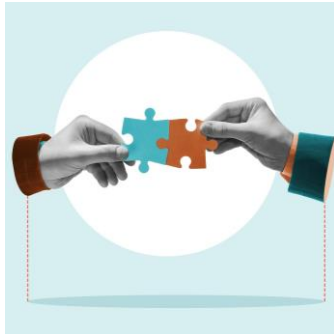


DJJ Orders of Custody to DSS

Social Services Attorneys' Winter Conference
February 1, 2024



1

Collaboration

An overhead photograph showing several hands of different skin tones stacked in a circle, symbolizing teamwork and collaboration.

2

Nonsecure custody law
Nonsecure custody roles
Disposition law
Procedure after disposition
Guardianship
Transportation of high-risk juveniles

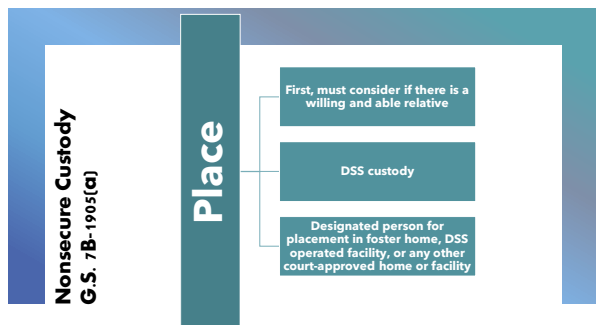
3

<p>1. Consider release</p> <ul style="list-style-type: none"> • Parent • Guardian • Custodian • Other responsible adult 	<p>2. Reasonable factual basis to believe allegations are true</p>	<p>3. Must be either</p> <ul style="list-style-type: none"> • Runaway who consents to nonsecure custody or • Meet secure criteria, but nonsecure is in juvenile's best interests
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Nonsecure Custody

Process - G.S. 7B-1902, 1903

4



5

Statutory Criteria – related to pending delinquency charge
G.S. 7B-1903(b)

Charged with a **felony & danger to property or persons**

Danger to persons & charged with **misdemeanor**, one element of which is **assault on a person**; or misdemeanor involving **use, threatened use, or display of a firearm or other deadly weapon**; or **impaired driving** or **driving after consuming alcohol and under 21**

Willfully failed to appear on pending delinquency charge, provided had proper notice

Delinquency charge pending and **reasonable cause to believe will not appear**

6

Juvenile is an **absconder** from JJ facility or detention

**Statutory
Criteria –
other
Circumstances**
G.S. 7B-1903(b)

Reasonable cause to believe detention is needed for protection of the juvenile due to recent suffered or attempted **self-inflicted physical injury** and was refused admission by hospital; 24-hour max to determine need for inpatient hospitalization

Alleged **undisciplined** due to running away, inappropriate or refuses nonsecure, and court finds need for up to 24-hours secure custody to evaluate need for treatment or facilitate reunification

Alleged **undisciplined** and willfully failed to appear after proper notice; 24-hour maximum and must be brought to court ASAP

7

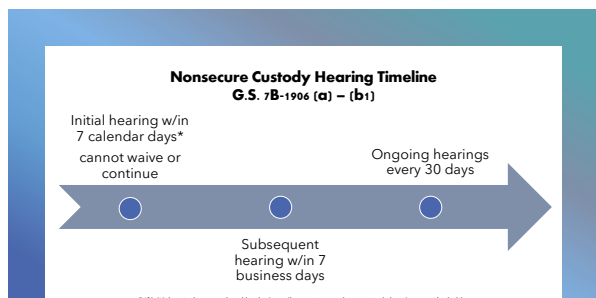
**Statutory
Criteria –
Pending
Disposition or
Placement**
G.S. 7B-1903(c)

After adjudication, prior to disposition or pending placement pursuant to an order of disposition

Ongoing hearings for need for continued custody must occur every 10 calendar days (or every 30 days on juvenile's consent)

Orders for continued custody must be in writing with appropriate findings of fact

8



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At a hearing to determine the need for continued custody, the court shall receive testimony and shall allow the juvenile and the juvenile's parent, guardian, **or custodian** an opportunity to introduce evidence, to be heard in their own behalf, and to examine witnesses. The State shall bear the burden at every stage of the proceedings to provide clear and convincing evidence that restraints on the juvenile's liberty are necessary and that no less intrusive alternative will suffice. The court shall not be bound by the usual rules of evidence at the hearings.

G.S. 7B-1906(d)

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Is DSS a Party

12

Custodian. - The person or agency that has been awarded legal custody of a juvenile by a court.

G.S. 7B-1501(6)

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Custody?

