

Delinquent Juveniles

I. Law Enforcement Procedures [G.S. 7B-2000 through 7B-2109]

- A. Ordinarily law enforcement may fingerprint or photograph a juvenile only after obtaining a nontestimonial identification order. However, a law enforcement officer or agency must fingerprint and photograph a juvenile any time all of the following circumstances exist:
 - 1. the juvenile was ten years old or older when he or she allegedly committed a non-divertible offense (murder, first- or second-degree rape, first- or second-degree sexual offense, arson, a felony drug offense under Article 5 of G.S. Chapter 90, first-degree burglary, crime against nature, a felony involving the willful infliction of serious bodily injury, or a felony committed by use of a deadly weapon); and
 - 2. a complaint has been prepared for filing as a petition; and
 - 3. the juvenile is in the physical custody of law enforcement or the Department of Juvenile Justice and Delinquency Prevention (DJJDP).
- B. A county detention facility must photograph any juvenile in its custody who was at least ten years of age when the juvenile allegedly committed a nondivertible offense.
- C. Unless fingerprints and a photograph were taken under A or B (above) and have not been destroyed, a law enforcement officer or agency must photograph and fingerprint a juvenile who has been adjudicated delinquent, if the juvenile was ten years old or older when he or she committed an offense that would be a felony if committed by an adult.
- D. Nontestimonial identification procedures (including fingerprints and photographs other than those under the procedures described above) may be done only with a court order issued at the request of the prosecutor. [Note that the affidavit submitted with a request to take a blood specimen must show probable cause (not just reasonable grounds) to believe the juvenile committed the offense.]
- E. Law enforcement officer may take a juvenile into “temporary custody,” without a court order, in the same circumstances an officer can arrest an adult without a warrant.
- F. Before in-custody interrogation, a juvenile (under age 18) must be given the usual Miranda warning and also must be told that he/she has a right to have a parent, guardian, or custodian present.
 - 1. A juvenile under age 14 cannot waive the right to have a parent, guardian, or custodian present.
 - 2. No one else can waive the juvenile’s rights on the juvenile’s behalf.

II. Jurisdiction [G.S. 7B-1600 through 7B-1604]

- A. Juvenile procedures apply when an offense allegedly was committed by a juvenile who was at least 6 and not yet 16 at the time of the offense.
- B. Jurisdiction may continue until the juvenile is 18, 19, or 21, depending on the offense, unless terminated by the court earlier.
- C. If proceeding is not completed before juvenile becomes 18, for a felony committed while age 13, 14, or 15, court has jurisdiction for limited purpose of holding probable cause and transfer hearings.

III. Intake, Diversion, and Petitions [G.S. Ch. 7B, Articles 17 and 18]

- A. A complaint filed with the juvenile court counselor becomes a petition when the court counselor checks “approved for filing” and signs the form.
- B. After evaluating a complaint, the court counselor may dismiss it, divert it, or approve it for filing, but after finding reasonable grounds to believe the juvenile committed a “nondivertible” offense, must approve the filing of the petition. These offenses are:
 - 1. Murder;
 - 2. First-degree rape or second-degree rape;
 - 3. First-degree sexual offense or second-degree sexual offense;
 - 4. Arson;
 - 5. Any felony violation of Article 5 of G.S. Chapter 90;
 - 6. First-degree burglary;
 - 7. Crime against nature; or
 - 8. Any felony that involves willful infliction of serious bodily injury on another or that was committed by use of a deadly weapon.
- C. If the court counselor dismisses or diverts a complaint (does not approve the filing of a petition) the complainant has a right to have that decision reviewed by the prosecutor.
- D. A petition can be filed only in the district in which the offense allegedly occurred.
- E. Petition is filed with magistrate if clerk’s office is closed.

