


**Overview of Delinquency Court in North Carolina**



November 12, 2013  
School of Government  
UNC at Chapel Hill

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**Juvenile and Criminal Court**

How are they different?

1. jurisdiction
2. purposes
3. terminology
4. parties
5. procedures
6. outcomes



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**Delinquent Conduct:**

- crime or infraction
- indirect contempt by a juvenile (including motor vehicle offenses)

by someone at least 6, not yet 16

G.S. 7B-1501(7)

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Purposes
<p style="text-align: center;"><b>N.C. Supreme Court</b> <b>In re D.L.H., 364 N.C. 214 (2010)</b></p> <p>“We begin our analysis by observing that the nature and purposes of juvenile proceedings remain distinct from those of criminal prosecutions.”</p>

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Juvenile Code Purposes
<ol style="list-style-type: none"><li>1. protection of public</li><li>2. deterrence of crime, delinquency, repeat offending</li><li>3. effective intake system</li><li>4. uniform procedures</li><li>5. swift, effective dispositions emphasizing accountability</li><li>6. appropriate rehabilitative services</li></ol>

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Disposition Purposes
<p>Design appropriate plan to:</p> <ol style="list-style-type: none"><li>1. meet juvenile’s needs and state’s objectives</li><li>2. promote public safety</li><li>3. emphasize parent’s and juvenile’s accountability</li><li>4. provide appropriate<ul style="list-style-type: none"><li>• consequences,</li><li>• treatment,</li><li>• training, and</li><li>• rehabilitation</li></ul></li></ol>
<p>Goal = for the juvenile to become a non-offending, responsible, productive member of community</p>

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**Language of Delinquency**

Terminology of juvenile court is a reminder

- that it is not criminal court, and
- of goals and purposes of juvenile proceedings.



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**Practice not saying**

- defendant
- guilty
- plea transcript
- order for arrest
- convicted
- sentence



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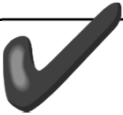
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**Practice saying**

- defendant = **juvenile**
- guilty = **delinquent**
- plea transcript = **transcript of admission**
- order for arrest = **secure custody order**
- convicted = **adjudicated delinquent**
- sentence = **disposition**



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Parties
<ul style="list-style-type: none"><li>✓ juvenile</li><li>✓ juvenile's parent, guardian, or custodian</li><li>✓ State</li></ul> <ul style="list-style-type: none"><li>• petitioner (initiates the court action)</li><li>• court counselor<ul style="list-style-type: none"><li>– screens and diverts complaints</li><li>– approves petitions for filing</li><li>– can make motions</li></ul></li></ul>

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Procedures
<ul style="list-style-type: none"><li>• law enforcement</li><li>• complaints, screening, diversion</li><li>• petitions</li><li>• custody and detention</li><li>• court hearings</li><li>• determining, applying, and enforcing dispositions</li></ul>

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Procedures		
<table border="1"><tr><td>What about Chapter 15A? A delinquency proceeding is not a criminal prosecution and is "not subject to the full range of criminal procedure provisions." <i>In re D.L.H.</i>, 364 N.C. 214 (2010).</td></tr></table> <table border="1"><tr><td>The Rules of Civil Procedure apply in some circumstances.</td></tr></table>	What about Chapter 15A? A delinquency proceeding is not a criminal prosecution and is "not subject to the full range of criminal procedure provisions." <i>In re D.L.H.</i> , 364 N.C. 214 (2010).	The Rules of Civil Procedure apply in some circumstances.
What about Chapter 15A? A delinquency proceeding is not a criminal prosecution and is "not subject to the full range of criminal procedure provisions." <i>In re D.L.H.</i> , 364 N.C. 214 (2010).		
The Rules of Civil Procedure apply in some circumstances.		

