

PRE-HB 304

HB 304 SCHOOL BASED BEHAVIORS

**EFFECTIVE
MAY 3, 2023**

Truancy had its own carve out which allowed schools to refer directly to court until 2022.

All class C misdemeanor, infraction, or status offenses including truancy, alternative programming first.

Alternative programming:

- a mobile crisis outreach team
- a youth services center
- a youth court or comparable restorative justice program
- an evidence-based alternative intervention created and developed by the school or school district
- an evidence-based alternative intervention that is jointly created and developed by a LEA, USBE, the juvenile court, local counties and municipalities, the Department of HHS

Alternative programming:

- a mobile crisis outreach team
- a youth services center
- a youth court or comparable restorative justice program
- an evidence-based alternative intervention created and developed by the school or school district
- an evidence-based alternative intervention that is jointly created and developed by a LEA, USBE, the juvenile court, local counties and municipalities, the Department of HHS
- **a tobacco cessation or education program if the offense is a violation of Section 76-10-105**

For class C misdemeanors and truancy, if a youth refuses to participate in alternative programming then the school can refer youth to JJYS Prevention and Early Intervention.

For **class C misdemeanors, infraction, or status offenses**, if a youth refuses to participate in alternative programming then the school can refer youth to JJYS Prevention and Early Intervention.

Traffic that is an infraction, schools or a school resource officer may refer the minor to a law enforcement officer or agency, a prosecuting attorney, or a court for the traffic offense.

NO POLICY CHANGE UNDER HB304

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For class C misdemeanors and truancy, may refer to court if:

- youth refuses to participate in an evidence-based alternative intervention and
- fails to participate in JJYS prevention and early intervention services

For **class C misdemeanors, infraction, or status offenses**, may refer to court if:

- the youth allegedly committed the same offense on school property on **two previous occasions and**
- the youth was referred to an evidence-based alternative intervention, or to JJYS Prevention and Early Intervention Services **for both of the two previous offenses**

If a youth is referred to a court or a law enforcement officer or agency, the school shall appoint a school representative to continue to engage with the minor and the minor's family through the court process. This representative cannot be an SRO.

NO POLICY CHANGE UNDER HB304

A SRO may:

- investigate possible criminal offenses and conduct, including conducting probable cause searches
- consult with school administration about the conduct of a minor enrolled in a school
- transport a minor enrolled in a school to a location if the location is permitted by law
- take temporary custody of a minor in accordance with Section 80-6-201
- protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances

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Reintegration Plan

If a school receives a notification from the juvenile court or a law enforcement agency that a student was arrested for, charged with, or adjudicated in the juvenile court for a violent felony (76-3-203.5) or weapons offense (76-10-5) the school shall develop a reintegration plan for the student with a multidisciplinary team, the student, and the student's parent or guardian, within five days after the day on which the school receives a notification.

"Multidisciplinary team" means the local education agency, the juvenile court, JJYS, a school resource officer if applicable, and any other relevant party that should be involved in a reintegration plan.

The reintegration plan shall include:

- a behavioral intervention for the student;
- a short-term mental health or counseling service for the student; and
- an academic intervention for the student.

The school may deny admission to the student until the plan is complete.

Notifications to a school

Adds a requirement for notification to a school official within 5 days after the day on which a minor is taken into custody, as opposed to the notice being required "as soon as practicable" when a minor is taken into temporary custody for a qualifying violent or weapons offense. In addition, the bill adds a mandate for the Court to order a juvenile probation officer to notify the appropriate local law enforcement agency and the school official of the juvenile court's order for probation.

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HB 304 SYSTEM IMPACT

**EFFECTIVE
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A minor referred to a court may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-353, when the underlying offense is a class C misdemeanor occurring on school property or habitual truancy.

A minor referred to a court may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-353, when the underlying offense is **a status offense or infraction.**

Adds machinegun firearm attachment to the list prohibited possession of certain weapons by minors.

A youth is eligible for an NJA if the youth:

- is referred for an offense that is a misdemeanor, infraction, or status offense;
- has no more than two prior adjudications; and
- has no more than three prior unsuccessful nonjudicial adjustment attempts; or
- the minor is referred for an offense that is alleged to have occurred before the minor was 12 years old

A youth is eligible for an NJA if the youth:

- is referred for an offense that is a misdemeanor, infraction, or status offense;
- has no more than **two** prior adjudications; and
- has no more than **two** prior unsuccessful nonjudicial adjustment attempts; or
- the minor is referred for an offense that is alleged to have occurred before the minor was 12 years old