IV. Secure Custody [G.S. 7B-1902 through 7B-1907]

- A. Petition must be filed (with clerk, or magistrate if the clerk’s office is closed) before a secure custody order is entered.
- B. The court may order secure custody only after finding a reasonable factual basis to believe
 - 1. that the juvenile committed the offense alleged in the petition and
 - 2. that one of the following applies:
 - a. The juvenile is charged with a felony and has demonstrated that s/he is a danger to property or persons.
 - b. The juvenile is charged with a misdemeanor, at least one element of which is assault on a person, and has demonstrated that s/he is a danger to persons.
 - c. The juvenile is charged with a misdemeanor in which the juvenile used, threatened to use, or displayed a firearm or other deadly weapon, and the juvenile has demonstrated that s/he is a danger to persons.
 - d. The juvenile has demonstrated that the juvenile is a danger to persons and is charged with a violation of G.S. 20-138.1 (impaired driving) or 20-138.3 (driving after consuming alcohol or drugs).
 - e. The juvenile was properly notified and willfully failed to appear on a pending delinquency charge or charges of violation of probation or post-release supervision.
 - f. A delinquency charge is pending and there is reasonable cause to believe the juvenile will not appear in court.
 - g. The juvenile is an absconder from any residential facility operated by DJJDP, any detention facility in this state, or any comparable facility in another state.
 - h. There is reasonable cause to believe the juvenile should be detained for his/her own protection because s/he has recently suffered or attempted self-inflicted

physical injury; and the juvenile has been refused admission by one appropriate hospital. [Custody is limited to 24 hours to determine need for hospitalization.]

- i. The juvenile is alleged to have violated the conditions of his/her probation or post-release supervision and the juvenile is alleged to have committed acts that damage property or injure persons.
- C. If the secure custody order is issued by a judge, the juvenile may not be held in secure custody for more than five calendar days without either a hearing on the merits or a hearing to determine the need for continued custody. This hearing may not be continued or waived.
- D. If the secure custody order is issued by a court counselor to whom the chief district judge has delegated authority, a hearing to determine the need for continued custody must be held on the day of the next regularly scheduled session of district court in the city or county where the order was entered or, if that would be longer than five calendar days, at another regularly scheduled session of district court in the district in which the order was entered. This hearing may not be continued or waived.
- E. If the juvenile remains in custody after the hearing required by C. or D., above, hearings to determine the need for continued secure custody must be held at intervals of no more than ten calendar days. These hearings may be waived with the juvenile's consent.
- F. At every hearing on the need for continued secure custody,
 1. the state has the burden of providing clear and convincing evidence that restraints on the juvenile's liberty are necessary and that no less intrusive alternative will suffice;
 2. the court is not bound by the usual rules of evidence;
 3. the court is bound by the criteria set out in B.2., above, in determining whether continued custody is warranted; and
 4. the court may release the juvenile subject to appropriate restrictions on his/her liberty.

V. First Appearance in Felony Cases [G.S. 7B-1808]

- A. Required for every juvenile alleged to be delinquent for committing a felony.
- B. Must be held within ten days after the petition is filed.
 1. If the juvenile is in secure or nonsecure custody, the first appearance takes place at the first hearing on the need for continued custody.
 2. If the juvenile is not in custody, the court may continue the first appearance to a time certain, for good cause.
- C. At the first appearance, the court must
 1. inform the juvenile of the allegations in the petition;
 2. appoint counsel for the juvenile if the juvenile is not represented by counsel;
 3. inform the juvenile of the date of the probable cause hearing if one is required; and
 4. inform the parent, guardian, or custodian that he or she is required to attend all hearings scheduled in the matter and may be held in contempt for failing to do so.

VI. Probable Cause and Transfer Hearings [G.S. 7B-2200 through 7B-2204; 7B-2603]

- A. The court must conduct a probable cause hearing in any case in which a juvenile is alleged to be delinquent for committing a felony offense while age thirteen, fourteen, or fifteen, unless the juvenile's counsel signs a waiver and stipulates to a finding of probable cause.

