

Senate Bill 61

By: Senators Dolezal of the 27th, Dixon of the 45th, Hickman of the 4th, Still of the 48th, Robertson of the 29th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 6 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated,
2 relating to delinquency, so as to provide for additional offenses over which superior courts
3 are authorized to exercise exclusive original jurisdiction for the trials of children 13 to 17
4 years of age to include the offenses of certain terroristic acts involving public and private
5 schools and attempt or criminal conspiracy to commit certain offenses; to repeal a provision
6 that limited superior courts from exercising exclusive original jurisdiction over the trials of
7 children 13 to 17 years of age alleged to have committed aggravated assault only in certain
8 cases involving the use of a firearm upon a public safety officer; to provide for which such
9 cases shall be subject to the class A designated felony act provisions of Code
10 Section 15-11-602 upon transfer to a juvenile court; to make conforming changes by
11 including such additional offenses in the list of offenses for which juvenile and superior
12 courts shall consider certain criteria when determining whether to transfer cases; to amend
13 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
14 secondary education, so as to provide for information sharing by juvenile courts, superior
15 courts, and certain state agencies with public schools when children are subject to electronic
16 monitoring and other restrictions; to provide for the criminal offenses of terroristic threat of
17 a school and terroristic act upon a school; to provide for penalties; to require annual site
18 threat assessments at each public school in this state; to require that such assessments inform

S. B. 61

- 1 -

19 school safety plans; to provide for who may conduct such assessments; to revise provisions
20 for school safety plans; to provide for definitions; to provide for related matters; to provide
21 for an effective date and applicability; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

24 Article 6 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
25 delinquency, is amended by revising Code Section 15-11-560, relating to concurrent and
26 original jurisdiction of superior court, as follows:

27 "15-11-560.

28 (a) Except as provided in subsection (b) of this Code section, the court shall have
29 concurrent jurisdiction with the superior court over a child who is alleged to have
30 committed a delinquent act which would be considered a crime if tried in a superior court
31 and for which an adult may be punished by loss of life, imprisonment for life without
32 possibility of parole, or confinement for life in a penal institution.

33 (b) The superior court shall have exclusive original jurisdiction over the trial of any
34 child 13 to 17 years of age who is alleged to have committed any of the following offenses:

- 35 (1) Murder;
36 (2) Murder in the second degree;
37 (3) Voluntary manslaughter;
38 (4) Rape;
39 (5) Aggravated sodomy;
40 (6) Aggravated child molestation;
41 (7) Aggravated sexual battery;
42 (8) Armed robbery if committed with a firearm;

(9) Aggravated assault if committed with a firearm ~~upon a public safety officer as such acts are prohibited under subsection (c) of Code Section 16-5-21; or~~

(10) Aggravated battery upon a public safety officer as such acts are prohibited under subsection (c) of Code Section 16-5-24;

(11) A terroristic act upon a school in violation of subsection (c) of Code Section 20-2-1181.1;

(12) Attempt to commit or conspiracy to commit murder; or

(13) Attempt to commit or conspiracy to commit any of the offenses provided for in paragraphs (4), (5), (6), (7), (8), (9), (10), and (11) of this subsection.

(c) The granting of bail or pretrial release of a child charged with an offense enumerated in subsection (b) of this Code section shall be governed by the provisions of Code Section 17-6-1.

~~(d)~~(1) At any time before indictment, the district attorney may, after investigation and for cause, decline prosecution in the superior court of a child 13 to 17 years of age alleged to have committed an offense specified in subsection (b) of this Code section. Upon declining such prosecution in the superior court, the district attorney shall cause a petition to be filed in the appropriate juvenile court for adjudication within 72 hours if the child is in detention or 30 days if the child is not in detention.

