

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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SENATE BILL 81

Short Title: Undisc. Juvenile Age 18.

(Public)

Sponsors: Senators Allran, Shaw; Cochrane, Gunter, Codington, Forrester, Smith, Carpenter, Blackmon, Speed, Sherron, Harris, Hoyle, Albertson, and Warren.

Referred to: Juveniles/Prevention.

February 11, 1994

A BILL TO BE ENTITLED

AN ACT TO RAISE THE DEFINED AGE OF UNDISCIPLINED JUVENILES FROM SIXTEEN YEARS TO EIGHTEEN YEARS IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-517 reads as rewritten:

"§ 7A-517. Definitions.

Unless the context clearly requires otherwise, the following words have the listed meanings:

- (1) Abused Juveniles. – Any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker:
  - a. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means; or
  - b. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means; or
  - b1. Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior; or
  - c. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first degree rape, as provided in G.S. 14-27.2; second degree rape as provided in G.S. 14-27.3; first degree sexual offense, as provided in G.S. 14-27.4; second degree sexual offense, as

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- 1 provided in G.S. 14-27.5; sexual act by a custodian, as provided  
2 in G.S. 14-27.7; crime against nature, as provided in G.S. 14-  
3 177; incest, as provided in G.S. 14-178 and 14-179; preparation  
4 of obscene photographs, slides or motion pictures of the  
5 juvenile, as provided in G.S. 14-190.5; employing or permitting  
6 the juvenile to assist in a violation of the obscenity laws as  
7 provided in G.S. 14-190.6; dissemination of obscene material to  
8 the juvenile as provided in G.S. 14-190.7 and G.S. 14-190.8;  
9 displaying or disseminating material harmful to the juvenile as  
10 provided in G.S. 14-190.14 and G.S. 14-190.15; first and  
11 second degree sexual exploitation of the juvenile as provided in  
12 G.S. 14-190.16 and G.S. 14-190.17; promoting the prostitution  
13 of the juvenile as provided in G.S. 14-190.18; and taking  
14 indecent liberties with the juvenile, as provided in G.S. 14-  
15 202.1, regardless of the age of the parties; or
- 16 d. Creates or allows to be created serious emotional damage to the  
17 juvenile. Serious emotional damage is evidenced by a  
18 juvenile's severe anxiety, depression, withdrawal or aggressive  
19 behavior toward himself or others; or
- 20 e. Encourages, directs, or approves of delinquent acts involving  
21 moral turpitude committed by the juvenile.
- 22 (2) Aftercare. – The supervision of a juvenile who has been returned to the  
23 community on conditional release after having been committed to the  
24 Division of Youth Services.
- 25 (3) Administrator for Juvenile Services. – The person who is responsible  
26 for the planning, organization, and administration of a statewide  
27 system of juvenile intake, probation, and aftercare services.
- 28 (4) Director of the Division of Youth Services. – The person responsible  
29 for the supervision of the administration of institutional and detention  
30 services.
- 31 (5) Caretaker. – Any person other than a parent, guardian, or custodian  
32 who has responsibility for the health and welfare of a juvenile in a  
33 residential setting. A person responsible for a juvenile's health and  
34 welfare means a stepparent, foster parent, an adult member of the  
35 juvenile's household, an adult relative entrusted with the juvenile's  
36 care, or any person such as a house parent or cottage parent who has  
37 primary responsibility for supervising a juvenile's health and welfare  
38 in a residential child care facility or residential educational facility.  
39 'Caretaker' also means any person who has the responsibility for the  
40 care of a juvenile in a child day care home or child day care facility as  
41 defined in Article 7 of Chapter 110 of the General Statutes and  
42 includes any person who has the approval of the care provider to  
43 assume responsibility for the juveniles under the care of the care  
44 provider. Nothing in this subdivision shall be construed to impose a

- 1 legal duty of support under Chapter 50 or Chapter 110 of the General  
2 Statutes. The duty imposed upon a caretaker as defined in this  
3 subdivision shall be for the purpose of Chapter 7A of the General  
4 Statutes only.
- 5 (6) Chief Court Counselor. – The person responsible for administration  
6 and supervision of juvenile intake, probation, and aftercare in each  
7 judicial district, operating under the supervision of the Administrator  
8 for Juvenile Services.
- 9 (7) Clerk. – Any clerk of superior court, acting clerk, or assistant or  
10 deputy clerk.
- 11 (8) Community-Based Program. – A program providing nonresidential or  
12 residential treatment to a juvenile in the community where his family  
13 lives. A community-based program may include specialized foster  
14 care, family counseling, shelter care, and other appropriate treatment.
- 15 (9) Court. – The District Court Division of the General Court of Justice.
- 16 (10) Court Counselor. – A person responsible for probation and aftercare  
17 services to juveniles on probation or on conditional release from the  
18 Division of Youth Services under the supervision of the chief court  
19 counselor.
- 20 (11) Custodian. – The person or agency that has been awarded legal  
21 custody of a juvenile by a court.
- 22 (12) Delinquent Juvenile. – Any juvenile less than 16 years of age who has  
23 committed a crime or infraction under State law or under an ordinance  
24 of local government, including violation of the motor vehicle laws.
- 25 (13) Dependent Juvenile. – A juvenile in need of assistance or placement  
26 because he has no parent, guardian, or custodian responsible for the  
27 juvenile's care or supervision or whose parent, guardian, or custodian,  
28 due to physical or mental incapacity and the absence of an appropriate  
29 alternative child care arrangement, is unable to provide for the care or  
30 supervision.
- 31 (14) Detention. – The confinement of a juvenile pursuant to an order for  
32 secure custody pending an adjudicatory or dispositional hearing or  
33 admission to a placement with the Division of Youth Services.
- 34 (15) Detention Home. – An authorized facility providing secure custody for  
35 juveniles.
- 36 (15a) District. – Any district court district as established by G.S. 7A-133.
- 37 (16) Holdover Facility. – A place in a jail which has been approved by the  
38 Department of Human Resources as meeting the State standards for  
39 detention as required in G.S. 153A-221 providing close supervision  
40 where the juvenile cannot converse with, see, or be seen by the adult  
41 population.
- 42 (16.1) **In Loco Parentis.** – A person acting **in loco parentis** means one,  
43 other than parents or legal guardian, who has assumed the status and