- B. The probable cause hearing must be held within fifteen days after the juvenile's first appearance unless the court continues it for good cause.
- C. After finding probable cause for first-degree murder, the court must transfer the case to superior court.
- D. Upon finding probable cause for any other felony, the court must determine whether the juvenile should remain in juvenile court or be transferred to superior court.
- E. A case may be transferred on the court's own motion as well as motion of the juvenile or the prosecutor.
- F. The probable cause hearing and the transfer hearing are separate. They may occur on the same day unless (1) the juvenile has not received at least five days' notice of the intent to seek transfer and (2) the juvenile requests a continuance.
- G. The court must consider the following factors in deciding whether to transfer, and a transfer order must state the reason for transfer.
 - 1. The juvenile's age and maturity.
 - 2. The juvenile's intellectual functioning.
 - 3. The juvenile's prior record and any prior attempts to rehabilitate the juvenile.
 - 4. Facilities or programs available to the court before the expiration of the court's jurisdiction, and the likelihood that the juvenile would benefit from treatment or rehabilitative efforts.
 - 5. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.
 - 6. The seriousness of the offense and whether the protection of the public requires that the juvenile be prosecuted as an adult.
- H. The juvenile may appeal the transfer to superior court for a hearing on the record. Notice of appeal must be given in open court or in writing within ten days after entry of the order. A juvenile who does not appeal a transfer order to superior court cannot raise the issue of transfer in an appeal to the court of appeals after a conviction in superior court.
- I. A juvenile whose case is transferred to superior court
 - 1. is entitled to pretrial release,
 - 2. if not released, must be held in a juvenile detention facility pending trial.

VII. Adjudicatory Hearing [G.S. 7B-2400 through 7B-2414]

- A. The hearing must be held "within a reasonable time" in the district in which the offense allegedly occurred.
- B. If there is an issue as to the juvenile's capacity to proceed, the provisions of G.S. 15A-1001, -1002, and -1003 apply.
- C. The juvenile either "admits" or "denies" the allegations in the petition, and the court may accept a juvenile's admission only after
 - 1. complying fully with the requirements of G.S. 7B-2407(a) with regard to addressing the juvenile personally,
 - 2. determining that the admission is the juvenile's informed choice, and
 - 3. determining that there is a factual basis for the admission.
- D. Before admitting into evidence any statement resulting from custodial interrogation of the juvenile, the court must find that the juvenile knowingly, willingly, and understandingly waived his/her rights.

- E. The state has the burden of proving the allegations in the petition beyond a reasonable doubt.
- F. Jeopardy attaches in the adjudicatory hearing when the court begins to hear evidence.
- G. Testing for alcohol and substance abuse.
 - 1. If a juvenile is adjudicated delinquent for an offense involving possession, use, sale, or delivery of alcohol or a controlled substance, the court must order that the juvenile be tested for use of controlled substances or alcohol within thirty days of the adjudication.
 - 2. After a juvenile is adjudicated delinquent for any offense the court may require the juvenile to be tested for the use of controlled substances or alcohol.
 - 3. In either case, results of these initial tests may be used only for evaluation and treatment purposes.
- H. After adjudication, the court may
 - 1. proceed to disposition after receiving a court report, including a risk and needs assessment;
 - 2. continue the case for disposition; or
 - 3. transfer the case to the district of the juvenile's residence for disposition. (The case must be transferred if transfer is desired by the chief district court judge of the juvenile's home district or by the juvenile, unless the juvenile is in a residential facility or foster care in the district in which the offense occurred.)

VIII. Determining Dispositional Options for Delinquent Juveniles

Within statutory guidelines, the court must select a disposition designed to protect the public and to meet the needs and best interests of the juvenile, based on:

- the seriousness of the offense;
- the need to hold the juvenile accountable;
- the importance of protecting the public safety;
- the degree of culpability indicated by the circumstances of the case;
- the rehabilitative and treatment needs of the juvenile, as indicated by a risk and needs assessment; and
- appropriate community resources available to meet the juvenile's needs.

Dispositions Available in Every Case

Dismissal or Continuance [G.S. 7B-2501(d)]

At the dispositional hearing in any case, the court may

- 1. dismiss the case, or
- 2. continue the case for up to 6 months to give the family an opportunity to meet the juvenile's needs through
 - a. more adequate supervision at home,
 - b. placement in a private or specialized school or agency,
 - c. placement with a relative, or
 - d. some other plan that the court approves.

Evaluation and Treatment [G.S. 7B-2502]

In every case, the court may order

1. examination of the juvenile by an expert.
2. medical, surgical, psychiatric, psychological, or other evaluation or treatment for the juvenile (and may order a parent or the county to pay for it).
3. testing of the juvenile for controlled substances or alcohol (required if adjudication is for an offense that involves possession, use, sale, or delivery of alcohol or a controlled substance).

If there is evidence that the juvenile is mentally ill or developmentally disabled, the court must refer him/her to the local mental health, developmental disabilities, and substance abuse services director for an interdisciplinary evaluation and the mobilization of resources to meet the juvenile's needs.