(2)(A) Except as provided in paragraph (8) of subsection (b) of Code Section 15-11-602 or subparagraph (B) of this paragraph, any case transferred by the district attorney to the juvenile court pursuant to this subsection shall be subject to the class A designated felony act provisions of Code Section 15-11-602, and the transfer of the case from superior court to juvenile court shall constitute notice to such child that such case is subject to the class A designated felony act provisions of Code Section 15-11-602.

(B) Any case transferred by the district attorney to the juvenile court pursuant to this subsection involving a child 13 to 17 years of age alleged to have committed an offense

specified in paragraph (13) of subsection (b) of this Code section shall not be subject to subparagraph (A) of this paragraph.

(e)(1) After indictment, the superior court may after investigation transfer to the juvenile court any case involving a child 13 to 17 years of age alleged to have committed any act described in paragraph (3), (5), (6), (7), (9), ~~or~~ (10), (11), (12), or (13) of subsection (b) of this Code section. In considering the transfer of such case, the court shall consider the criteria set forth in Code Section 15-11-562. Any such transfer shall be appealable by the State of Georgia pursuant to Code Section 5-7-1. Upon such a transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction of the superior court shall terminate.

(2)(A) Except as provided in paragraph (8) of subsection (b) of Code Section 15-11-602 or subparagraph (B) of this paragraph, any case transferred by the superior court to the juvenile court pursuant to this subsection shall be subject to the class A designated felony act provisions of Code Section 15-11-602, and the transfer of the case from superior court to juvenile court shall constitute notice to such child that such case is subject to the class A designated felony act provisions of Code Section 15-11-602.

(B) Any case transferred by the superior court to the juvenile court pursuant to this subsection involving a child 13 to 17 years of age alleged to have committed an offense specified in paragraph (13) of subsection (b) of this Code section shall not be subject to subparagraph (A) of this paragraph.

(f) The superior court may transfer any case involving a child 13 to 17 years of age alleged to have committed any offense enumerated in subsection (b) of this Code section and convicted of a lesser included offense not included in subsection (b) of this Code section to the juvenile court of the county of such child's residence for disposition. Upon such a transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction of the superior court shall terminate.

(g) Within 30 days of any proceeding in which a child 13 to 17 years of age is convicted of certain offenses over which the superior court has original jurisdiction as provided in subsection (b) of this Code section or adjudicated as a delinquent child on the basis of conduct which if committed by an adult would constitute such offenses, the superior court shall provide written notice to the school superintendent or his or her designee of the school in which such child is enrolled or, if the information is known, of the school in which such child plans to be enrolled at a future date. Such notice shall include the specific criminal offense that such child committed. The local school system to which such child is assigned may request further information from the court's file.

(h) As used in this Code section, the term 'firearm' means a handgun, rifle, shotgun, or other weapon which will or can be converted to expel a projectile by the action of an explosive or electrical charge."

SECTION 2.

Said article is further amended by revising subsection (a) of Code Section 15-11-562, relating to transfer criteria and written report, as follows:

"(a) The criteria that the juvenile court shall consider in determining whether to transfer an alleged delinquent child as set forth in subsection (a) of Code Section 15-11-561 to superior court and the criteria that the superior court shall consider in determining whether to transfer any case involving a child 13 to 17 years of age alleged to have committed any act described in paragraph (3), (5), (6), (7), (9), or (10), ~~(11), (12), or (13)~~ of subsection (b) of Code Section 15-11-560 to juvenile court as set forth in subsection (e) of Code Section 15-11-560 includes, but shall not be limited to:

- (1) The age of such child;
- (2) The seriousness of the alleged offense, especially if personal injury resulted;
- (3) Whether the protection of the community requires transfer of jurisdiction;

- (4) Whether the alleged offense involved violence or was committed in an aggressive or premeditated manner;
- (5) The impact of the alleged offense on the alleged victim, including the permanence of any physical or emotional injury sustained, health care expenses incurred, and lost earnings suffered;
- (6) The culpability of such child including such child's level of planning and participation in the alleged offense;
- (7) Whether the alleged offense is a part of a repetitive pattern of offenses which indicates that such child may be beyond rehabilitation in the juvenile justice system;
- (8) The record and history of such child, including experience with the juvenile justice system, other courts, supervision, commitments to juvenile institutions, and other placements;
- (9) The sophistication and maturity of such child as determined by consideration of his or her home and environmental situation, emotional condition, and pattern of living;
- (10) The program and facilities available to the juvenile court in considering disposition; and
- (11) Whether or not a child can benefit from the treatment or rehabilitative programs available to the juvenile court."

