

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH80302-LT-127 (4/10)

Short Title: Juvenile DWI/Detention & Study Sanctions. (Public)

Sponsors: Representative Glazier.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE COURT MAY ORDER SECURE CUSTODY OF
A JUVENILE WHEN THE JUVENILE IS CHARGED WITH A VIOLATION OF
EITHER DRIVING WHILE IMPAIRED OR UNDERAGE DRINKING AND TO
AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY
THE DISPOSITIONAL ALTERNATIVES FOR JUVENILES WHO ARE
ADJUDICATED DELINQUENT FOR A DRIVING WHILE IMPAIRED OR AN
UNDERAGE DRINKING VIOLATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-1903(b) reads as rewritten:

"(b) When a request is made for secure custody, the court may order secure custody only where the court finds there is a reasonable factual basis to believe that the juvenile committed the offense as alleged in the petition, and that one of the following circumstances exists:

- (1) The juvenile is charged with a felony and has demonstrated that the juvenile is a danger to property or persons.
- (2) The juvenile has demonstrated that the juvenile is a danger to persons and is charged with either (i) a misdemeanor at least one element of which is assault on a person or (ii) a misdemeanor in which the juvenile used, threatened to use, or displayed a firearm or other deadly weapon.
- (2a) The juvenile has demonstrated that the juvenile is a danger to persons and is charged with a violation of G.S. 20-138.1 or G.S. 20-138.3.
- (3) The juvenile has willfully failed to appear on a pending delinquency charge or on charges of violation of probation or post-release supervision, providing the juvenile was properly notified.

- 1 (4) A delinquency charge is pending against the juvenile, and there is
2 reasonable cause to believe the juvenile will not appear in court.
- 3 (5) The juvenile is an absconder from (i) any residential facility operated
4 by the Department or any detention facility in this State or (ii) any
5 comparable facility in another state.
- 6 (6) There is reasonable cause to believe the juvenile should be detained for
7 the juvenile's own protection because the juvenile has recently suffered
8 or attempted self-inflicted physical injury. In such case, the juvenile
9 must have been refused admission by one appropriate hospital, and the
10 period of secure custody is limited to 24 hours to determine the need
11 for inpatient hospitalization. If the juvenile is placed in secure custody,
12 the juvenile shall receive continuous supervision and a physician shall
13 be notified immediately.
- 14 (7) The juvenile is alleged to be undisciplined by virtue of the juvenile's
15 being a runaway and is inappropriate for nonsecure custody placement
16 or refuses nonsecure custody, and the court finds that the juvenile
17 needs secure custody for up to 24 hours, excluding Saturdays,
18 Sundays, and State holidays, or where circumstances require, for a
19 period not to exceed 72 hours to evaluate the juvenile's need for
20 medical or psychiatric treatment or to facilitate reunion with the
21 juvenile's parents, guardian, or custodian.
- 22 (8) The juvenile is alleged to be undisciplined and has willfully failed to
23 appear in court after proper notice; the juvenile shall be brought to
24 court as soon as possible and in no event should be held more than 24
25 hours, excluding Saturdays, Sundays, and State holidays or where
26 circumstances require for a period not to exceed 72 hours."

27 **SECTION 2.** The Legislative Research Commission may study dispositional
28 alternatives for juveniles who are adjudicated delinquent for an offense that is a
29 violation of G.S. 20-138.1, Impaired Driving, or G.S. 20-138.3, Driving By Persons
30 Less Than 21 Years Old After Consuming Alcohol or Drugs. In conducting its study,
31 the Commission shall consider the offense classifications and dispositions set forth in
32 G.S. 7B-2508 and shall determine whether violations of G.S. 20-138.1 and
33 G.S. 20-138.3 should be classified as violent, serious, or minor. In addition, the
34 Commission shall review the delinquency history level points assigned to the offense
35 classifications pursuant to G.S. 7B-2507 and shall determine the appropriate points to be
36 assigned for violations of G.S. 20-138.1 and G.S. 20-138.3. The Legislative Research
37 Commission may make an interim report, including any legislative proposals, to the
38 2007 General Assembly, Regular Session 2008, and shall make its final report to the
39 2009 General Assembly upon its convening.

40 **SECTION 3.** Section 1 of this act becomes effective December 1, 2007, and
41 applies to offenses committed on or after that date. The remainder of this act is
42 effective when it becomes law.