The court may never commit the juvenile directly to a state hospital or mental retardation center. Except for purposes of an evaluation of the juvenile's competence to proceed, a juvenile's admission to a state hospital must be by consent of an authorized person or by way of an involuntary commitment proceeding.

Level 1 Dispositions [G.S. 7B-2506(1) – (13), (16); G.S. 7B-2508(c)]

In addition to the evaluation, treatment, dismissal, and continuance options described above, the Juvenile Code lists twenty-four dispositional alternatives that are divided into three “levels” —

- Community (Level 1)
- Intermediate (Level 2)
- Commitment (Level 3)

Community (Level 1) dispositions are available in every case in which a juvenile has been adjudicated delinquent. Specific factors discussed below determine whether the court must select a disposition from Level 2 or Level 3, but even when that is the case, the court also may select a Level 1 disposition. So, following adjudication in any case, the court may:

1. order
 - a. supervision of the juvenile in his own home, subject to conditions placed on the juvenile or the parent; or
 - b. placement of the juvenile in the custody of a parent, a relative, DSS, or another suitable person.
2. excuse the juvenile from compulsory school attendance when suitable alternative plans can be arranged.
3. order the juvenile to cooperate, for up to 12 months, with
 - a community-based program,
 - an intensive substance abuse treatment program, or
 - a residential or nonresidential treatment program.
4. order the juvenile to pay restitution of up to \$500.
5. impose a fine (not to exceed maximum fine for an adult for the same offense).
6. order the juvenile to perform up to 100 hours of community service.
7. order the juvenile to participate in a victim-offender reconciliation program.
8. place the juvenile on probation.
9. order that the juvenile not have a driver's license.
10. impose a curfew.

11. order the juvenile not to associate with particular people or be in specific places.
12. order intermittent detention for up to five 24-hour periods specified by the court.
13. order the juvenile to cooperate with placement in a wilderness program.
14. order the juvenile to cooperate with a supervised day program.

In some cases these, along with the options described on the preceding page, are the only dispositional options available to the court.

Dispositions Available in Only Some Cases

Level 2 Dispositions [G.S. 7B-2506(13) – (23); G.S. 7B-2508(d)]

As explained further below, in some cases the court is required to order at least one intermediate (Level 2) disposition. In some cases the court has the option of ordering a Level 2 disposition but may choose to order only a Level 1 disposition. And in other cases the court may either commit the juvenile to the Department of Juvenile Justice and Delinquency Prevention or order at least one Level 2 disposition.

Two dispositional options – placement in a wilderness program and participation in a supervised day program – are categorized as both Level 1 and Level 2 dispositions. Thus, either of these may satisfy a requirement that the court order a Level 2 disposition, but they also are available when the court is limited to Level 1 dispositions.

When a Level 2 disposition is required or available, the court may:

1. order the juvenile to cooperate with placement in a wilderness program.
2. order the juvenile to cooperate with a supervised day program.
3. order the juvenile to cooperate with placement in a residential treatment facility, an intensive nonresidential treatment program, an intensive substance abuse program, or a group home other than a state-operated multipurpose group home.
4. place the juvenile on intensive probation.
5. order the juvenile to participate in a regimented training program.
6. order the juvenile to submit to house arrest.
7. suspend a more severe disposition, on the condition that the juvenile meet certain conditions agreed to by the juvenile.
8. order intermittent detention for up to fourteen 24-hour periods specified by the court.
9. place the juvenile in a state-operated residential multipurpose group home.
10. require the juvenile to pay restitution of more than five hundred dollars (\$500.00).
11. order the juvenile to perform up to 200 hours of community service.

Level 3 Disposition [G.S. 7B-2506(24); G.S. 7B-2508(e); G.S. 7B-2513]

The only Level 3 disposition is commitment of the juvenile to the Department of Juvenile Justice and Delinquency Prevention, for a period of at least six months, for placement in a youth development center. (While the commitment must last at least six months, after the department's initial assessment of the juvenile at a youth development center, the court may approve a plan for providing commitment services at a different location.)

NOTE: Virtually every commitment must:

- be for a minimum of six months;
- otherwise, be for an *indefinite* period of time;

- specify an absolute maximum (age 18, 19, or 21); and
- specify the time before which the juvenile must have notice and an opportunity for a hearing on extension of the commitment beyond (1) the adult maximum or (2) the juvenile's 18th birthday if extended commitment is an option in the case.

