felony which involves the willful infliction of serious bodily injury upon another or which was committed by use of a deadly weapon). ([S. 7B-2102\(a\)](#)), or
2. the youth has been part of a show-up and is alleged to have committed a nondivertible offense or common law robbery. ([S. 15A-284.52\(c1\)](#)).

In the first instance the juvenile must be fingerprinted and photographed. In the second instance, the juvenile must be photographed at the time and place of the show-up. All other uses of nontestimonial identification procedures in juvenile matters require a court order. [G.S. 7B-2103](#). These rules will now apply to investigation of non-chapter 20 offenses committed at age 16 or 17 as they will be juvenile matters.

Roll call training video

Thanks to Chief Ledford and the North Carolina Justice Academy, a brief [video](#) is available for law enforcement to provide this information in a quick and digestible format for the many law enforcement officers who need to be familiar with the new law. You will also find a [job aid](#) for law enforcement on this same raise the age resource page. These materials are available for your use locally as you see fit.

“The way to get started is to quit talking and begin doing,” Walt Disney

For some it seems like an eternity since raise the age passed in 2017. Others have been working feverishly since that time and may feel like they could still use more time. Wherever you fall on that spectrum, the time to implement has arrived. I have been heartened by the many hundreds of you who attended a Raise the Age Workshop this fall and those I have heard from who are also providing your own training locally. I am convinced that you are ready for the change. And, while change is never without its challenges and occasional need for course correction, I agree with Walt Disney—we have done a lot of talking and you are ready to start doing.