

SUMMARY OF GEORGIA JUVENILE COURT PROCESS

- **Complaint/Charge:**
 - A complaint or charge starts the process through which the child may be adjudicated “delinquent”, “unruly”, or prosecuted for commission of a crime as an adult.
 - Children in the court system can be referred to the court through law enforcement charges or from parents and other citizens.
 - Children are required to be advised of their Miranda rights when they are arrested in Georgia.

- **Intake/Temporary Detention**
 - Child is brought into detention for administrative purposes once the complaint or charge has been issued. ¹
 - Probation officer receives complaint and considers the commencement of a case in Juvenile Court.²
 - The probation officer may decide to handle the case informally, in which case he/she must file an Informal Adjustment Agreement with the clerk of the Juvenile Court.³
 - After a case has been referred to the court but prior to beginning of the initial conference regarding the complaint between a child and an officer of the court the child must be advised of their rights.⁴
 - Probation officers may also make the determination whether a child should be detained until his/her probable cause hearing. A juvenile may be detained if detention or care is required to protect the person or property of others or of the child. ⁵

- * **Indictment under SB440**
 - Juveniles 13 years of age or older who have committed one of Georgia’s “seven deadly sins” (murder, rape, armed robbery -with a firearm, aggravated child molestation, aggravated sodomy, aggravated sexual battery and voluntary manslaughter) are automatically prosecuted for these crimes in Superior Court. ⁶
 - If convicted in Superior Court, the child is committed to the Department of Corrections until he/she is 17, until which he/she must also be housed in a special youth confinement unit reaching the age of 17.⁷

- **Probable Cause (Informal Detention) Hearing**

¹ O.C.G.A. § 15-11-24.2

² O.C.G.A. § 15-11-24.2(2)

³ URJC Rule 4.3

⁴ URJC Rule 4.7

⁵ O.C.G.A. § 15-11-46

⁶ O.C.G.A. § 15-11-28(b)

⁷ O.C.G.A. § 15-11-62

- The Court determines whether there is adequate evidence which would justify allowing the case to proceed and a petition to be filed.
 - This hearing must occur within 48 hours of the arrest if the child is held in custody without an arrest warrant, and within 72 hours if the child has been detained pursuant to an arrest warrant.⁸
 - Child has right to counsel at this hearing.⁹
 - Hearsay is admissible at this hearing.
- **Detention Hearing**
 - The court determines whether the Juvenile should be held in detention until the Adjudicatory hearing.
- **Petition Filed**
 - The petition is the formal instrument alleging that a child is delinquent or unruly.
 - A delinquent act is defined as:¹⁰
 - an act which is a crime as defined by the laws of Georgia or another state if the crime occurred there
 - Disobeying the terms of probation or the Court's supervision
 - Failing to appear as required by a citation issued for violation of O.C.G.A. § 3-3-23 (Underage possession of alcohol)
 - An unruly child is a child who:¹¹
 - Is habitually truant from school
 - Habitually disobeys his or her parents/guardians and is “ungovernable”.
 - Has committed a “status offense”, an offense applicable only to a child;
 - Runs away from home;
 - Wanders or loiters about the streets of any city, or in or about any highway or any public place, between the hours of 12:00 Midnight and 5:00 A.M.;
 - Disobeys the terms of supervision contained in a court order which has been directed to such child, who has been adjudicated unruly;
 - Has committed a delinquent act and is in need of supervision, but not of treatment or rehabilitation; or
 - Patronizes any bar where alcoholic beverages are being sold, unaccompanied by such child's parents, guardian, or custodian, or possesses alcoholic beverages; and
 - In any of the foregoing, is in need of supervision, treatment, or rehabilitation; or

⁸ O.C.G.A. § 15-11-49

⁹ O.C.G.A. § 15-11-6

¹⁰ O.C.G.A. § 15-11-2

¹¹ O.C.G.A. § 15-11-2(12)