Determining Which Dispositions Are Available in a Particular Case

The evaluation, treatment, dismissal, continuance, and community (Level 1) dispositions are available in every case. Whether the court either may or must order an intermediate (Level 2) or commitment (Level 3) disposition depends primarily on two factors:

1. The nature of the adjudicated offense that is the basis for the disposition; and
2. The juvenile's history of prior delinquency adjudications, including whether the juvenile was on probation when s/he committed the offense for which a disposition is being ordered.

These two factors determine a cell on the "Dispositional Chart" that specifies either a level or a choice of two levels from which the court must select a disposition. Factors that come into play to determine whether an exception exists to the level(s) indicated on the Chart include:

3. Whether the juvenile previously has been committed to a youth development center or training school.
4. Whether the juvenile has been a "chronic" offender.
5. Whether the juvenile has "extraordinary needs."

These five factors are described below.

1. **Offense Classification.** Offenses are classified as:

- Violent: Class A through E felonies
- Serious: Class F through I felonies and Class A1 misdemeanors
- Minor: Class 1, 2, and 3 misdemeanors

A critical first step at every disposition is to determine the one offense that is the basis for the disposition. [It also is critical to distinguish between disposition hearings and hearings on violation of probation or post-release supervision, since different rules apply in violation hearings.] Multiple adjudications in the same session of court must be consolidated for disposition and be considered on the basis of the most serious offense.

First Determination: The disposition being entered is for a _____ (Violent, Serious, or Minor) offense.

2. **Delinquency History Level.** A juvenile has a low, medium, or high delinquency history level, based on any prior delinquency adjudications and the juvenile's probation status when the current offense was committed. (In this context, "prior" means before the date of the disposition hearing.) These are assigned points as follows:

- each prior adjudication of a Violent offense (Class A through E felony): 4 points
- each prior adjudication of a Serious offense

- (Class F through I felony or Class A1 misdemeanor): 2 points
- each prior adjudication of a Minor offense (Class 1, 2, or 3 misdemeanor): 1 point
- juvenile's status of being on probation when s/he committed the offense for which a disposition is being ordered: 2 points

If the juvenile was adjudicated delinquent for more than one offense in a single session of district court, only the adjudication for the offense with the highest point total is used. This rule applies even if the adjudications are for unrelated offenses that occurred on different dates. The key is whether they were adjudicated on the same date.

Points are never assigned for the offense for which a disposition is being ordered. Two points are added, however, if the offense for which disposition is being ordered was committed while the juvenile was on probation. (The juvenile's probation status when s/he committed any prior offenses is not relevant and does not result in the assignment of additional points.)

The juvenile's delinquency history level is classified as follows:

- Low: 0 – 1 point
- Medium: 2 – 3 points
- High: 4 or more points

Second Determination: The juvenile has _____ points and therefore has a _____ (Low, Medium, or High) delinquency history level.

Dispositional Chart for Delinquency Cases

Knowing the offense classification and the juvenile’s delinquency history level leads to a cell in the following Disposition Chart:

Offense	Delinquency History Level		
	Low (0-1 point)	Medium (2-3 points)	High (4 or more points)
Violent	Level 2 or 3	Level 3 ¹	Level 3 ¹
Serious	Level 1 or 2 ²	Level 2 ²	Level 2 or 3
Minor	Level 1	Level 1 or 2 ²	Level 2 ²

Third Determination: According to the Chart, the court must order a disposition from ___ Level 1 ___ Level 1 or 2 ___ Level 2 ___ Level 2 or 3 ___ Level 3.

Dispositional Chart Exceptions

- **Previous commitment.** [G.S. 7B-2508(d)]
When the Chart authorizes or requires a Level 2 disposition but not a Level 3 disposition, the court nevertheless may order a Level 3 disposition, *i.e.*, commit the juvenile to the Department of Juvenile Justice and Delinquency Prevention, if the juvenile has been committed before. This means that if the juvenile has been committed previously, he can be committed again at any subsequent delinquency disposition hearing.

