

Juvenile Justice Bill Sectional Summary
HB 242 (LC 29 5500ERS) & Amendment 29 2165

The majority of the juvenile justice bill is current law, although certain sections may have been modified or adapted. However, the Code sections that are current law have been completely reordered which is why the bill appears to be mostly new language. The following summary provides a description of each Article as provided in the bill. Areas where additional county costs may occur have been noted.

Article 1

- Provides for definitions. Many definitions are provided in current law. This section houses definitions that were previously provided throughout the code in one place. It further provides for new definitions not previously defined in law and modifies existing definitions. It should be noted that “dependent child” takes the place of “deprived child” and that “child in need of services” takes the place of “unruly child.” It should further be noted that “designated felony act” has been divided into “Class A” and “Class B” designated felonies. This section also includes child in the definition of “party” making the child a party to any juvenile proceedings involving their interest. **Adding the child as a party may increase costs for counties.**
- Provides that one judge should hear all successive cases or proceedings involving the same child and family when possible.
- Allows for a child to be adjudicated both as a dependent and delinquent child, or both as a dependent child and a child in need of services, so that hearings can be consolidated.
- Authorizes the court to appoint a guardian or conservator for a child as needed.
- Provides for the procedures to appoint a temporary guardianship.
- Provides that hearings under this section of the law are conducted without a jury. It further provides procedures on how a hearing should be conducted.
- Provides that the clerk of juvenile court must issue subpoenas upon the application of a party, the court, or authorized officer of the court. Further provides that a delinquency proceeding conducted by the state is a criminal prosecution.
- Provides for the rights of parties to proceedings and authorizes the judge to exclude the child when appropriate.
- Allows for proceedings to go to mediation, the selection of the mediator, the mediation schedule, termination of mediation and the adoption of mediation agreements. Victims in a delinquency case referred to mediation may attend and participate, but aren’t required to do so as a condition of the case being heard in juvenile court.
- Provides for the factors to consider whenever a best interest determination is required by the court of the child’s age and developmental needs
- Authorizes the court to order that a child be examined and evaluated by a physician or psychologist. Funding of the examination by the county or state is subject to available funds.
- Provides that no admission, confession, or incriminating information obtained from a child during the screening process is admissible as evidence in an adjudication hearing in which the child is accused.
- Prohibits children from being committed to an adult correctional facility or related facility except as provided in O.C.G.A. § 17-10-14.

- Provides that counties are responsible for the following juvenile court expenses **and expenses in superior court for children being prosecuted as an adult**: cost of examinations and treatments of a child ordered by the court; cost of care and support of a child committed by the court to the legal custody of someone or organization other than DJJ; reasonable compensation for services and related expenses of a court appointed attorney to represent a child to conduct the proceedings, reasonable compensation for a guardian ad litem; expenses of service of summons, notices, subpoenas, travel expenses of witnesses, transportation, subsistence and detention of a child and other like expenses; and the cost of counseling, counsel and advice. **The court shall make the determination as to whether expenses should be charged to the counties in juvenile proceedings and provides a 120 day certification period timeframe for the court to make that determination.** The court may order payments from a child's parent or guardian to compensate the county. Most of these requirements are current law. New requirements are highlighted.
- Provides for the collection of supervision fees to be used to expand certain ancillary services. All fees collected are required to be transferred to the county for deposit in the county supplemental services fund for discretionary use for providing community services.
- Provides for the establishment of a community based risk reduction program.
- Provides that a risk assessment or risk needs assessment may be to be ordered by the court in jurisdictions where a risk reduction program has been established.
- Allows for the exchange of records between agencies or entities participating in a community based risk reduction program for the purposes of implementing a case plan.
- Provides for additional procedures needed to exchange confidential information for certain entities governed by state or federal privacy laws.

