

## HB492 INTRODUCED



1 HB492  
2 W1WII5E-1  
3 By Representatives Pettus, Bedsole, Treadaway, Stringer,  
4 Reynolds, Bolton  
5 RFD: Judiciary  
6 First Read: 01-Apr-25



SYNOPSIS:

Under existing law, a juvenile court has exclusive original jurisdiction over a delinquent act committed by a child.

Also under existing law, a nonfelony offense or water safety offense committed by a child 14 or 15 years of age, other than driving under the influence or operation of a vessel while under the influence, is a delinquent act for purposes of juvenile proceedings.

This bill would provide that a nonfelony offense or water safety offense committed by a child 14 or 15 years of age, other than driving under the influence or operation of a vessel while under the influence, is not a delinquent act for purposes of juvenile proceedings.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to juvenile offenders; to amend Section 12-15-102, Code of Alabama 1975, to further provide for what qualifies as a delinquent act for purposes of juvenile proceedings.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



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Section 1. Section 12-15-102, Code of Alabama 1975, is amended to read as follows:

"§12-15-102

~~When used in~~ For the purposes of this chapter, the following ~~words and phrases~~ terms have the following meanings:

(1) ADULT. An individual 19 years of age or older.

(2) AFTERCARE. Conditions and supervision as the juvenile court orders after release from the Department of Youth Services.

(3) CHILD. An individual under ~~the age of~~ 18 years of age, or under 21 years of age and before the juvenile court for a delinquency matter arising before that individual's 18th birthday, or under 19 years of age and before the juvenile court for a child in need of supervision matter or commitment to the State Department of Mental Health, or under 19 years of age and before the juvenile court for a proceeding initiated under Section 12-15-115(b)(2). Where a delinquency petition alleges that an individual, prior to the individual's 18th birthday, has committed an offense for which there is no statute of limitation pursuant to Section 15-3-5, the term ~~child~~ also ~~shall include~~ includes the individual subject to the petition, regardless of the age of the individual at the time of filing.

(4) CHILD IN NEED OF SUPERVISION. A child who has been adjudicated by a juvenile court for doing any of the following and who is in need of care, rehabilitation, or supervision:

a. Being subject to the requirement of compulsory school attendance, is habitually truant from school as defined



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by the State Board of Education in the Alabama Administrative Code. Notwithstanding the foregoing, a child shall not be found in need of supervision pursuant to this subdivision if the juvenile court determines that the parent, legal guardian, or legal custodian of the child was solely responsible for the nonattendance of the child.

b. Disobeys the reasonable and lawful demands of his or her parent, legal guardian, or legal custodian and is beyond the control of the parent, legal guardian, or legal custodian.

c. Leaves, or remains away from, the home without the permission of the parent, legal guardian, legal custodian, or person with whom he or she resides.

d. Commits an offense established by law but not classified as criminal.

(5) CHILD'S ATTORNEY. A licensed attorney who provides legal services for a child, or for a minor in a mental commitment proceeding, and who owes the same duties of undivided loyalty, confidentiality, and competent representation to the child or minor as is due an adult client.

(6) DELINQUENT ACT. An act committed by a child that is designated a violation, misdemeanor, or felony offense pursuant to the law of the municipality, county, or state in which the act was committed or pursuant to federal law. This term shall not apply to any of the following:

a. An offense when committed by a child 16 or 17 years of age as follows:

1. A nonfelony traffic offense or water safety offense



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other than one charged pursuant to Section 32-5A-191 or 32-5A-191.3 or a municipal ordinance prohibiting the same conduct.

2. A capital offense.

3. A Class A felony.

4. A felony which has as an element the use of a deadly weapon.

5. A felony which has as an element the causing of death or serious physical injury.

6. A felony which has as an element the use of a dangerous instrument against any person who is one of the following:

(i) A law enforcement officer or official.

(ii) A correctional officer or official.

(iii) A parole or probation officer or official.

(iv) A juvenile court probation officer or official.

(v) A district attorney or other prosecuting officer or official.

(vi) A judge or judicial official.

(vii) A court officer or official.

(viii) ~~A person~~ An individual who is a grand juror, juror, or witness in any legal proceeding of whatever nature when the offense stems from, is caused by, or is related to the role of the ~~person~~ individual as a juror, grand juror, or witness.

(ix) A teacher, principal, or employee of the public education system of Alabama.

7. Trafficking in drugs in violation of Section



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13A-12-231, or as the same may be amended.

8. Any lesser included offense of the offenses in subparagraphs 1. to 7., inclusive, charged or any lesser felony offense charged arising from the same facts and circumstances and committed at the same time as the offenses listed in subparagraphs 1. to 7., inclusive.

b. Any criminal act, offense, or violation committed by a child under ~~the age of~~ 18 years of age who has been previously convicted or adjudicated a youthful offender.

c. A nonfelony traffic offense or water safety offense, other than one charged pursuant to Sections 32-5A-191 or 32-5A-191.3 or a municipal ordinance prohibiting the same conduct, committed by a child 14 or 15 years of age.

(7) DELINQUENT CHILD. A child who has been adjudicated for a delinquent act and is in need of care or rehabilitation.

(8) DEPENDENT CHILD. a. A child who has been adjudicated dependent by a juvenile court and is in need of care or supervision and meets any of the following circumstances:

1. Whose parent, legal guardian, legal custodian, or other custodian subjects the child or any other child in the household to abuse, as defined in Section 12-15-301, or neglect, as defined in Section 12-15-301, or allows the child to be so subjected.