- The petition must be filed within 72 hours of the informal Probable Cause hearing if the child is being detained, or within 30 days if the child has been released from custody.
 - It is often filed at the Probable Cause hearing, and the Detention Hearing then usually proceeds at the same court session as the Probable Cause hearing.
 - The petition may only be filed if the court or someone authorized by the court has determined that doing so is in the best interests of the child.¹²
- **Discretion to Transfer to Superior Court**
 - If the Juvenile Court thinks the child should be prosecuted in Superior Court, it must hold a hearing to determine whether a transfer should be made.
 - At any stage after the petition has been filed and before the case has been adjudicated, the Court then has discretion to transfer the child's case to Superior Court if the child is over 13 and has committed a crime punishable by death or life imprisonment or has committed a crime causing serious bodily injury to a victim.¹³
 - The court may transfer a case involving a juvenile over 15 regardless of the act which caused the allegation of delinquency.
 - These transfers terminate the jurisdiction of the Juvenile Court over the child.
 - When objected to at trial, statements made by child at Juvenile hearings are not admissible in Superior Court.¹⁴
- **Adjudicatory Hearing**
 - The Court hears the petition against the child on its merits and formally determines whether the child is "delinquent" or "unruly", depending on the nature of the petition.
 - Must occur within 10 days if the child is being detained; within 60 days otherwise.¹⁵
 - Like criminal cases, the state has the burden to prove the case beyond a reasonable doubt.¹⁶
 - If the child has not admitted to the charge, and/or the judge determines that the state has not proven the case beyond a reasonable doubt, the child's case is dismissed and no further hearings are required.

¹² O.C.G.A. § 15-11-36

¹³ O.C.G.A. § 15-11-30.2

¹⁴ O.C.G.A. § 15-11-30.2(e)

¹⁵ O.C.G.A. § 15-11-39

¹⁶ O.C.G.A. § 15-11-65

- **Dispositional Hearing**

- Usually immediately after, but no later than 30 days after adjudication of delinquency or unruliness, the court must determine whether the child is in need of treatment, rehabilitation, or supervision.¹⁷
- The child has the burden of proof to show by a preponderance of the evidence that he/she is not in need of treatment, rehabilitation, or supervision if he/she has been adjudicated delinquent or unruly.¹⁸
- If Court finds child does not need treatment, rehabilitation, or supervision it shall dismiss the proceedings and release child from detention or any restrictions previously imposed.¹⁹
- If the court adjudicates the child delinquent it may order:²⁰
 - Any disposition authorized for a deprived child under O.C.G.A. § 15-11-35.
 - Probation under conditions the Court prescribes, even if their ramifications extend beyond the child's 18th birthday.²¹
 - Commitment to the Department of Juvenile Justice for two years.
 - Restitution to the victim of the offense.
 - Community Service
 - Fines not exceeding \$10,000.
 - Suspension or prohibition of the issuance of the child's driver's license
 - The child to complete high school or obtain GED as a condition of probation.
 - A child who is not committed to DJJ to serve up to 90 days in a Youth Development Center.
 - The child's parent(s) or guardian to participate in counseling.²²
- If the court adjudicates the child unruly, it may order all of the above, except that the child may not be committed to the Department of Juvenile Justice unless it expressly finds that the child is not amenable to treatment or rehabilitation.²³
- If the Court adjudicates the child delinquent pursuant to his/her committing an act for which the child could have been prosecuted in Superior Court (a "designated felony act"), the court may order "restrictive custody". This includes 5-year commitment to the Department of Juvenile Justice, with at least one year being served at a Youth Development Center. In addition, the child's school is

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ O.C.G.A. § 15-11-66

²¹ *In the Interest of A.H.S.*, 223 Ga. App. 824, 479 S.E.2d 157 (1996)

²² O.C.G.A. § 15-11-68

²³ O.C.G.A. § 15-11-67

given a copy of the Court's findings, and the child is subject to fingerprinting and photographing requirements as if he/she were an adult.²⁴

- **Post Disposition**

- A child has the right to appeal in the same manner as a criminal defendant.²⁵
- The Court may extend the Department of Juvenile Justice's custody over the child upon motion of the DJJ.²⁶

²⁴ O.C.G.A. § 15-11-63

²⁵ O.C.G.A. § 15-11-3

²⁶ O.C.G.A. § 15-11-70