Article 2 Juvenile Court Administration

- Provides for the creation of the juvenile court, juvenile court judge qualifications, terms and compensation, and practice limitations. It further provides that each juvenile court is attached to superior court for administrative purposes. Counties are required to offer juvenile court judges insurance benefits and other benefits except retirement that are offered to employees of the county. Counties must continue to provide membership in retirement plans available to county employees for any juvenile court judge in office prior to July 1 1998 who did not become a member of the Georgia Judicial Retirement System. Other than state grants, all court expenses should be paid out of the county treasury by the county commission. This section is current law.
- Allows for local constitutional amendments and local Acts that conflict with this law to govern; prohibits full time juvenile court judges from holding the office of judge in another court; authorizes the clerk of superior court to notify the Secretary of State and the Council of Judicial Court Judges when a new juvenile court judge is appointed; provides for the creation and duties of the Council of Juvenile Court Judges, provides for legal training for juvenile court judge and provides training requirements for clerks; authorizes the appointment of associate juvenile court judges, associate juvenile court traffic judges, juvenile court judge pro tem, juvenile court clerks, and probation and intake officers; provides for the duties of the county juvenile probation officer of DJJ staff members serving as juvenile probation officer; provides for the duties of a juvenile court intake officer and provides for the procedures in which a juvenile court

can transfer probation and intake services and become a part of the statewide juvenile and intake services through DJJ through a local act of the General Assembly. This section is mostly current law.

- Requires the clerk of juvenile court to collect the name, date of birth, sex, race, offense charged, location of the offense, name of referral source, case disposition and date of and authority for commitment for each child in need of services, delinquent, or accused of a class A or B felony act to DJJ.

Article 3

Dependency

- Provides for circumstances in which certain medical, physical, or psychological examinations and evaluations of a child can be made.
- Provides for the procedures for a preliminary protective hearing.
- Provides that a child or any other party to the proceeding has the right to an attorney at all stages of the proceedings. Further provides that the court must appoint an attorney for an alleged dependent child, and that the same attorney should be retained throughout the proceedings if possible. No one can waive a child's right to an attorney in a dependency proceeding. **This requirement may increase costs for counties.**
- Provides that the court appoint a guardian ad litem for an alleged dependent child. The attorney for the child may also serve in this role, unless there is a conflict of interest. A CASA should be appointed as guardian ad litem whenever possible.
- Provides for the factors that a guardian ad litem should consider in advocating for the best interest of the child.
- Provides for the appointment and role of the CASA.
- Provides for requirements related to protective custody.
- Provides for the procedures and outcomes for a preliminary protective hearing.
- Provides that basically any person with actual knowledge of abuse, neglect or abandonment of a child may petition the court alleging dependency. Further provides for the timeline in which the dependency petition should be filed, the information that should be contained within the petition, and how to amend the petition.
- Provides for summons requirements for dependency proceedings including who should be notified, procedures for serving summons on parties within and outside of the state, notice by publication and implications for willfully failing to appear when summoned.
- Provides for preadjudication procedures including discovery and deposition of a dependent child.
- Requires the petitioner to prove the allegations of a dependency petition by clear and convincing evidence.
- Provides for the procedures for an adjudication hearing.
- Provides that the court may direct that a written social study and report be made by a person designated by the court if the child is found to be dependent.
- Provides for the requirements of what should be included in a social study.

- Provides for case plan report requirements for children placed in DFCS custody, including placement and whether reunification is possible. Further provides for nonreunification hearing requirements.
- Provides for the requirements of disposition hearings, diligent search requirements, options for orders of disposition, and considerations for the court.
- Provides for the notification of change in placement by DFCS, the review period and process for children in DFCS custody, and the requirements for periodic review hearings.
- Provides for requirements and procedures for permanency plan hearings.
- Provides for the circumstances under which DFCS can petition for termination of parental rights.
- Provides for the requirements and conditions related to appointing a permanent guardian.

Article 4 Termination of Parental Rights

This article provides for the procedures and requirements in terminating parental rights. Such requirements include providing the child with an attorney and a guardian ad litem, who can be the same person if no conflict exists. Neither the child nor the child's representative may waive the right to counsel. If other parties to the case are indigent, a court appointed attorney will be provided. The court may require physical or mental evaluations of the child, guardian, legal custodian or parent. The cost of the evaluation will be paid by the moving party unless apportioned to other parties by the court.