2. Who is without a parent, legal guardian, or legal custodian willing and able to provide for the care, support, or education of the child.

3. Whose parent, legal guardian, legal custodian, or



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other custodian neglects or refuses, when able to do so or when the service is offered without charge, to provide or allow medical, surgical, or other care necessary for the health or well-being of the child.

4. Whose parent, legal guardian, legal custodian, or other custodian fails, refuses, or neglects to send the child to school in accordance with the terms of the compulsory school attendance laws of this state.

5. Whose parent, legal guardian, legal custodian, or other custodian has abandoned the child, as defined in ~~subdivision (1) of~~ Section 12-15-301.

6. Whose parent, legal guardian, legal custodian, or other custodian is unable or unwilling to discharge his or her responsibilities to and for the child.

7. Who has been placed for care or adoption in violation of the law.

8. Who, for any other cause, is in need of the care and protection of the state.

b. The commission of one or more status offenses as defined in ~~subdivision (4) of~~ Section 12-15-201 is not a sufficient basis for an adjudication of dependency.

(9) DETENTION. The temporary placement of children alleged or adjudicated to be delinquent in secure custody as defined herein pending juvenile court disposition or transfer to a residential facility for further care of a child adjudicated delinquent.

(10) GUARDIAN AD LITEM. A licensed attorney appointed by a juvenile court to protect the best interests of an



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individual without being bound by the expressed wishes of that individual.

(11) INTAKE OFFICER. A juvenile probation officer or an employee of the judicial branch of government, who is neutral and detached from executive and legislative branch activities, designated by the juvenile court judge to initiate original delinquency, dependency, and child in need of supervision cases, as well as cases designated in Section 12-15-132, before the juvenile court. The juvenile court intake officer shall be appointed a magistrate pursuant to Rule 18, Alabama Rules of Judicial Administration, to issue warrants of arrest for individuals 18 years of age or older committing criminal offenses under the jurisdiction of the juvenile court.

(12) JUVENILE COURT. The juvenile or family court division of the circuit or district court having jurisdiction over matters as provided by this chapter.

(13) JUVENILE DETENTION FACILITY. Any facility owned or operated by the state, any county, or other legal entity licensed by and contracted with the Department of Youth Services for the detention of children.

(14) LAW ENFORCEMENT OFFICER. Any ~~person~~individual, however denominated, who is authorized by law to exercise the police powers of the state, a county, or local governments.

(15) LEGAL CUSTODIAN. A parent, person, agency, or department to whom legal custody of a child under the jurisdiction of the juvenile court pursuant to this chapter has been awarded by order of the juvenile court or other court of competent jurisdiction.





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(16) LEGAL CUSTODY. A legal status created by order of the juvenile court which vests in a legal custodian the right to have physical custody of a child under the jurisdiction of the juvenile court pursuant to this chapter and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, clothing, education, and medical care, all subject to the powers, rights, duties, and responsibilities of the legal guardian of the person of the child and subject to any residual parental rights and responsibilities. A parent, person, agency, or department granted legal custody shall exercise the rights and responsibilities personally, unless otherwise restricted by the juvenile court.

(17) LEGAL GUARDIAN. A person who has been appointed by a probate court pursuant to the Alabama Uniform Guardianship and Protective Proceedings Act, Chapter 2A (commencing with Section 26-2A-1) of Title 26 to be a guardian of ~~a person~~ an individual under 19 years of age who has not otherwise had the disabilities of minority removed. This term does not include a guardian ad litem as defined in this section.

(18) MINOR. An individual who is under ~~the age of 19~~ years of age and who is not a child within the meaning of this chapter.

(19) PARENT. The legal mother or the legal father of a child under the jurisdiction of the juvenile court pursuant to this chapter.

(20) PICK-UP ORDER. In any case before the juvenile court, an order directing any law enforcement officer or other



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person authorized by this chapter to take a child into custody and to deliver the child to a place of detention, shelter, or other care designated by the juvenile court.

(21) PROBATION. The legal status created by order of the juvenile court following an adjudication of delinquency or in need of supervision whereby a child is permitted to remain in a community subject to supervision and return to the juvenile court for violation of probation at any time during the period of probation.

(22) RESIDENTIAL FACILITY. A dwelling, other than a detention or shelter care facility, providing living accommodations, care, treatment, and maintenance for children, including, but not limited to, institutions, foster family homes, group homes, half-way houses, and forestry camps operated, accredited, or licensed by a federal or state department or agency.

(23) RESIDUAL PARENTAL RIGHTS AND RESPONSIBILITIES. Those rights and responsibilities remaining with a parent after a transfer of legal custody of a child under the jurisdiction of the juvenile court pursuant to this chapter, including, but not necessarily limited to, the right of visitation, the right to withhold consent to adoption, the right to determine religious affiliation, and the responsibility for support, unless determined by order of the juvenile court not to be in the best interests of the child.

(24) SECURE CUSTODY. As used with regard to juvenile detention facilities and the Department of Youth Services, this term means residential facilities with construction



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features designed to physically restrict the movements and activities of ~~persons~~individuals in custody such as locked rooms and buildings, including rooms and buildings that contain alarm devices that prevent departure~~,~~, fences~~,~~, or other physical structures. This term does not include facilities where physical restriction of movement or activity is provided solely through facility staff.

(25) SHELTER CARE. The temporary care of children in group homes, foster care, relative placement, or other nonpenal facilities."

Section 2. This act shall become effective on October 1, 2025.