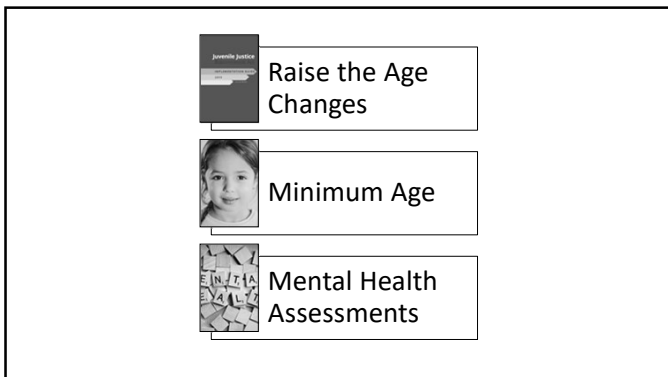


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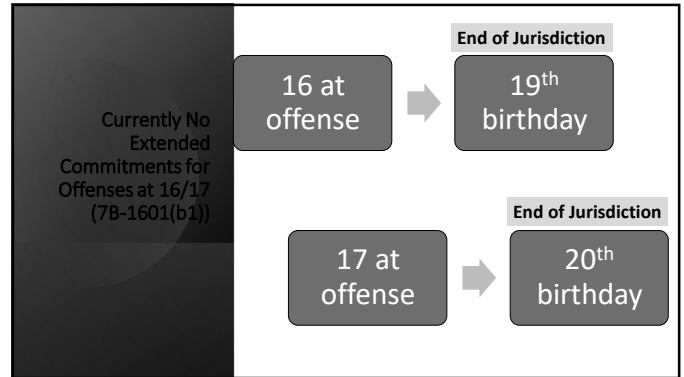
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Extended Commitments (7B-1602)

Existing Law: Extended commitments only for certain offenses committed under 16 that result in YDC commitment

21	19
<ul style="list-style-type: none"> • First-degree murder • First-degree forcible rape • First-degree statutory rape • First-degree forcible sexual offense • First-degree statutory sexual offense 	<ul style="list-style-type: none"> • All other B1 – E felonies

5



6

New Law:
Extended
Commitments
for Offenses at
16/17



7

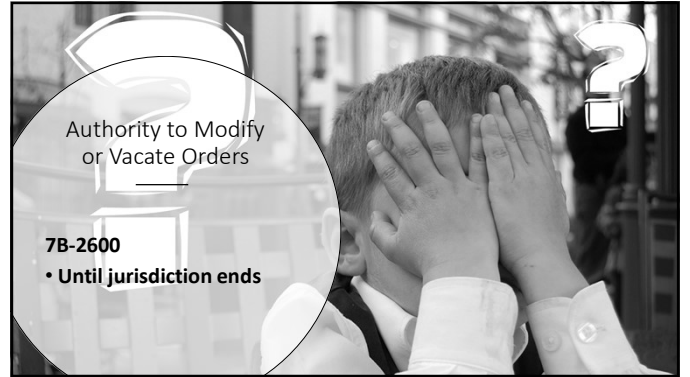
Age at offense	Offense type	Commitment to age
Any	first degree murder, first-degree forcible rape, first-degree statutory rape, first-degree forcible sexual offense, or first-degree statutory sexual offense	21
Under 16	Other B1 - E	19
16	Other B1 - E	20
17	Other B1 - E	21

G.S. 7B-1602, -2513(a2)-(a3)