SECTION 3.

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended by revising Code Section 20-2-701, relating to responsibility for reporting truants to juvenile or other courts, as follows:

"20-2-701.

(a) Local school superintendents as applied to private schools, the Department of Education as applied to home study programs, or visiting teachers and attendance officers as applied to public schools, after written notice to the parent or guardian of a child, shall

report to the juvenile or other court having jurisdiction under Chapter 11 of Title 15 any child who is absent from a public or private school or a home study program in violation of this subpart. If the judge of the court places such child in a home or in a public or private institution pursuant to Chapter 11 of Title 15, school shall be provided for such child. The Department of Education shall coordinate with local school superintendents with respect to attendance records and notification for students in home study programs.

(b)(1) Except as prohibited by Code Section 15-11-710, each superior court and juvenile court in this state and the Department of Juvenile Justice, the Department of Human Services, and the Division of Family and Children Services shall notify the local school system or other public school in which a child is enrolled or would be enrolled by virtue of his or her residence when such court or state agency has ordered that such child shall be subject to electronic monitoring, as such term is defined in Code Section 42-3-111; an intensive supervision program; or a home confinement program.

(2) A local school system or public school that receives information provided for in paragraph (1) of this subsection shall:

(A) Maintain the confidential nature of such information; and

(B) Be authorized to utilize such information for purposes of promoting and protecting the safety of such child and the school community.

(3) There shall be no presumption that a local school system will utilize the information provided for in paragraph (1) of this subsection to the detriment of such child."

SECTION 4.

Said chapter is further amended in Article 27, relating to loitering at or disrupting schools, by adding a new Code section to read as follows:

"20-2-1181.1.

(a) As used in this Code section, the term:

(1) 'Hazardous substance' shall have the same meaning as set forth in Code Section 12-8-92.

(2) 'Weapon' shall have the same meaning as set forth in Code Section 16-5-44.1. Such term shall include, but shall not be limited to, each item included in paragraph (4) of subsection (a) of Code Section 16-11-127.1.

(b) A person commits the offense of a terroristic threat of a school when he or she threatens to commit any crime of violence, release any hazardous substance, or burn or damage property and such threat is made:

(1) With the purpose of terrorizing another who at the time of such threat is physically present:

(A) On public or private school operated property, including, but not limited to, school buildings and school grounds;

(B) On a school bus or other vehicle furnished by a public or private school for the transportation of students; or

(C) At a public or private school sponsored activity;

(2) With the purpose of causing the evacuation of:

(A) Public or private school operated property, including, but not limited to, school buildings and school grounds; or

(B) A school bus or other vehicle furnished by a public or private school for the transportation of students; or

(3) In reckless disregard of the risk of causing the terror or evacuation described in paragraph (1) or (2) of this subsection.

(c) A person commits the offense of a terroristic act upon a school when he or she commits an act of using a weapon or flaming symbol or flambeau, releasing any hazardous substance or any simulated hazardous substance under the guise of a hazardous substance, or, while not in the commission of a lawful act, shooting at or throwing an object at a

conveyance which is being operated or which is occupied by passengers and such act is committed:

(1) With the purpose of terrorizing another who at the time of such act is physically present:

(A) On public or private school operated property, including, but not limited to, school buildings and school grounds;

(B) On a school bus or other vehicle furnished by a public or private school for the transportation of students; or

(C) At a public or private school sponsored activity;

(2) With the purpose of causing the evacuation of:

(A) Public or private school operated property, including, but not limited to, school buildings and school grounds; or

(B) A school bus or other vehicle furnished by a public or private school for the transportation of students; or

(3) In reckless disregard of the risk of causing the terror or evacuation described in paragraph (1) or (2) of this subsection.