- **History of chronic offending.** [G.S. 7B-2508(g)]
The Chart suggests that a Level 3 disposition is never an option when the court is ordering disposition for a minor offense, and that is almost always the case. The court may order a Level 3 disposition for a minor offense, however, if the juvenile has been adjudicated delinquent for four or more prior offenses. “Prior,” in this context, has a different meaning from the one used to determine a juvenile’s delinquency history level. Here, a prior offense is one that was committed and adjudicated before commission of the next offense. Each of the four or more successive offenses must be one that was committed after adjudication of the preceding offense.

- **Extraordinary needs.** [G.S. 7B-2508(e)]

¹ The court may order a Level 2 disposition if the court finds that the juvenile has extraordinary needs.

² The court may order a Level 3 disposition if the juvenile has been committed previously to a youth development center (or training school).

When the Chart indicates that only a Level 3 disposition may be ordered, the court nevertheless may order a Level 2 disposition instead, if the court makes written findings substantiating that the juvenile has extraordinary needs. The appellate courts have not had occasion to interpret “extraordinary needs.” The court of appeals, however, has expressed broad deference to trial courts’ discretion in ordering dispositions in delinquency cases. Affirming a trial court’s order committing a juvenile to the Department of Juvenile Justice and Delinquency Prevention, the court of appeals said the following:

Fourth Determination: Despite the level(s) indicated on the Chart, an exception authorizes the court to enter a disposition from
___ Level 2 ___ Level 3 ___ not applicable

Judicial Discretion

When the determination of available dispositions gives the court a choice between two levels, the court has considerable discretion in choosing between them. The court of appeals has said the following:

Once a juvenile is placed in a dispositional level, the statutes provide dispositional alternatives which may be utilized by the trial court. However, in those instances where there is a choice of level, there are no specific guidelines solely directed at resolving that issue. Accordingly, choosing between two appropriate dispositional levels is within the trial court’s discretion. Absent an abuse of discretion, we will not disturb the trial court’s choice. ‘An abuse of discretion occurs when the trial court’s ruling “is so arbitrary that it could not have been the result of a reasoned decision.”’ (citations omitted)

There are overall guidelines for the trial court within the Juvenile Code, however, including but not limited to, [section 7B-2501\(c\)](#) as well as [section 7B-2500](#), titled ‘Purpose,’ which provides:

The purpose of dispositions in juvenile actions is to design an appropriate plan to meet the needs of the juvenile and to achieve the objectives of the State in exercising jurisdiction, including the protection of the public. The court should develop a disposition in each case that:

- (1) Promotes public safety;
- (2) Emphasizes accountability and responsibility of both the parent, guardian, or custodian and the juvenile for the juvenile’s conduct; and
- (3) Provides the appropriate consequences, treatment, training, and rehabilitation to assist the juvenile toward becoming a nonoffending, responsible, and productive member of the community.

In re Robinson 151 N.C. App. 733, 737-738, 567 S.E.2d 227, 229-230 (2002).

IX. Probation [G.S. 7B-2510]

Conditions. When the court places a delinquent juvenile on probation, the court may impose conditions that are related to the juvenile's needs and that are reasonably necessary to ensure that the juvenile will lead a law-abiding life. The code lists a number of permissible conditions, including the following that were not specified in the former code:

- not violate any reasonable and lawful rules of a parent, guardian, or custodian;
- refrain from the use or possession of any controlled substance included in any schedule of the Controlled Substances Act, Article 5 of G.S. Chapter 90;
- refrain from the use or possession of any alcoholic beverage regulated under G.S. Ch. 18B;
- submit to random drug testing;
- abide by a prescribed curfew;
- submit to a warrantless search at reasonable times;
- not possess a firearm, explosive device, or other deadly weapon;
- satisfy any other conditions that the court determines to be appropriate.

In addition, the court may order the juvenile to comply, if directed to do so by the chief court counselor, with one or more of the following conditions:

1. perform up to twenty hours of community service
2. submit to substance abuse monitoring and treatment
3. participate in a life skills or educational skills program administered by the DJJDP
4. cooperate with electronic monitoring (but only if juvenile is subject to Level 2 disposition)
5. cooperate with intensive supervision (but only if juvenile is subject to Level 2 disposition)

Violations. After notice and a hearing, if the court finds by the greater weight of the evidence that the juvenile has violated the conditions of probation, the court may

1. continue the original conditions of probation,
 2. modify the conditions, or
 3. order a new disposition at the next higher level on the disposition chart.
- The court, however, may not order a Level 3 disposition for a probation violation by a juvenile who was adjudicated delinquent for a minor offense.
 - The court may include in a new disposition an order of confinement in a secure juvenile detention facility for up to twice the term that otherwise would be authorized.