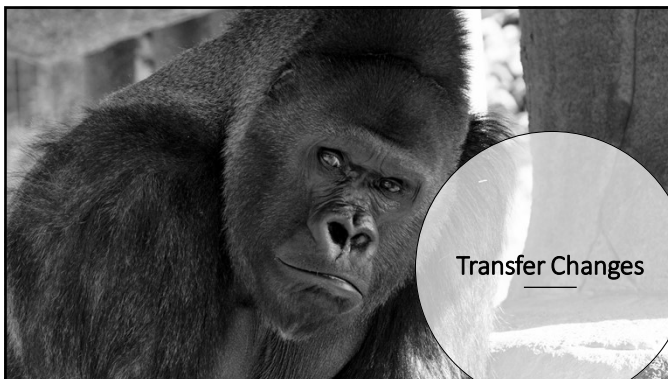
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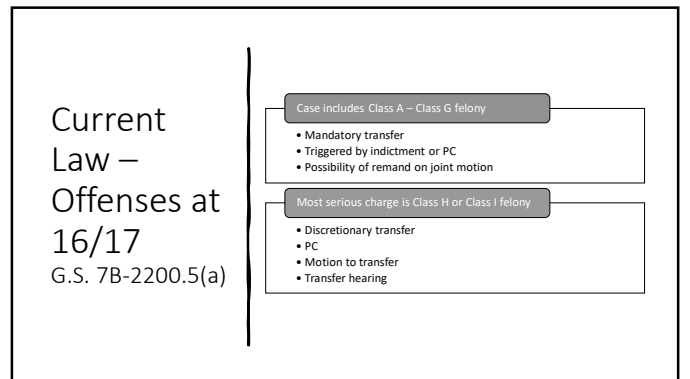
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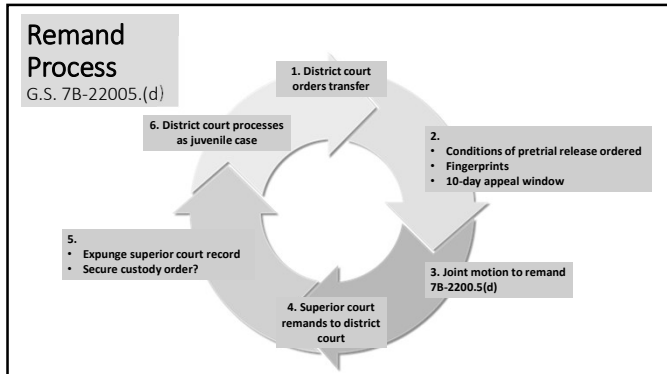
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13

Prosecutor Discretion for Class D – G Felonies (for offenses on or after 12/1/21)

- New G.S. 7B-2200.5(a1): prosecutor can decline to prosecute Class D – G felony in superior court
 - Case remains a juvenile matter
 - Proceed to PC
 - Prosecutor can opt to invoke mandatory transfer any time prior to adjudication

14

Secure Custody Orders on Remand


New, express authority for superior court to issue secure custody order on remand
(G.S. 7A-271(g), 7B-1902)

15

Ongoing Secure Custody Hearings Following Secure Custody Order on Remand (G.S. 7B-1906(b2))

- Initial: 10 calendar days following issuance of secure custody order on remand
 - Cannot be continued or waived
- Subsequent: every 30 days (or every 10 days at request of juvenile and finding good cause)
 - Can be waived on consent of the juvenile
- District Court has express authority to modify the secure custody order issued by the superior court

16



Communication with Juvenile Justice (G.S. 7B-2200.5(d))

Prosecutor must:

- Provide the chief court counselor or their designee with a copy of the joint motion prior to submitting the motion to the court
- Provide copy of secure custody order issued by superior court to chief court counselor or their designee ASAP and within 24 hours of issuance

17



Minimum Age

18

Undisciplined
Minimum Age
(G.S. 7B-1501(27)a.)

10

19

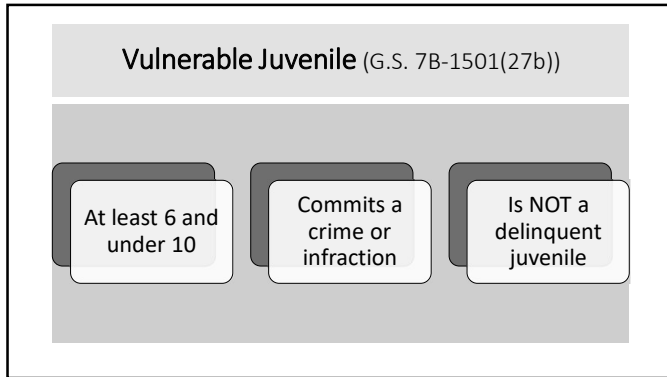
Delinquency
Minimum Age
(G.S. 7B-1501(7))

