



Raise The Age NC

Kim Howes

Assistant Juvenile Defender

Office of the Juvenile Defender

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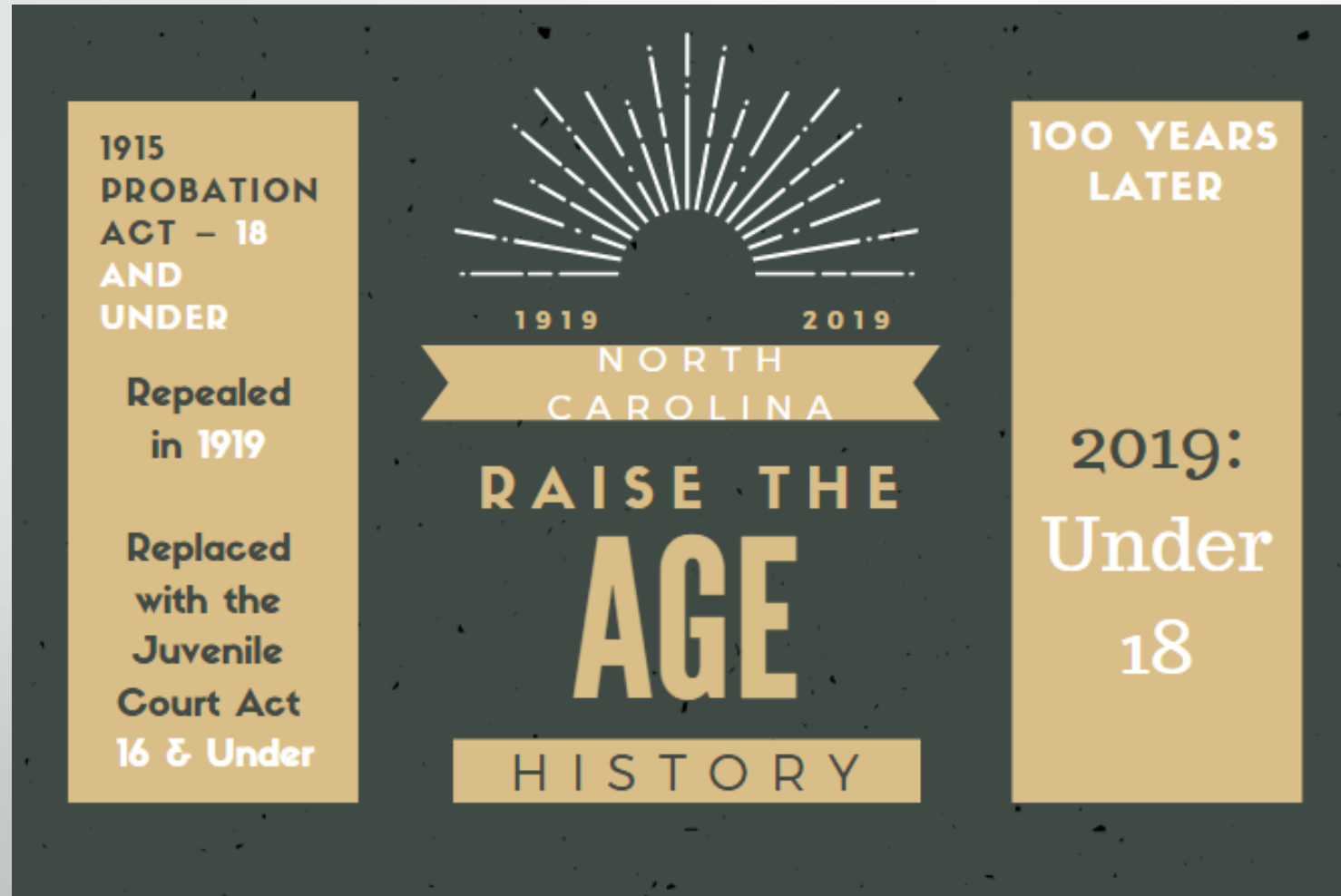