Article 5 Children in Need of Services (CHINS)

- Allows anyone with knowledge of a child in need of services to file a complaint with the juvenile court intake officer and provides for the specific information that should be contained within the complaint.
- Provides for the timeframe in which a continued custody hearing should be scheduled.
- The court is required to appoint an attorney for a child alleged to be in need of services. The court may also appoint a guardian ad litem. The guardian ad litem and attorney may be the same person as long as there is no conflict. A CASA should be appointed as guardian ad litem whenever possible. The child is required to be informed of their right to an attorney at or prior to the first court proceeding for a child in need of services. The child is given the choice to employ their attorney or obtain a court appointed attorney if the court determines the child is indigent. **This requirement may increase costs for counties.**
- Provides that if an alleged or adjudicated CHINS is placed in foster care that there must be a case plan. It further provides for the requirements of that case plan.
- Provides for situations in which a child can be taken into temporary custody, where they may be held, how long they may be held and provides for continued custody hearing requirements.
- Provides that a petition alleging that a child is in need of services may be filed by any person including a law enforcement officer, who has knowledge of the facts or is informed and believes the facts are true.
- If a CHINS in temporary custody is not released from temporary custody at a continued custody hearing, a petition seeking an adjudication is required to be filed within five days of that hearing. If the child was never taken into custody, the petition should be filed within 30 days of the complaint being filed with the juvenile intake officer or within 30 days of the child's release from

temporary custody. The court may grant a requested extension of time for filing a petition seeking adjudication.

- Provides for the requirements of the petition seeking an adjudication for the CHINS and what type of petitions should be dismissed.
- Provides for summons requirements including who should be summoned, when they should be summoned, and where they should be summoned. Counties are required to pay for the costs of service and of necessary travel expenses incurred by those being summoned or required to appear at the hearing on the petition seeking adjudication that a child is in need of services. This requirement is in current law. It further provides for consequences for willful failure to appear in court when summoned.
- Provides that the petitioner has the burden of proving the allegations of a CHINS petition by clear and convincing evidence.
- Requires the adjudication hearing to be hearing to be held no later than 10 days after the filing of a petition if the child is in continued custody, but not in a secure or nonsecure and residential facility and no later than 60 days after filing the petition if they are not in custody.
- Final disposition hearings are required to be held and completed within 60 days of the conclusion of the adjudication hearing. The court is required to order the least restrictive and most appropriate disposition.
- Provides for the length of time for the order of disposition (not more than two years) and the circumstances in which an order can be extended.
- Provides for the review of the disposition by the court at least once within three months after the disposition and at least six months thereafter so long as the order of disposition is in effect.
- Provides for comprehensive service plan management for CHINS or children charged with committing a delinquent act who are unrestorably incompetent to proceed and specifies the parties that must be involved with meetings to create the plan. The plan hearing should be held within 30 days after the plan has been submitted. The court is required to hold comprehensive plan hearings every six months thereafter and can set hearings to review change in circumstances.

Article 6

Delinquency

- Provides for a delinquency hearing timeline which is based upon if a child was placed in custody, whether a warrant was issued, when they were released or if they were never taken into custody.
- Requires the prosecuting attorney to conduct delinquency proceedings on behalf of the state. **This requirement may increase costs for counties.**
- Provides that an alleged delinquent child and the state shall be parties at all stages of the proceedings. **This requirement may increase costs for counties.**
- Provides that an alleged delinquent child shall have the right to be represented by an attorney at all delinquency proceedings. This right cannot be waived by a parent, guardian or legal custodian of the child. The child may waive the right to an attorney at arraignment if the child's liberty is not in jeopardy. The court is not authorized to accept an admission from a child whose liberty is in jeopardy and is not represented by counsel. **This requirement may increase costs for counties.**