Generally, 10

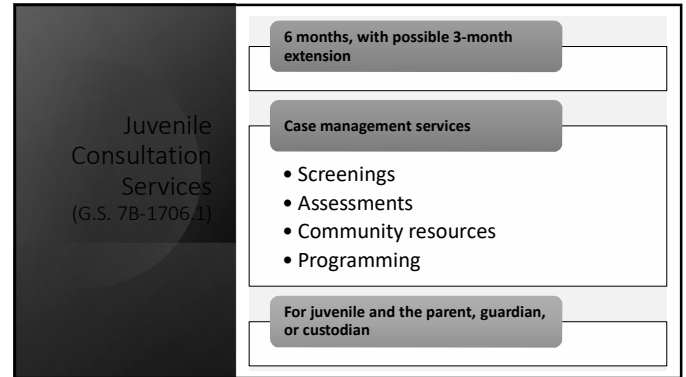
Exceptions for offenses at 8 and 9:

- Class A – G felonies
- Previous delinquency adjudication followed by new offense

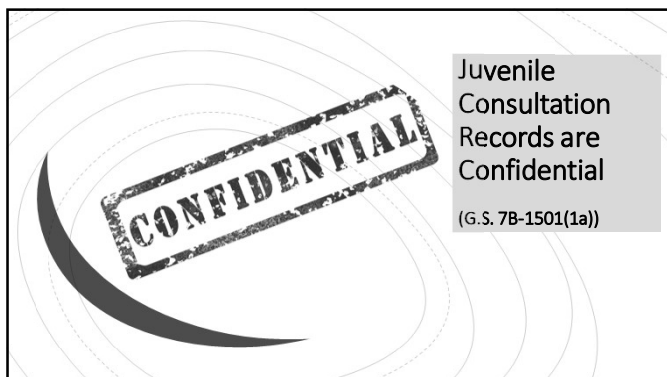
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21



22



23

Article 27A - Parents, Guardians, and Custodians in Juvenile Consultations

Required:

- if given sufficient notice, attend all scheduled meetings with the juvenile court counselor. (G.S. 7B-2710)
- if directed by the juvenile court counselor, attend parental responsibility classes that are available in the district where the PGC resides. (G.S. 7B-2711).

24

Article 27A - Parents, Guardians, and Custodians in Juvenile Consultations

Required of Juvenile Court Counselor:

- work to obtain any medical, surgical, psychiatric, psychological, or other evaluation or treatment for the juvenile, includes finding a means for payment (helping apply for Health Choice and/or Medicaid) (G.S. 7B-2712(a));
- with written recommendations of a qualified physician, surgeon, or mental health provider, advise the PGC to be directly involved in the juvenile's evaluation or treatment and participate in medical, psychological, or other evaluation or treatment of the juvenile that is in the juvenile's best interests. (G.S. 7B-2712(b));
- work collaboratively with the Juvenile and Family Team.



25



26

Juvenile and Family Team (G.S. 7B-2713(b))

- parent, guardian, or custodian;
- the Department of Social Services;
- the local management entity or managed care organization;
- the local education authority;
- all other community stakeholders involved with the juvenile and family

27

Article 27A - Parents, Guardians, and Custodians in Juvenile Consultations

Juvenile Court Counselor may:

- transport the parent, guardian, or custodian and the juvenile to keep an appointment or to comply with the recommendations of the juvenile court counselor. (G.S. 7B-2713(a)).
- with written orders or recommendations from a qualified mental or physical health provider:
 - that are directed toward remedying behaviors or conditions that led to or contributed to the juvenile consultation, recommend psychiatric, psychological, or other evaluation or treatment or counseling for the PGC. (G.S. 7B-2712(c));
 - recommend that the parent, guardian, or custodian seek funding through the Division of Juvenile Justice and/or the local management entity and managed care organization to pay the cost of any evaluation or treatment recommended for the PGC. (G.S. 7B-2712(d))



28

Parental Noncompliance

Juvenile court counselor must make a report to the DSS if a PGC refuses to follow the recommendations of the Juvenile and Family Team and the refusal puts the juvenile at risk of abuse, neglect, or dependency. G.S. 7B-2713(c)

Added to definition of neglect in G.S. 7B-101: any juvenile "whose parent, guardian, or custodian has refused to follow the recommendations of the Juvenile and Family Team made pursuant to Article 27A of this Chapter."

29

To Be Clear...

There is NEVER
juvenile
jurisdiction over
a vulnerable
juvenile

30

There's a blog
on this...