Road Map

- How to locate the law/resources
- Juveniles included/excluded
- New procedures for ages 16 & 17
- Class A-G
- Other provisions for all juveniles
- Important dates



HISTORY



Resources on the Law

- Senate Bill 257 (2017), AKA “The Budget Bill,” starting on page 309
- Senate Bill 413 (2019)
- SOG guidebook
- OJD website
- NCDPS website

INCREASE THE AGE OF JUVENILE JURISDICTION, EXCEPT FOR CERTAIN FELONIES

SECTION 16D.4.(a) G.S. 7B-1501 reads as rewritten:

“§ 7B-1501. Definitions.

In this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings. The singular includes the plural, unless otherwise specified.

(7) Delinquent juvenile. –

a. Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31.

b. Any juvenile who, while less than 18 years of age but at least 16 years of age, commits a crime or an infraction under State law or under an ordinance of local government, excluding violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31.

(27a) Victim. – Any individual or entity against whom a crime or infraction is alleged to have been committed by a juvenile based on reasonable grounds that the alleged facts are true. For purposes of Article 17 of this Chapter, the term may also include a parent, guardian, or custodian of a victim under the age of 18 years of age.

....”

SECTION 16D.4.(b) G.S. 7B-1601 reads as rewritten:

“§ 7B-1601. Jurisdiction over delinquent juveniles.

(a) The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be delinquent. For purposes of determining jurisdiction, the age of the juvenile at the time of the alleged offense governs.

(b) When the court obtains jurisdiction over a juvenile alleged to be ~~delinquent~~ delinquent for an offense committed prior to the juvenile reaching the age of 16 years, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 18 years, except as provided otherwise in this Article.

(b1) When the court obtains jurisdiction over a juvenile alleged to be delinquent for an offense committed while the juvenile was at least 16 years of age but less than 17 years of age, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 19 years. If the offense was committed while the juvenile was at least 17 years of age, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 20 years.

(c) When delinquency proceedings for a juvenile alleged to be delinquent for an offense committed prior to the juvenile reaching the age of 16 years cannot be concluded before the juvenile reaches the age of 18 years, the court retains jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition.

(c1) When delinquency proceedings for a juvenile alleged to be delinquent for an offense committed while the juvenile was at least 16 years of age but less than 17 years of age cannot be concluded before the juvenile reaches the age of 19 years, the court retains jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition. When delinquency proceedings for a juvenile alleged to be delinquent for an offense committed while

Legal Changes

- What's included/excluded in juvenile jurisdiction for 16 and 17 year old's
- New processes for 16 and 17 year old's
- Other changes impacting all juveniles

What's Included/Excluded in Juvenile Jurisdiction: All criminal offenses/non-motor vehicle



- Included: All 16 and 17 year olds charged with any non-motor vehicle criminal offense

What's Included/Excluded in Juvenile Jurisdiction: MV Offenses



- Excluded: All 16 and 17 year old's charged with any motor vehicle offense
- Note! Felony possession of a motor vehicle will be moved to Chapter 14, therefore no longer a MV offense

What's Included/Excluded in Juvenile Jurisdiction: Previous Convictions

- Excluded: All 16 and 17 year old's previously convicted of:
 - any **criminal** offense
 - any **felony** motor vehicle offense
 - any **impaired driving** motor vehicle offense
- Previous conviction of a misdemeanor or infraction MV offense *will not* exclude a 16 or 17 year old

New Processes for 16 and 17 charged with Class A – G offenses: Expedited Transfer

- Expedited Transfer:
 - 16/17: A through G offense, case transferred after either:
 - A finding of probable cause OR
 - Indictment
- Discretionary Transfer remains for 16 & 17 charged with H and I felonies

New Processes for 16 and 17 charged with Class A – G offenses: PC and Secure Custody