- Provides that the court appoints a separate guardian ad litem whenever an alleged delinquent child appears before the court without a parent or guardian, the parent or guardian is incapable or unwilling to make decisions in the best interest of the child, or the court finds it is otherwise in a child's best interest to do so. A CASA should be appointed as guardian ad litem whenever possible.
- Provides that the court can order a behavioral health evaluation of a child at any time prior to the issuance of a final disposition order.
- Provides for the conditions in which an alleged delinquent child may be taken into custody and the type of facilities in which the child may be detained. It further provides for detainment intake requirements and procedures, the timeframe and conditions in which a detention hearing should be held, and the right for the child to make bail.
- If the alleged delinquent child is not detained after the filing of the complaint, he or she is referred to intake or given a date for arraignment. At intake, the intake office is required to inform the child of the content of the complaint, the nature of the proceeding, consequences or disposition that may apply and the child's due process rights. The intake office can elect to pursue a case through informal adjustment or other nonadjudicatory procedure. If the case is to be prosecuted further and handled other than by the aforementioned methods, a referral must be made to the prosecuting attorney and a petition of delinquency should be filed within 30 of the filing of a complaint.
- Provides that the court must inform the child at arraignment of the contents of the petition alleging delinquency, the nature of the proceedings consequences or disposition that may apply and the child's due process rights. The court may accept an admission at arraignment and proceed to disposition if the child is represented by counsel or if the child's liberty is not in jeopardy. The court cannot accept an admission by a child not represented by an attorney or whose liberty is not in jeopardy. The court is required to appoint an attorney to represent an alleged delinquent child if there liberty is in jeopardy and they are indigent. **This requirement may increase costs to counties.**
- Prior to a petition for informal adjustment is filed, the probation officer may inform the parties of informal adjustment if the admitted facts places jurisdiction with the court and that counsel and advice without adjudication would be in the best interest of the child taking into account certain factors. This advice and counsel cannot extend beyond three months. Children alleged to have admitted a Class A or designated felony act aren't eligible for informal adjustment, counsel or advice without prior approval by the district attorney.
- Provides that a petition alleging delinquency has to be filed by an attorney as provided in Code section 15-18-6.1. **This requirement may increase costs to counties.**
- Provides for the timeline for filing the petition alleging delinquency.
- Provides for the required information that must be part of the petition alleging delinquency.
- Allows for the prosecuting attorney to amend a petition alleging delinquency at any time prior to the commencement of the adjudication hearing and authorizes the child to request for a continuance of the adjudication hearing.
- Provides for summons requirements for parties within and outside of the state. The court may authorize payment from county funds for the costs of service and travel expenses incurred by persons summoned or otherwise required to appear. This is current law. It further provides for repercussions for failure to appear.

mediation records, law enforcement records and files, record sharing between agencies, record retention and school notification of certain delinquent acts committed by current or future students.

Article 10

Emancipation

This article provides for the procedures and requirements necessary for a child to become emancipated.

Article 11

- Creates and sets forth the rights, powers, duties and requirements of the Office of the Child Advocate for the Protection of Children. It further establishes a Child Advocate Advisory Committee. This is current law.
- Amends O.C.G.A. §42-5-52 by allowing the Department of Corrections to accept a juvenile for transfer into a penal institution upon the request of DOC commissioner under certain circumstances. While the DOC commissioner has this power under current law, the circumstances in which the transfer can take place have been changed.
- Provides for numerous changes to the law governing DJJ requirements. It provides for new and redefined terms, creates a new risk and needs assessment tool, ensures that instruments being used by intake personnel and courts are developed in consultation with the Governor's Office of Children and Families and the Council of Juvenile Court Judges, provides for the adoption of rules and regulations to oversee risk and needs assessments, requires DJJ to collect and analyze data and performance outcomes, authorizes DJJ to seek specialized treatments for children that have committed delinquent acts involving sexual offenses or controlled substances in lieu of commitment, requires DJJ to cooperate with other public and private agencies to collect certain statistics and information involving juveniles, and general clean up language.
- Provides for updated cross references in code sections that reference part of the existing or new juvenile code. This may also include changing terms to reflect new definition or terms being used in the new law. It further allows for alternative dispute resolution program funds to be used in juvenile court.
- Provides that the district attorney or designated assistant district attorney is responsible for prosecuting any appeal from juvenile court. It allows for the solicitor general of a state court with approval of the district attorney's office, to prosecute juvenile traffic offenses and cases arising out of operation of a motor vehicle or watercraft. It further provides that the district attorney is responsible for representing the state in the prosecution of delinquency cases unless unable to do so based on workload, lack of staff or other reasons. **This requirement may increase costs for counties.**
- If the district attorney cannot provide representation, they are required to notify the chief judge of the superior and juvenile courts and the chair of the county commission in writing. If the district attorney can resume representation, notice must again be provided to the aforementioned parties in writing and a consultation with the juvenile court judge is required.
- After receiving the notice, counties may appoint one or more attorneys to represent the state in juvenile court. The county is authorized to determine the rate of compensation and whether the attorney should serve on a full time or part time basis. **This requirement may increase costs for counties.**

- Provides for an effective date of January 1, 2013 and applies to all offenses which occur and juvenile proceedings commenced on or after this date.