

## Summary of HB 1500

- HB 1500 modifies O.C.G.A. § 15-11-63 also known as the designated felony statute. HB 1500 adds new crimes to the existing designated felony statute, lowers the age under which children can be prosecuted under the act, and lowers the age at which children can be held in secure confinement for crimes committed under the act.
- HB 1500 adds the SB 440 crimes or seven deadly sins to the list of designated felonies when committed by children under 13. The new designated felony crimes for children younger than 13 are murder, voluntary manslaughter, rape, aggravated sodomy, aggravated child molestation, aggravated sexual battery, and armed robbery. Under current law, children younger than 13 can not be prosecuted under the designated felony statute for these crimes, rather these children are prosecuted under the delinquency statute.
- The proposed legislation also drops the minimum age at which children can be prosecuted for certain crimes. Children younger than 13 could be charged under the designated felony statute for kidnapping, attempted murder, attempted kidnapping, hijacking a motor vehicle, manufacturing transporting, distributing, or possessing explosive devices, distributing explosive devices, poisonous gas, or a detonator, and a second charge related to possession of a pistol or revolver. Current law does not allow children under 13 to be charged under the designated felony statute for these crimes, rather these children are prosecuted under the delinquency statute.
- Children who are ten years old and commit certain designated felony acts would be subject to court ordered restrictive confinement for up to five years. Crimes that could result in court ordered restrictive confinement for children ten and older are murder, voluntary manslaughter, rape, aggravated child molestation, aggravated sodomy, aggravated sexual battery, armed robbery with a firearm, aggravated battery, aggravated assault with serious physical injury, or carrying a weapon within school zones. A child must be at least 13 years old on the day the offense is committed for all other designated felony acts before the judge can order restrictive confinement. Under current law, juvenile courts cannot order restrictive confinement for children younger than 13. The current designated felony statute allows children 13- 17 years of age to be committed to the custody of DJJ for five years with at least 12 months to be spent in a YDC.
- The proposed legislation gives judges discretion as to whether or not to order restrictive confinement. Judges could choose not to order restrictive confinement, or order any amount of restrictive confinement up to a maximum of 60 months / 5 years. The legislation requires restrictive confinement when a child inflicts serious physical injury on an elderly person 62 years old or older.
- The proposed legislation adds certain procedural protections for children charged with designated felonies. Before a child can waive the right to counsel, a hearing must be held where the judge must ascertain that the child's waiver is knowing and voluntary. The law includes an extensive list of rights and potential consequences that the child must be aware of before being allowed to waive counsel. Additionally, before a court accepts a waiver of counsel from a child who is less than 13 years of age, the court must order the child to undergo a competency evaluation.
- HB 1500 also modifies current laws regarding confidentiality. For example, it would allow the general public to attend adjudicatory hearings in designated felony cases regarding children ten and older

### Summary HB 1500(continued)

who commit specific crimes<sup>1</sup>. Current law allows the public to attend hearings if it is the second delinquency adjudication for the child. HB 1500 would close hearings involving allegations of sexual misconduct. The existing law only closes hearings involving allegations of sexual assault. With regard to records, HB 1500 provides that records for children thirteen or younger when the committed the offense will be sealed even if the general public was allowed to attend the adjudicatory hearing.

- HB 1500 adds language to specify that the child's age or immaturity may be used as a basis for determining his or her mental competency.

---

<sup>1</sup> These offenses are murder, voluntary manslaughter, rape, aggravated child molestation, aggravated sodomy, aggravated sexual battery, armed robbery with a firearm, aggravated battery, aggravated assault with serious physical injury, or carrying a weapon within school zones..