From 6 to 10: New
Minimum Age for Juvenile
Delinquency and
Undisciplined Jurisdiction

<https://civil.sog.unc.edu/from-6-to-10-new-minimum-age-for-juvenile-delinquency-and-undisciplined-jurisdiction/>

31



Mental Health
Assessments

32



33

Statutorily Required Referral to LME Prior to Disposition

G.S. 7B-2502(c):

If the court believes, or if there is evidence presented to the effect that the juvenile has a mental illness or a developmental disability, **the court shall refer** the juvenile to the area mental health, developmental disabilities, and substance abuse services director for appropriate action...The area mental health, developmental disabilities, and substance abuse director is responsible for **arranging an interdisciplinary evaluation of the juvenile and mobilizing resources to meet the juvenile's needs...**

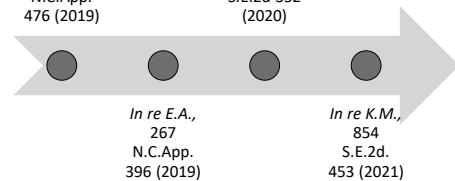
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Faced with any amount of evidence that a juvenile is mentally ill, “a trial court has a statutory duty to refer the juvenile to the area mental health...services director for appropriate action.” (internal quotation omitted) (In re E.M., 263 N.C.App. 476 (2019))

35

In re E.M.,
263
N.C.App.
476 (2019)

In re
A.L.B., 849
S.E.2d 352
(2020)



36

New Statutory Requirement G.S. 7B-2502(a2) – (a4)	A comprehensive clinical assessment (CCA) or equivalent mental health assessment is REQUIRED if:		
	The juvenile is suspected to have mental illness, developmental disability, or intellectual disability,	Adjudicated delinquent	A CCA or equivalent mental health assessment was not conducted <u>within 45 of adjudication hearing</u>

37

Order the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to make a referral for a CCA or equivalent mental health assessment

G.S. 7B-2502(a2)

Who

What

38

If an Assessment is Ordered	
<ul style="list-style-type: none"> • Court shall review prior to disposition • If <ul style="list-style-type: none"> ✓ Court finds sufficient evidence that juvenile has severe emotional disturbance, developmental disability, or intellectual disability, ✓ The disturbance or disability substantially contributed to the delinquent behavior, and ✓ Juvenile is eligible for Level 3 disposition and/or recommended for PRTF • Then, court <u>shall</u> order a care review team to be convened by juvenile justice 	

39

Severe Emotional Disturbance – G.S. 7B-1501(24a)

“A diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within the DSM-5 that resulted in functional impairment which substantially interferes with or limits the child's role or functioning in family, school, or community activities in a person who is under the age of 18.”

40

Developmental Disability G.S. 122C-3(12a)

A severe, chronic disability of a person that satisfies all of the following:

- Is attributable to one or more impairments.
- Is manifested before the person attains age 22, unless the disability is caused by a traumatic brain injury, in which case the disability may be manifested after attaining age 22.
- Is likely to continue indefinitely.
- Results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, capacity for independent living, learning, mobility, self-direction, and economic self-sufficiency.
- Reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services that are of a lifelong or extended duration and are individually planned and coordinated; or when applied to children from birth through age four, may be evidenced as a developmental delay.

41

Intellectual Disability G.S. 122C-3(17a)

A developmental disability characterized by significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before age 22.

42



Who is On The Care Review Team?

43

Care Review Team

At a minimum:

- The juvenile.
- The juvenile's parents, guardian, or custodian.
- Representatives from Juvenile Justice
- Representative from the local management entity/managed care organization or prepaid health plan (PHP) in which the juvenile is enrolled.
- Representatives from any State agency or local department of social services that is currently providing services to the juvenile or the juvenile's family.

44

Care Review Team Shall

Develop a recommendation plan for appropriate services and resources that address the identified needs of the juvenile

Submit recommendation to the court within 30 calendar days of the order requiring the team

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The Court SHALL

Review the recommendation plan when determining the juvenile's disposition in accordance with G.S. 7B-2501(c).