"Commitment of a juvenile to the Division for placement in a youth development center transfers only physical custody of the juvenile. Legal custody remains with the parent, guardian, custodian, agency, or institution in whom it was vested"

G.S. 7B-2513(g)

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DSS Expertise



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Resulting Order

Release to individual, no nonsecure

Nonsecure custody to appropriate designated home (not DSS)

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Court Counselor Powers and Duties (G.S. 143B-831)

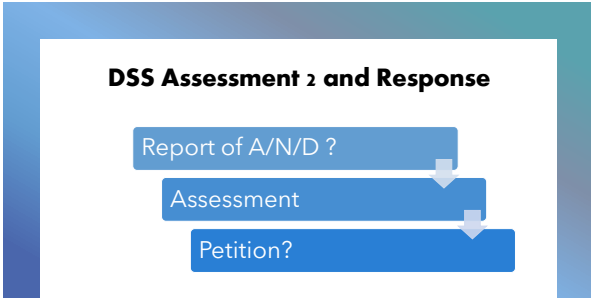
- Providing and coordinating multidisciplinary service referrals for prevention of delinquency and for early intervention, including vulnerable juveniles;
- Screening and evaluating complaints;
- Securing or arranging for information the court may require concerning a case before, during, or after the hearing;
- Preparing written reports for court use and appearing and testifying at court;
- Probation supervision and making periodic reports to the court;
- Keeping records of the juvenile's work as required by the court and accounting for all funds collected from the juvenile;
- Serving necessary court documents pertaining to delinquency matters and assuming custody of juveniles who are under the jurisdiction of the court under certain circumstances;
- Supervising juveniles who are transferred from another court or state and, when requested by DJJ, supervising juveniles who are released from an institution;
- Assisting in the implementation of any order issued as a result of contempt committed by a juvenile;
- Assisting in the development and supervision of post-release supervision; and
- Any other duties as the court or DJJ may direct.

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"The juvenile court counselor shall not engage in field investigations to substantiate complaints or to produce supplementary evidence but may refer complainants to law enforcement agencies for those purposes"

G.S. 7B-1700

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In re J.M., 894 S.E.2d 521 (2023)

- + Level 2 disposition
- + Ordered into DSS custody
- + Two months later the court entered a permanency planning order that removed DSS as custodian and placed juvenile in the temporary custody of grandma pending the DSS appeal of the dispositional order

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Delinquency Disposition Levels

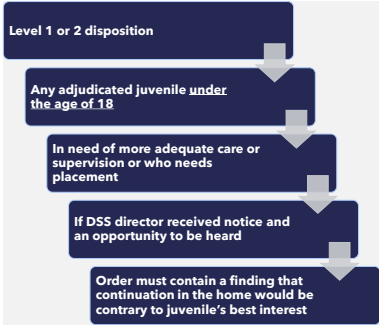
Level 1 - Community

Level 2 - Intermediate

Level 3 - Commitment

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Ordering DSS Placement as Disposition
G.S. 7B-2506(1)c.




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7B-2506(1)C.
"This placement shall be reviewed in accordance with G.S. 7B-906.1."



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Which Law Governs These Placements?



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Modifying Dispositions

Orders of disposition can be reviewed at any time to determine whether the order is in the juvenile's best interests; can be modified in light of a change in circumstances
(G.S. 7B-2600(a))

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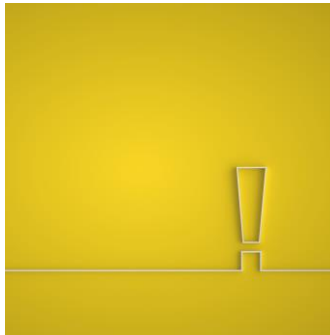
Parties in Delinquency

- + State (prosecutor)
- + Juvenile (attorney)
- + Parents (court appointed counsel only for 7B-906.1)
- + Guardian
- + Custodian* (DSS?)

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7B-906.1 Hearing in JB case

- + Which Hearing
- + Notice
- + Participants
- + Findings
- + Order



29

Same

- + Expertise
- + Assessment

30

In re J.M., 894 S.E.2d 521 (2023)

- + Level 2 disposition
- + Ordered into DSS custody
- + Two months later the court entered a **permanency planning order** that removed DSS as custodian and placed juvenile in the temporary **custody of grandma** pending the DSS appeal of the dispositional order

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Calendar	Calendar 906.1 hearings and disposition reviews at the same time in the delinquency case/court
Include	Always include the juvenile's delinquency attorney in review hearings
Suggest	Suggest adding a review hearing timeline to the delinquency dispositional order or adding a set maximum length of time for the DSS placement
Explore	If time allows, explore possible alternate custodians prior to the dispositional hearing

Practice Ideas

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Length of Jurisdiction G.S. 7B-1601

Offense committed under age 16	Youth reaches age <u>18</u>
Offense committed at age 16	Youth reaches age <u>19</u>
Offense committed at age 17	Youth reaches age <u>20</u>

The court can always terminate jurisdiction sooner by its own order

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Jurisdiction may exceed

Probation Ending
+ Not terminate DSS custody order portion of disposition

Age 18
+ 7B-906.1 hearings re: 17 y.o.; transition out of DSS custody

34

Modifying Dispositions

Orders of disposition can be reviewed at any time to determine whether the order is in the juvenile's best interests; **can be modified in light of a change in circumstances** (G.S. 7B-2600(a))

35

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Requires Collaboration

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