Term. A term of probation may not exceed one year, unless the court extends it for one additional year. Upon finding that the juvenile no longer needs supervision, the court may terminate probation by entering an order either

1. in chambers, without the juvenile present, based on a report from the court counselor, or
2. with the juvenile present, after notice and a hearing.

X. Youth Development Center Commitments [G.S. 7B-2513 through 7B-2516]

- A. Every commitment of a juvenile to the DJJDP must be for a period of at least 6 months.

- B. Ordinarily, the length of the term beyond the 6-month minimum is indefinite; however, a definite commitment of no more than two years is an option if the juvenile
 - 1. is at least fourteen,
 - 2. has been adjudicated delinquent previously for two or more felony offenses, and
 - 3. has been committed to a youth development center previously.
- C. Any juvenile committed to DJJDP must be tested for use of controlled substances or alcohol. Results of initial tests may be used only for evaluation and treatment purposes.
- D. DJJDP may seek approval from the court to physically place a committed juvenile in a program located somewhere other than a youth development center or detention facility.
- E. A juvenile's commitment may never exceed
 - 1. the juvenile's 21st birthday, if the juvenile is committed for first-degree murder, first-degree rape, or first-degree sexual offense;
 - 2. the juvenile's 19th birthday, if the juvenile is committed for a Class B1, B2, C, D, or E felony other than one of the offenses listed above; or
 - 3. the juvenile's 18th birthday, if the juvenile is committed for any other offense.
- F. Except for the 6-month minimum, a juvenile ordinarily may not be kept in a youth development center longer than the maximum adult sentence for the same offense.
- G. A juvenile's commitment may be extended past the adult maximum or past age eighteen (in cases in which jurisdiction goes to age 19 or 21) only as follows:
 - 1. DJJDP determines longer period is necessary to carry out a plan of care or treatment.
 - 2. DJJDP notifies juvenile and parent, guardian, or custodian at least 30 days before end of the maximum commitment period or 30 days before the juvenile's 18th birthday, of
 - a. the proposed additional commitment period,
 - b. the basis for the proposed extended commitment, and
 - c. a plan for future care or treatment.
 - 3. The plan must specify goals and outcomes that require additional time, the proposed course of treatment or care, and efforts that will be made to help the family create an environment that will increase the likelihood that efforts to treat and rehabilitate the juvenile will be successful upon the juvenile's release.
 - 4. At the request of the juvenile or the juvenile's parent the court must conduct a hearing to review the DJJDP's decision to extend the commitment. The court may affirm or modify the DJJDP's decision. If none of those persons requests a review of the DJJDP's decision, it becomes the juvenile's new maximum commitment period.
- H. At the time of the initial commitment, the court must notify the juvenile of the maximum period of time the juvenile may remain committed before the DJJDP must make a determination about whether to extend the commitment.
- I. After release, every juvenile must be subject to post-release supervision for at least 90 days but not more than one year.
 - 1. On motion of the juvenile or the court counselor, or the court's own motion, the court may conduct a hearing to review the progress of a juvenile on post-release supervision.
 - 2. If the court finds that the juvenile has violated terms of post-release supervision, the court may revoke the post-release supervision or make any disposition authorized by the code.
 - 3. If the court revokes post-release supervision, juvenile must return to DJJDP for indefinite term of at least 90 days, subject to the maximum commitment periods described earlier.

XI. Authority over Parent, Guardian, or Custodian [G.S. 7B-1805; 7B-2700 to 7B-2707]

The court has jurisdiction over a juvenile's parent, guardian, or custodian if that person has been served with a summons in the case. The summons gives the parent, guardian, or custodian

notice of the kinds of orders the court may enter at disposition. It also notifies the parent, guardian, or custodian that proceedings for contempt may result from that person's failure, without reasonable cause, to attend scheduled hearings, bring the juvenile to court at any hearing the juvenile is required to attend, or comply with any order of the court.