(d)(1) A person convicted of the offense of a terroristic threat of a school shall be punished as for a misdemeanor; provided, however, that, if the threat suggested the death of any person, the person shall be guilty of a felony and upon conviction thereof shall be punished by a fine of not more than \$1,000.00, imprisonment for not less than one nor more than five years, or both; and provided, further, that, if any person suffers a serious physical injury as a direct result of a threat giving rise to a conviction under subsection (b) of this Code section, the person shall be guilty of a felony and upon conviction thereof shall be punished by a fine of not more than \$250,000.00, imprisonment for not less than five nor more than 40 years, or both.

(2) A person convicted of the offense of a terroristic act upon a school shall be guilty of a felony and upon conviction thereof shall be punished by a fine of not more

than \$5,000.00, imprisonment for not less than one nor more than ten years, or both; provided, however, that, if any person suffers a serious physical injury as a direct result of an act giving rise to a conviction under subsection (c) of this Code section, the person shall be guilty of a felony and upon conviction thereof shall be punished by a fine of not more than \$250,000.00, imprisonment for not less than five nor more than 40 years, or both."

SECTION 5.

Said chapter is further amended by revising Code Section 20-2-1185, relating to school safety plans and drills, as follows:

"20-2-1185.

(a) As used in this Code section, the term 'site threat assessment' means conducting an evaluation for purposes of most effectively preventing, reducing, or responding to threats of violence, mass casualty incidents and other acts of terrorism, natural disasters, and hazardous materials accidents.

(b)(1) By June 1 of each year, each public school in this state shall have performed a site threat assessment of its buildings, facilities, and campuses by a law enforcement agency or other appropriate government agency or by an individual or entity certified and approved pursuant to paragraph (2) of this subsection. Such site threat assessment shall inform the preparation and maintenance of a school safety plan as provided for in subsection (c) of this Code section.

(2) The Georgia Emergency Management and Homeland Security Agency shall be exclusively authorized to certify and approve private individuals and entities to provide site threat assessments to public schools in this state. Beginning January 1, 2026, the Georgia Emergency Management and Homeland Security Agency shall maintain a list of individuals and entities that are certified and approved for purposes of this Code section to provide site threat assessments to public schools.

(c)(1) ~~Each~~ Every public school in this state shall prepare and annually review and update as necessary a school safety plan to help curb the growing incidence of violence in schools, to respond effectively to such incidents, and to provide a safe learning environment for Georgia's children, teachers, and other school personnel. Such plan shall also address preparedness for natural disasters, hazardous materials or radiological accidents, acts of violence, and acts of terrorism. School safety plans of public schools shall be prepared with input from students enrolled in that school, parents or legal guardians of such students, teachers in that school, community leaders, other school employees and school district employees, and local law enforcement, juvenile court, fire service, public safety, and emergency management agencies. As part of such plans, public schools shall provide for the coordination with local law enforcement agencies and the local juvenile court system. Such plans of public schools shall be submitted to the local law enforcement agency designated as having approval authority by the local board of education.

(2) School safety plans shall include, at a minimum, the following strategy areas:

~~(1)~~(A) Training school administrators, teachers, and support staff, including, but not limited to, school resource officers, security officers, secretaries, custodians, and bus drivers, on school violence prevention, school security, school threat assessment, mental health awareness, and school emergency planning best practices;

~~(2)~~(B) Evaluating and refining school security measures;

~~(3)~~(C) Updating and exercising school emergency preparedness plans;

~~(4)~~(D) Strengthening partnerships with public safety officials; ~~and~~

~~(5)~~(E) Creating enhanced crisis communications plans and social media strategies;

(F) Addressing security issues in school safety zones, as defined in Code Section 16-11-127.1;

(G) Addressing security issues involving school functions held during noninstructional hours; and

(H) Addressing security issues involving the transportation of students to and from school and school functions when such transportation is furnished by the school.