- 1 obligation of a parent without being awarded the legal custody of a  
2 juvenile by a court.
- 3 (17) Intake Counselor. – A person who screens a petition alleging that a  
4 juvenile is delinquent or undisciplined to determine whether the  
5 petition should be filed.
- 6 (18) Interstate Compact on Juveniles. – An agreement ratified by 50 states  
7 and the District of Columbia providing a formal means of returning a  
8 juvenile, who is an absconder, escapee or runaway, to his home state.
- 9 (19) Judge. – Any district court judge.
- 10 (19a) Judicial District. – Any district court district as established by G.S.  
11 7A-133.
- 12 (20) Juvenile. —~~Any~~ Except as provided in subdivisions (12) and (28) of  
13 this section, any person who has not reached his eighteenth birthday  
14 and is not married, emancipated, or a member of the armed services of  
15 the United States. For the purposes of subdivisions (12) and (28) of this  
16 section, a juvenile is any person who has not reached his sixteenth birthday  
17 and is not married, emancipated, or a member of the armed forces.—A  
18 juvenile who is married, emancipated, or a member of the armed  
19 forces, shall be prosecuted as an adult for the commission of a criminal  
20 offense. Wherever the term 'juvenile' is used with reference to rights  
21 and privileges, that term encompasses the attorney for the juvenile as  
22 well.
- 23 (21) Neglected Juvenile. – A juvenile who does not receive proper care,  
24 supervision, or discipline from the juvenile's parent, guardian,  
25 custodian, or caretaker; or who has been abandoned; or who is not  
26 provided necessary medical care; or who is not provided necessary  
27 remedial care; or who lives in an environment injurious to the  
28 juvenile's welfare; or who has been placed for care or adoption in  
29 violation of law. In determining whether a juvenile is a neglected  
30 juvenile, it is relevant whether that juvenile lives in a home where  
31 another juvenile has died as a result of abuse or neglect or lives in a  
32 home where another juvenile has been subjected to sexual abuse or  
33 severe physical abuse by an adult who regularly lives in the home.
- 34 (22) Petitioner. – The individual who initiates court action, whether by the  
35 filing of a petition or of a motion for review alleging the matter for  
36 adjudication.
- 37 (23) Probation. – The status of a juvenile who has been adjudicated  
38 delinquent, is subject to specified conditions under the supervision of a  
39 court counselor, and may be returned to the court for violation of those  
40 conditions during the period of probation.
- 41 (24) Prosecutor. – The assistant district attorney assigned by the district  
42 attorney to juvenile proceedings.

- 1 (25) Protective Supervision. – The status of a juvenile who has been  
2 adjudicated delinquent or undisciplined and is under the supervision of  
3 a court counselor.
- 4 (26) Regional Detention Home. – A state-supported and administered  
5 regional facility providing detention care.
- 6 (27) Shelter Care. – The temporary care of a juvenile in a physically  
7 unrestricting facility pending court disposition.
- 8 (28) Undisciplined Juvenile. —~~A juvenile less than 16 years of age who is~~  
9 ~~unlawfully absent from school; or who is regularly disobedient to his~~  
10 ~~parent, guardian, or custodian and beyond their disciplinary control; or~~  
11 ~~who is regularly found in places where it is unlawful for a juvenile to~~  
12 ~~be; or who has run away from home.~~ A juvenile who is:
- 13 a. Less than 16 years of age and unlawfully absent from school; or  
14 b. Less than 18 years of age who:
- 15 1. Is regularly disobedient to and beyond the disciplinary  
16 control of the juvenile's parent, guardian, or custodian;  
17 2. Is regularly found in places where it is unlawful for a  
18 juvenile to be; or  
19 3. Has run away from home.
- 20 (29) Director of the Department of Social Services. – The director of the  
21 county department of social services in the county in which the  
22 juvenile resides or is found, or his representative as authorized in G.S.  
23 108A-14.

24 The singular includes the plural, the masculine singular includes the feminine  
25 singular and masculine and feminine plural unless otherwise specified."

26 Sec. 2. This act becomes effective July 1, 1994, and applies to causes of  
27 action arising on or after that date.