46

Payment for Treatment –G.S. 7B-2502(b)

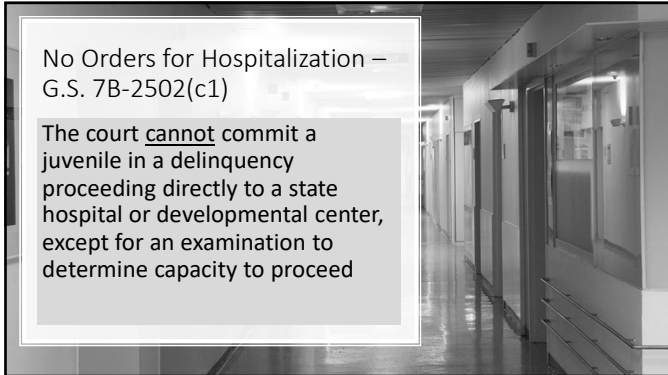
- If the juvenile does not have insurance for the recommended treatment, the court SHALL conduct a hearing to determine who should pay the cost of assessment, evaluation, or treatment
- County manager, or any other person who is designated by the chair of the board of county commissioners, of the county of the juvenile's residence shall be notified of the hearing, and allowed to be heard

47

Potential Hearing Outcomes

- PGC SHALL be allowed to arrange for evaluation and treatment
- If PGC declines or is unable to make necessary arrangements, parent can be ordered to pay cost of care
- If court finds parent and juvenile justice are unable to pay cost of evaluation or treatment, the court SHALL order the county to pay

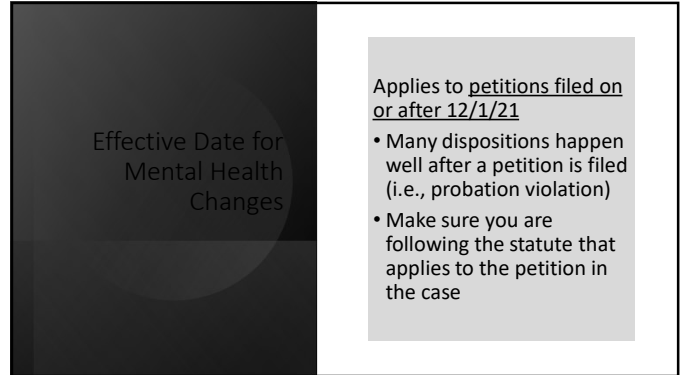
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No Orders for Hospitalization –
G.S. 7B-2502(c1)

The court cannot commit a juvenile in a delinquency proceeding directly to a state hospital or developmental center, except for an examination to determine capacity to proceed

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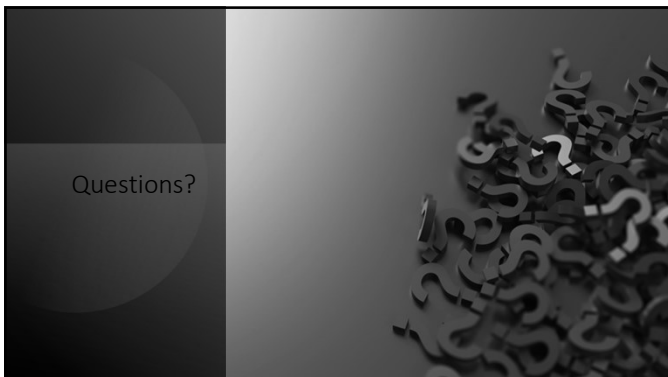


Effective Date for
Mental Health
Changes

Applies to petitions filed on or after 12/1/21

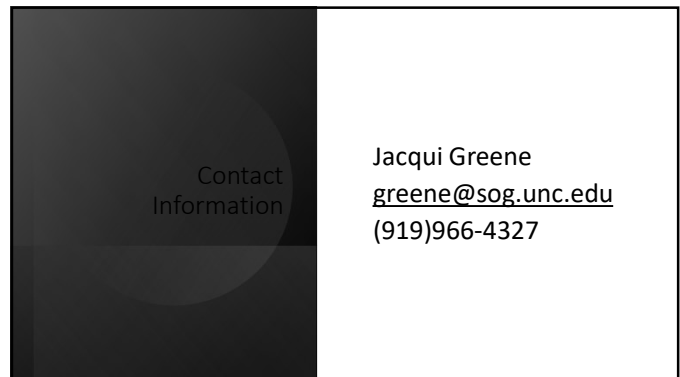
- Many dispositions happen well after a petition is filed (i.e., probation violation)
- Make sure you are following the statute that applies to the petition in the case

50



Questions?

51



Contact
Information

Jacqui Greene
greene@sog.unc.edu
(919)966-4327

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