(3) The school safety plan of each public school shall be submitted to the Department of Education after the approval of such plan by a local law enforcement agency designated as having approval authority by the local board of education. The Department of Education shall publish on its public website a list of all public schools that have completed and all public schools that are delinquent in completing the site threat assessment required in subsection (b) of this Code section.

(d) School safety plans of private schools may be prepared with input from students enrolled in that school, parents or legal guardians of such students, teachers in that school, other school employees, and local law enforcement, fire service, public safety, and emergency management agencies. Such plans shall be reviewed and, if necessary, updated annually. ~~Such plans of public schools shall be submitted to the local emergency management agency, the local law enforcement agency, and the Georgia Emergency Management and Homeland Security Agency for approval.~~

~~(b)~~(e) A public school may request funding assistance from the state for facilities, technology, or other safety improvements or initiatives, such as the installation of safety equipment, including, but not limited to, video surveillance cameras, metal detectors, alarms, communications systems, building access controls, and other similar security devices. The Department of Education shall establish criteria that will be applied in reviewing funding requests pursuant to this subsection which shall take into consideration the physical security needs of the public school in evaluating how the school safety plan and funding request will support such physical security needs. Funding may be provided to a public school in accordance with a school safety plan prepared by the school and approved ~~by the local board of education, the local law enforcement agency, the Department of Education, and the Georgia Emergency Management and Homeland Security Agency~~ as provided for in subsection (c) of this Code section; provided, however,

that a public school shall be required to match the state funding with local funds unless the school can demonstrate a substantial hardship.

~~(c) School safety plans prepared by public schools shall address security issues in school safety zones as defined in Code Section 16-11-127.1. School safety plans should also address security issues involving the transportation of pupils to and from school and school functions when such transportation is furnished by the school or school system and school functions held during noninstructional hours.~~

~~(d)~~(f) The Georgia Emergency Management and Homeland Security Agency shall provide training and technical assistance to public school systems, and may provide this same training and technical assistance to private school systems and independent private schools throughout this state in the area of emergency management and safe school operations. This training and technical assistance shall include, but not be limited to, crisis response team development, site surveys and ~~safety audits~~ site threat assessments, crisis management planning, exercise design, safe school planning, emergency operations planning, search and seizure, bomb threat management, and model school safety plans.

~~(e)~~(g)(1) Every public school shall conduct drills with students, school administrators, teachers, and other school personnel on the execution of school safety plans in such form and at such intervals based upon guidance from the Georgia Emergency Management and Homeland Security Agency.

(2) By October 1 of each school year, every public school shall conduct an intruder alert drill for students, school administrators, teachers, and other school personnel based upon guidance from the Georgia Emergency Management and Homeland Security Agency. Each local school system or public school governing body shall promptly report to the Georgia Emergency Management and Homeland Security Agency the completion of such drills. All students shall participate in intruder alert drills provided for in this paragraph; provided, however, that the governing body of a local school system or public school may provide an option for a child's parent or legal guardian to elect, in writing, that such child

333 not participate in intruder alert drills. As used in this paragraph, the term 'intruder alert
334 drill' means a set of procedures designed to familiarize the occupants of a building with
335 ways to protect themselves against potential threats posed by an intruder who possesses
336 or is suspected of possessing a weapon, as defined in Code Section 20-2-742."

337 **SECTION 6.**

338 This Act shall become effective upon its approval by the Governor or upon its becoming law
339 without such approval; provided, however, that Section 4 of this Act shall be applicable to
340 offenses committed on or after such date.

341 **SECTION 7.**

342 All laws and parts of laws in conflict with this Act are repealed.