- Probable cause must occur within 90 days of the first appearance
- Secure custody hearings occur every 30 days unless every 10 days requested by counsel for good cause shown

New Processes for 16 and 17 charged with Class A – G offenses: Reverse Waiver

- Upon motion of the prosecutor and defense counsel
- Superior Court shall remand the case to district court
- Superior Court record shall be expunged

Other Changes



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- Length of Juvenile Jurisdiction:
 - If 16 at the time of the offense, maximum length of jurisdiction = 19
 - If 17 at the time of the offense, maximum length of jurisdiction = 20
- Terms also apply to juveniles committed to YDC

Other Changes: Victims

- Victim is now also notified when complaint is not filed as a petition
- Victim can ask for a review of intake counselor's decision not to file
- Victims receive more information about status of complaints

Other Changes: Law Enforcement

- Court counselor record now must include consultations with law enforcement not resulting in a petition filed
- Court counselors can share with law enforcement office delinquency record or prior consultations with law enforcement

Other Changes: Housing and Transportation

- All juveniles under the age of 18 prior to trial/adjudication held in a juvenile justice facility and transported by juvenile justice
- If under 18 and convicted, the juvenile shall not be held in jail but in an approved Prisons Section facility

Gang Enhancement (all juveniles)

- Court counselors will conduct gang assessments (and develop a new tool) for juveniles 12 and older
- Uses similar “criminal gang” and “criminal gang activity” definitions from criminal statutes
- If adjudication was found to be part of a criminal gang activity, juvenile shall receive a disposition one level higher

Gang Enhancement

- Assessments will only be given to juveniles 12 and older
- Court must find “beyond a reasonable doubt” that the act was committed as part of criminal gang activity

Gang Enhancement: Notice?

- *Apprendi v. New Jersey*, 530 U.S. 466 (2000)
- Facts needed to authorize punishment must be either admitted by the defendant or found by the finder of fact on proof beyond a reasonable doubt
- Notice to the juvenile prior to adjudication?

Other Provisions

EST. 2004

JWISE



School Justice
Partnership
NORTH CAROLINA

JWise Attorney Access

- JWise is the Administrative Office of the Courts (AOC) database where clerks enter court-related information about juvenile cases
 - Most of the information is case status, such as adjudications, dispositions, and other hearings
- This access is read-only and the clerk's file, not JWise, is the official record of the court
- JWise will allow attorneys quick access to basic, essential information about the status of their clients' cases
 - While attorneys should still be reviewing the clerk's file for more detail about their clients, JWise may offer quick answers to questions regarding court hearings

JWise Attorney Access

- Juvenile defense attorneys and prosecutors with a NC state bar number
- Attorneys must submit a request to AOC Access Admin for access
 - Form A-151 (prosecutors and public defenders)
 - Form A-258 (private attorneys)
- Must be signed by an authorized court official, including a clerk or clerk's designee, to verify the identity and signature of attorney requesting access
- Attorneys (not clerks) must submit Form A-258/A-151 to AOC Access Admin
- For attorneys who may be unfamiliar with JWise, AOC has created a 15-minute video walkthrough to better explain how to use and access it

School-Justice Partnerships

- Jurisdictions are encouraged to partner with court, school, law enforcement and other stakeholders to address the school to prison pipeline by creating voluntary agreements to reduce the number of school based offenses coming to court through the use of graduated sanctions
- <https://www.nccourts.gov/programs/school-justice-partner>

Important Dates

- Effective Now:
 - School-Justice partnership
 - Gang assessment tool
 - J Wise access
- December 1, 2019: Remaining substantive laws

OJD Team



Eric Zogry

Juvenile Defender

919-890-1640



Kim Howes

Assistant Juvenile Defender

919-890-1641



Austine Long

Project Attorney

919-890-1644



LaTobia Avent

Communications & Office
Manager

919-890-1650



Where to Find OJD?

1

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Twitter: @NCOJD

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