



North Carolina Criminal Law

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What is the Maximum Commitment Period That Must be Noticed at Disposition in a Delinquency Case?

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When the court issues an order of disposition committing a juvenile to a youth development center (YDC), that commitment is almost always required to be for an indefinite period of time that lasts at least six months. **G.S.7B-2513(a)**. The court cannot order an end date for these commitments. However, the court is required to determine the maximum period the juvenile may remain committed before an extension would have to be filed or the juvenile must be released, and to notify the juvenile of that determination at the time disposition is ordered. G.S.7B-2513(a4). How should this maximum period of commitment be calculated? And is every commitment eligible for an extension? This post addresses these questions.

Meaning of Maximum Period of Commitment

The maximum period of commitment that must be determined when the court orders commitment to the YDC is defined as the length of time that the juvenile can remain committed to the YDC before the Division of Juvenile Justice (DJJ) is required to release the juvenile or to provide notification of an extended commitment. G.S. 7B-2513(a4). There are three important timeframes for any indefinite commitment.

1. The minimum six-month period of commitment.

2. The maximum period of commitment before an extension is required (if an extension is possible).
3. The maximum potential time that the youth can be committed, including possible extensions.

Calculating the Maximum Period of Commitment and Determining When an Extension is Required

Generally, commitments to the YDC can last until the juvenile ages out of juvenile jurisdiction. However, an extension of a commitment beyond the usual maximum age of juvenile jurisdiction is allowed in some cases and it is required if DJJ plans to continue the juvenile in commitment status beyond the maximum adult penalty for the same offense. These concepts are explained below.

Maximum Age for Juvenile Jurisdiction

In most delinquency cases, the maximum age for juvenile jurisdiction depends on the age the juvenile was at the time of the offense, as shown below. **G.S. 7B-1601(b), -(b1)**. I will refer to these ages as the usual maximum jurisdictional age for the purposes of this post.

When Juvenile Jurisdiction Ends

(except for Class A-E felonies that result in YDC commitment)

Age at Offense	End of Juvenile Jurisdiction
Under 16	18 th birthday
16	19 th birthday
17	20 th birthday

These age limits typically dictate the maximum commitment length for a juvenile, meaning that the juvenile may, at most, be committed until he or she reaches the usual maximum jurisdictional age. An exception exists when a juvenile is committed to the YDC based on an adjudication of delinquency for a Class A – Class E felony offense. In that situation, the Juvenile Code provides for extended jurisdiction as shown below. **G.S. 7B-1602**.

Age at offense	Offense type	Extended Jurisdiction ends at
Any	first degree murder, first-degree forcible rape, first-degree statutory rape, first-degree forcible sexual offense, or first-degree statutory sexual offense	21 st birthday
Under 16	Other B1 – E Felony	19 th birthday
16	Other B1 – E Felony	20 th birthday
17	Other B1 – E Felony	21 st birthday

DJJ is required to provide notice of any extension of the commitment that utilizes this opportunity for extended jurisdiction and continues the commitment to the YDC beyond the usual maximum jurisdictional age. **G.S. 7B-2515**.

Maximum Adult Penalty for the Same Offense

The Juvenile Code also requires an extension when DJJ determines that the commitment period of the juvenile should extend 1) beyond the six-month minimum term as required by the Juvenile code and 2) beyond the maximum term of imprisonment for an adult who is sentenced following a criminal conviction for the same offense that provides the basis for the juvenile's commitment to the YDC. The maximum adult penalty is defined as 1) the maximum term of imprisonment for an adult in prior record level VI for a felony and 2) the maximum term of imprisonment for an adult in prior conviction level III for a misdemeanor. G.S. 7B-2513(a4).

When an Extension is Required

For some cases, only one of these circumstances may be possible.

1. For juveniles who are committed to the YDC based on an adjudication for a Class A – Class D felony offense, the maximum adult penalties are much longer than the time that would have to pass for the juvenile to age out at the usual maximum jurisdictional age. Therefore, the need for an extension will always be governed only by the usual maximum jurisdictional age in these cases.
2. For juveniles who are committed to the YDC based on an adjudication of delinquency for a misdemeanor offense, an extension will be required if DJJ

opts to extend the commitment beyond the six-month minimum. This is true because the mandatory six-month minimum commitment is roughly 180 days. That exceeds the longest maximum adult penalty for a misdemeanor in prior conviction level III, which is 150 days. Therefore, any commitment beyond the six-month minimum will exceed the maximum adult penalty and an extension will be required. These cases will never be subject to an extension beyond the usual maximum jurisdictional age because the offense that forms the basis for the commitment is not a Class A – Class E felony.

Cases that involve Class E – Class I felonies require a more complicated analysis because it is sometimes possible to reach the maximum adult penalty before reaching the usual maximum jurisdictional age. In addition, an extension beyond the usual maximum jurisdictional age is possible for a Class E felony offense but not for Class D – Class I felony offenses.

What Notice Needs to be Given at Disposition?

As discussed above, at the time the commitment is ordered, notice of the maximum period of commitment is required. This means the maximum period of time that the juvenile can remain committed before the juvenile must be released or an extension must be filed. The chart below uses the legal parameters described above to detail the maximum commitment period that must be provided at the time the court orders the commitment based on the offense that forms the basis for the order of commitment to the YDC and the age the juvenile was at the time of the offense. It also explains how to correctly indicate that maximum period of commitment on the AOC form for a Level 3 Disposition and Commitment Order.