The Code requires the parent, guardian, or custodian of a juvenile under the juvenile court's jurisdiction to attend all hearings of which that person has notice, unless the court has excused the person's appearance at a particular hearing or all hearings. After adjudication that a juvenile is delinquent, the court may order the juvenile's parent, guardian, or custodian to

- cooperate with and assist the juvenile in complying with the terms and conditions of probation or other court orders;
- attend parental responsibility classes, if these are available in the judicial district in which the person resides;
- provide transportation, to the extent the person is able to do so, for the juvenile to keep appointments with a court counselor or to comply with other orders of the court.

The court may order a parent who is able to do so to (1) pay a reasonable amount of child support; (2) pay a fee for probation supervision or residential facility costs; (3) assign private insurance coverage to cover medical costs while the juvenile is in detention, a youth development center, or other out-of-home placement; or (4) pay court-appointed attorney fees. The court also may order a parent to cooperate with treatment the juvenile needs; undergo treatment that the parent needs; and, if able to do so, pay for various evaluation and treatment the court orders.

To assist parents in complying with these requirements, the Code prohibits any employer from discharging, demoting, or denying a promotion or other benefit of employment to any employee because of that person's compliance with any obligations the code places on a juvenile's parent, guardian, or custodian.³

XII. Registration of Juvenile Sex Offender [G.S. 7B-2509; 14-208.26 to 14-208.32]

As part of a disposition, the court may order a juvenile to register with the sheriff if all of the following conditions are met:

- A. The juvenile was adjudicated delinquent for one of the following offenses:
 1. first or second degree rape,
 2. first or second degree sexual offense,
 3. attempted rape or sexual offense,
 4. aiding and abetting rape or sexual offense, or
 5. conspiracy or solicitation of another to commit rape or sexual offense.
- B. The juvenile was at least eleven years old when the offense was committed.
- C. The court finds that the juvenile is a danger to the community.

The court is never required to order a juvenile to register. If an adjudication of delinquency is based on one of the specified offenses, committed when the juvenile was at least eleven, the

³ The Code charges the Commissioner of Labor with enforcing the prohibition pursuant to Article 21 of G.S. Chapter 95. In that chapter, G.S. 95-241(a) prohibits any person from discriminating or taking retaliatory action against an employee because the employee in good faith complies or threatens to comply with obligations under the Juvenile Code.

court is required to consider whether the juvenile is a danger to the community and if the court finds that the juvenile is, to consider whether the juvenile should be required to register.

When a juvenile is required to register as part of a delinquency disposition, the information about the registered juvenile is available only to law enforcement agencies. The sheriff must maintain it separately, may not include it in the county or statewide registries, and may not make it available to the public via the internet or otherwise. The information is included in the Police Information Network. The registration requirement terminates automatically on the juvenile's eighteenth birthday or when the juvenile court's jurisdiction ends, whichever occurs earlier.

XIII. Modification and Termination of Disposition Orders [G.S. 7B-2600, 7B-2601]

The juvenile may make a motion for review at any time. After a hearing the court should determine whether the dispositional order is in the juvenile's best interest and may modify or vacate it based on changed circumstances or the needs of the juvenile. The court also may shorten or change the disposition if the court finds that it was imposed illegally or is "unduly severe" in relation to the seriousness of the offense, the juvenile's culpability, or dispositions given to other juveniles adjudicated delinquent for similar offenses.

The Department, through the court counselor, may initiate review hearings for alleged violations of probation or post-release supervision, or for any other reason. In the case of a juvenile who is committed to the Department for placement in a youth development center, the Department may seek a review and a modification of the disposition if it finds that the juvenile is not suitable for youth development center programs.

The court's jurisdiction over a juvenile does not end automatically just because the juvenile's probation, post-release supervision, commitment, treatment, or other specific dispositional requirement ends. Unless the court enters an order terminating jurisdiction earlier, the court's authority to enter or modify orders affecting the juvenile continues until

1. the juvenile's eighteenth birthday, or
2. the juvenile's nineteenth birthday if the juvenile was committed to a youth development center for an offense that would be a Class B1, B2, C, D, or E felony if committed by an adult, or
3. the juvenile's twenty-first birthday if the juvenile was committed to a youth development center for first-degree murder, first-degree rape, or first-degree sexual offense.

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