

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1481

Short Title: Juvenile DWI/Detention & Study Sanctions.

(Public)

Sponsors: Representatives Glazier; and Cotham.

Referred to: Judiciary II.

April 16, 2007

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT THE COURT MAY ORDER SECURE CUSTODY OF
2 A JUVENILE WHEN THE JUVENILE IS CHARGED WITH A VIOLATION OF
3 EITHER DRIVING WHILE IMPAIRED OR UNDERAGE DRINKING AND TO
4 AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY
5 THE DISPOSITIONAL ALTERNATIVES FOR JUVENILES WHO ARE
6 ADJUDICATED DELINQUENT FOR A DRIVING WHILE IMPAIRED OR AN
7 UNDERAGE DRINKING VIOLATION.
8

9 The General Assembly of North Carolina enacts:

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

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

- 15 (1) The juvenile is charged with a felony and has demonstrated that the
16 juvenile is a danger to property or persons.
17 (2) The juvenile has demonstrated that the juvenile is a danger to persons
18 and is charged with either (i) a misdemeanor at least one element of
19 which is assault on a person or (ii) a misdemeanor in which the
20 juvenile used, threatened to use, or displayed a firearm or other deadly
21 weapon.
22 (2a) The juvenile has demonstrated that the juvenile is a danger to persons
23 and is charged with a violation of G.S. 20-138.1 or G.S. 20-138.3.
24 (3) The juvenile has willfully failed to appear on a pending delinquency
25 charge or on charges of violation of probation or post-release
26 supervision, providing the juvenile was properly notified.
27 (4) A delinquency charge is pending against the juvenile, and there is
28 reasonable cause to believe the juvenile will not appear in court.

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

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

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