Adjudicated Offense Type	Maximum Commitment Period Without an Extension	Comments
Misdemeanor	Six months	The court should check box 2.a. in the Order section of form AOC-J-462, which indicates a maximum commitment period of six months. If the offense was committed when the juvenile was - younger than 16, that age is the juvenile's 18th birthday and box 2.c. on the Order section of form AOC-J-462 should be checked. 16 years old, that is the juvenile's 19th birthday and box 2.d. should be checked. 17 years old, that is the juvenile's 20th birthday and box 2.e. should be checked.
Class A – Class D Felony	The usual maximum jurisdictional age for that juvenile	An extension will be required to utilize the existing authority for extended commitments in these cases.
Class E Felony	Varies because these juveniles are eligible for extended commitments beyond the usual jurisdictional age, and it is possible that very young juveniles might also reach the maximum adult penalty before they reach the usual maximum jurisdictional age.	The maximum adult penalty for a Class E felony is 85 months (or 7.01 years). Any juvenile who is committed to the YDC before they turn 11 based on an adjudication for a Class E felony would reach this maximum adult penalty before they reach the usual maximum jurisdictional age of 18 (for offenses committed under the age of 16). Thus, the maximum commitment period in the dispositional order would be the

maximum adult penalty. Box 2.b. of the Order section of form AOC-J-462 should be used with the maximum adult penalty of 85 months filled in.

- All juveniles who are **age 11 or older** will not reach the maximum adult penalty before they reach the usual maximum jurisdictional age. Therefore, the **usual maximum jurisdictional age** is the maximum commitment period that must be provided in the order of disposition. If the offense was committed when the juvenile was
 - younger than 16, that is the juvenile's 18th birthday and box 2.c. should be checked.
 - 16 years old, that is the juvenile's 19th birthday and box 2.d. should be checked.
 - 17 years old, that is the juvenile's 20th birthday and box 2.e. should be checked.

These commitments will need to be extended to go beyond the usual maximum jurisdictional age.

Class F –
Class I Felony

Depends on whether the juvenile will reach the time limit for the maximum adult penalty before they reach the usual

Two scenarios are possible in these cases.

1. The juvenile **will reach the maximum adult penalty before reaching the usual maximum jurisdictional age.** When this is the case,

maximum
jurisdictional age.

the maximum period of commitment in the order of disposition is the **length of the maximum adult penalty** because an extension will be required in order for the commitment to go beyond the

For example, a juvenile committed to the YDC at age 14 based on an adjudication for a Class I felony will reach their maximum jurisdictional age on their 18th birthday. However, since the maximum adult penalty for a Class I felony is 24 months, the juvenile will reach the maximum adult penalty after 24 months and before they turn 18.

maximum adult penalty and possibly to the usual maximum jurisdictional age. Box 2.b. in the Order section of form AOC-J-462 covers this situation. The court must fill in the maximum adult penalty that applies to the case. (This scenario will become less likely the older a juvenile is at the time of their commitment and the more serious the felony is, as it takes between three and four years for juveniles to reach the maximum adult penalties for Class F – Class H felony offenses).

2. The juvenile **will reach the usual maximum jurisdictional age before reaching the maximum adult penalty.**

Because there is no authority to extend these commitments beyond the usual maximum jurisdictional age, these cases will never be eligible for extension.

Therefore, the maximum commitment period in the dispositional order is **the usual maximum jurisdictional age**. If the offense was committed when the juvenile was

a. younger than 16, that is the juvenile's 18th birthday and box 2.c. on the Order section of form AOC-J-462 should be checked.

b. 16 years old, that is the juvenile's 19th birthday and box 2.d. should be checked.

c. 17 years old, that is the juvenile's 20th birthday and box 2.e. should be checked.

If You Think This is Confusing...

Imagine how confusing this might be for a juvenile and their parent, guardian, or custodian. The order of disposition provides them with a maximum period of commitment before an extension is required or the juvenile ages out of jurisdiction. For commitments that are eligible for extension, either because they are based on adjudications for Class A – Class E felonies that are eligible for extended commitments or because they can exceed the maximum adult penalty before aging out of juvenile jurisdiction, this maximum period of commitment does not reflect the maximum potential time that a youth can be committed. The true maximum potential time that a youth can be committed when the commitment is based on a Class F – Class I felony or a misdemeanor is the usual maximum jurisdictional age. The true maximum potential time that a youth can be committed when the commitment is based on a Class A – Class E felony is the period of extended commitment provided above.

While the maximum period of commitment as defined by the statute and explained in this post must be included in the order of disposition committing the youth to the YDC, it is also best practice to explain to the juvenile and their family that this is not necessarily the true maximum potential time that the commitment may last. For juveniles who are eligible for extended commitments or for commitments that exceed the maximum adult penalty, information about the true maximum potential time committed would provide notice of the complete potential time that the juvenile could remain at the YDC.

Special thanks to my colleague, Timothy Heinle, for helping me organize all these details into the maximum commitment period chart above.