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Procedures
<ul style="list-style-type: none"><li>• no grand jury</li><li>• no jury trial</li><li>• no bail (unless transferred)</li><li>• automatic appointment of counsel: no self-representation or indigence determination</li></ul>

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Stages
<ol style="list-style-type: none"><li>1. request for <b>nontestimonial identification order</b></li><li>2. request for <b>secure custody order</b></li><li>3. <b>first appearance</b></li><li>4. hearings on <b>need for continued custody</b></li><li>5. <b>motions</b> hearings</li><li>6. <b>probable cause</b> and <b>transfer</b> hearings</li><li>7. <b>adjudication</b> hearing</li><li>8. <b>disposition</b> hearing</li><li>9. <b>violations</b>: probation or post-release supervision</li><li>10. <b>reviews</b>; community commitment; contempt</li><li>11. <b>extended commitment</b> hearing</li><li>12. <b>termination of jurisdiction</b></li></ol>

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1. Requests for Nontestimonial Identification Order
<p>[G.S. 7B-2102 to -2109]</p> 

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2. Secure and Nonsecure Custody  
[G.S. 7B-1903]

- authority to take *temporary custody*
- request for *secure* or *nonsecure* custody order
- criteria
- terms of order



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3. First Appearance  
[G.S. 7B-1808]

- all felony cases
- may combine with hearing on need for continued custody
- prosecutor should be present
- parent should be present

**See G.S. 7B-2402.1: restraint of juveniles in the courtroom.**



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4. Hearings on Need for Continued Custody  
[G.S. 7B-1906]

- Required within 5 calendar days
- Then, every 10 days
- Burden = clear & convincing evidence
- Issues:
  - Does statutory ground exist?
  - Are restraints on liberty necessary?
  - Is there less intrusive alternative?

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**5. Motion Hearings**

- to dismiss
  - jurisdiction
  - defective petition
- for determination of competence
- for confidential records
- for funds to hire investigator or expert
- to suppress evidence
- for discovery



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**6A. Probable Cause Hearing**  
[G.S. 7B-2202]

- all felonies committed when juvenile was 13, 14, or 15
- within 15 days of first appearance, unless
  - continued for cause
  - written waiver and stipulation



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**6B. Transfer Hearing**  
[G.S. 7B-2203]

- Issue: Will transfer serve protection of public and needs of juvenile?
- 8 statutory factors
- If court orders transfer:
  - court must set bond
  - immediate appeal to superior court
  - fingerprinting required
  - juvenile may be held only in a juvenile facility



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**7. Adjudication**  
[G.S. 7B-2400 to -2414]

- Rules of Evidence in criminal cases apply
- proof beyond a reasonable doubt
- take special care
  - accepting juvenile’s admission
  - admitting evidence of juvenile’s statement from custodial interrogation
- an “adjudication” is not a “conviction”



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**8. Disposition**  
[G.S. 7B-2500 et seq.]

**Juveniles are not “sentenced.”**

A disposition is a plan for an individual juvenile, designed to

- hold the juvenile accountable,
- protect the public, and
- address juvenile’s rehabilitative and treatment needs.



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**9A. Probation Violation**  
[G.S. 7B-2506 (1), (15); 7B-2510(d), (e), (f)]

- motion and notice
- probation violation vs. new offense
- greater weight of evidence
- options based on finding of violation (delinquency history points not relevant)



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<b>9B. Post-release supervision violation</b> [G.S. 7B-2516]
<ul style="list-style-type: none"><li>• motion and notice</li><li>• greater weight of evidence</li><li>• options upon finding violation</li></ul> 

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<b>10. Other review hearings</b> [G.S. 7B-2600]
<ul style="list-style-type: none"><li>• continued appropriateness of disposition [G.S. 7B-2600]</li><li>• community commitment [G.S. 7B-2513(b)]</li><li>• show cause for parent [G.S. 7B-2700 to -2706]</li></ul>

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<b>11. Extended Commitment</b> [G.S. 7B-2515]
<ul style="list-style-type: none"><li>• DJJDP notice to juvenile and parent</li><li>• required if DJJDP intends to keep juvenile in commitment past<ol style="list-style-type: none"><li>1) 18 birthday, or</li><li>2) maximum adult sentence</li></ol></li><li>• issues<ul style="list-style-type: none"><li>– juvenile's treatment needs</li><li>– maximum possible commitment</li></ul></li></ul>

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### 12. Terminating Jurisdiction

- court may terminate jurisdiction at any time
- end of probation term does not automatically terminate jurisdiction
- absolute maximum jurisdiction is age 18, 19, or 21, depending on offense adjudicated

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### Juvenile Court Counselors

- receive & screen complaints
- make diversion decisions
- approve petitions for filing
- prepare pre-disposition reports
- make disposition recommendations
- work with juveniles on probation and post-release supervision
- initiate review hearings



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### Things to Remember

1. This is not criminal court.
2. Dispositions are not "sentences."
3. You can (almost) never specify the length of a commitment.
4. You can direct orders to a juvenile's parents.

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