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HB 304 SYSTEM IMPACT

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Offenses not eligible for an NJA offer: an offense alleged to have occurred when the minor was 12 years old or older that is a felony offense; or a misdemeanor violation of:

- Section 41-6a-502, driving under the influence;
- Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;
- Section 76-5-206, negligent homicide;
- Section 76-9-702.1, sexual battery;
- Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises;
- Section 76-10-509, possession of a dangerous weapon by minor, but only if the dangerous weapon is a firearm; or
- The minor has a current suspended order for custody under Section 80-6-711

Offenses not eligible for an NJA offer: an offense alleged to have occurred when the minor was 12 years old or older that is a felony offense; or a misdemeanor violation of:

- Section 41-6a-502, driving under the influence;
- **Section 76-5-107, threat of violence;**
- **Section 76-5-107.1, threats against schools;**
- Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;
- Section 76-5-206, negligent homicide;
- Section 76-9-702.1, sexual battery;
- Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises;
- **Section 76-10-506, threatening with or using a dangerous weapon in fight or quarrel;**
- **Section 76-10-507, possession of a deadly weapon with criminal intent;**
- **Section 76-10-509, possession of a dangerous weapon by a minor; or**
- **Section 76-10-509.4, prohibition of possession of certain weapons by minors**

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HB 304 SYSTEM IMPACT

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Offenses not eligible for an NJA offer:
or an offense alleged to have occurred
before the minor is 12 years old that is a
felony violation of:

- Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- Section 76-5-202, aggravated murder or attempted aggravated murder;
- Section 76-5-203, murder or attempted murder;
- Section 76-5-302, aggravated kidnapping;
- Section 76-5-405, aggravated sexual assault;
- Section 76-6-103, aggravated arson;
- Section 76-6-203, aggravated burglary;
- Section 76-6-302, aggravated robbery; or
- Section 76-10-508.1, felony discharge of a firearm

NO POLICY CHANGE UNDER HB304

The juvenile probation officer shall
request that a prosecuting attorney
review a referral if:

- the referral involves an offense listed above; or
- the minor has a current suspended order for custody under Section 80-6-711

NO POLICY CHANGE UNDER HB304

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HB 304 JUVENILE DATA REPORTING

**EFFECTIVE
MAY 3, 2023**

Ensure that data reporting is expanded and routinely review data in additional areas, including:

- referral and disposition data by judicial district
- data on the length of time minors spend in the juvenile justice system, including the total time spent under court jurisdiction, on community supervision, and in each out-of-home placement
- recidivism data for minors who are diverted to a nonjudicial adjustment under Section 80-6-304 and minors for whom dispositions are ordered under Section 80-6-701, including tracking minors into the adult corrections system
- change in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement
- dosage of programming

Requires before July 1 of each year, the courts shall submit to CCJJ the following data elements broken down by judicial district, for the preceding calendar year

- the number of referrals to the juvenile court
- the number of minors diverted to a nonjudicial adjustment
- the number of minors that satisfy the conditions of a nonjudicial adjustment
- the number of minors for whom a petition for an offense is filed
- the number of minors for whom an information is filed
- the number of minors bound over to the district court
- the number of petitions for offenses that were dismissed
- the number of adjudications
- the number of guilty pleas entered into by minors
- the number of dispositions resulting in secure care, community-based placement, formal probation, and intake probation

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JUVENILE
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Requires before July 1 of each year, the courts shall submit to CCJJ the following data elements broken down by judicial district, for the preceding calendar year for each minor charged in the juvenile court with a firearm-related offense:

- the minor's age at the time the offense was committed or allegedly committed
- the minor's zip code at the time that the offense was referred to the juvenile court;
- whether the minor is a restricted person under Subsection 76-10-503(1)(a)(iv) or (1)(b)(ii)
- the type of offense for which the minor is charged
- the outcome of the minor's case in juvenile court, including whether the minor was bound over to the district court or adjudicated by the juvenile court
- if a disposition was entered by the juvenile court, whether the disposition resulted in secure care, community-based placement, formal probation, or intake probation.

CCJJ to collaborate with the courts and JJYS to collect data for the preceding calendar year on:

- the length of time minors spend in the juvenile justice system, including the total time spent under court jurisdiction, on community supervision, and in each out-of-home placement
- recidivism data for minors who are diverted to a nonjudicial adjustment under Section 80-6-304 and minors for whom dispositions are ordered under Section 80-6-701, including tracking minors into the adult corrections system
- change in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement
- dosage of programming

CCJJ will need to report on or before October 1 to the Judiciary Interim Committee and the Law Enforcement and Criminal Justice Interim Committee. This report should also include recommendations for legislative action with respect to the data.