

Delinquency Law Addressing Substance Use

- I. Many offenses that bring a youth into the juvenile justice system involve controlled substances or alcohol.
 - a. G.S. 90-95(a)(3) – generally illegal to possess a controlled substance; penalties range from Class I felony to Class 3 misdemeanor depending on substance and amount.
 - b. G.S. 18B-302(b) – purchase, possession, or consumption of alcoholic beverages illegal; Class 3 or Class 1 misdemeanor, depending on age.

- II. Nondivertible offenses
 - a. § 7B-1701. Preliminary inquiry.
 - i. The juvenile court counselor, without further inquiry, shall authorize the complaint to be filed as a petition if the juvenile court counselor finds reasonable grounds to believe that the juvenile has committed one of the following nondivertible offenses: ... (5) Any violation of Article 5, Chapter 90 of the General Statutes that would constitute a felony if committed by an adult.

- III. Teen court prohibition
 - a. § 7B-1706. Diversion plans and referral.
 - i. (c) ...the juvenile court counselor shall not refer a case to a teen court program if the juvenile is alleged to have committed any of the following offenses: (1) Driving while impaired under G.S. 20-138.1, 20-138.2, 20-138.3, 20-138.5, or 20-138.7, or any other motor vehicle violation; ... (4) A controlled substance offense under Article 5 of Chapter 90 of the General Statutes, other than simple possession of a Schedule VI drug or alcohol.

- IV. Ordering substance abuse evaluation and treatment
 - a. § 7B-2502. Evaluation and treatment of undisciplined and delinquent juveniles
 - i. (a) In any case, the court may order that the juvenile be examined by a physician, psychiatrist, psychologist, or other qualified expert as may be needed for the court to determine the needs of the juvenile. Upon the completion of the examination, the court may conduct a hearing to determine whether the juvenile is in need of medical, surgical, psychiatric, psychological, or other evaluation or treatment, and the court may order the juvenile to comply with any evaluation or treatment recommended by the examination.
 - ii. (a1) In the case of a juvenile adjudicated delinquent for committing an offense that involves the possession, use, sale, or delivery of alcohol or a controlled substance, the court shall require the juvenile to be tested for the

use of controlled substances or alcohol within 30 days of the adjudication. In the case of any juvenile adjudicated delinquent, the court may, if it deems it necessary, require the juvenile to be tested for the use of controlled substances or alcohol. The results of these initial tests conducted pursuant to this subsection shall be used for evaluation and treatment purposes only.

- b. Parent involvement in juvenile evaluation and treatment
 - i. G.S. 7B-2702(b)
 - 1. (b) At the dispositional hearing or a subsequent hearing, if the court finds that it is in the best interests of the juvenile for the parent to be directly involved in the juvenile's evaluation or treatment, the court may order that person to participate in medical, psychiatric, psychological, or other evaluation or treatment of the juvenile.
 - c. Evaluation and treatment of a parent
 - i. G.S. 7B-2702(c)
 - 1. (c) At the dispositional hearing or a subsequent hearing, the court may determine whether the best interests of the juvenile require that the parent undergo psychiatric, psychological, or other evaluation or treatment or counseling directed toward remedying behaviors or conditions that led to or contributed to the juvenile's adjudication or to the court's decision to remove custody of the juvenile from the parent it may order that person to comply with a plan of evaluation or treatment approved by the court or condition legal custody or physical placement of the juvenile with the parent upon that person's compliance with the plan of evaluation or treatment.
- V. Substance use disorders and disposition (G.S. 7B-2506)
- a. Level 1: (3) Order the juvenile to cooperate with a community-based program, an intensive substance abuse treatment program, or a residential or nonresidential treatment program. Participation in the programs shall not exceed 12 months.
 - b. Level 2: (14) Order the juvenile to cooperate with placement in a residential treatment facility, an intensive nonresidential treatment program, an intensive substance abuse program, or in a group home other than a multipurpose group home operated by a State agency.
 - c. Probation supervision - G.S. 7B-2510(a)(7)
 - i. In any case where a juvenile is placed on probation...The court may impose conditions of probation that are related to the needs of the juvenile and that are reasonably necessary to ensure that the juvenile will lead a law-abiding life, including:
 - 1. (7) That the juvenile:
 - a. Refrain from use or possession of any controlled substance included in any schedule of Article 5 of Chapter 90 of the General Statutes, the Controlled Substances Act;
 - b. Refrain from use or possession of any alcoholic beverage regulated under Chapter 18B of the General Statutes; and
 - c. Submit to random drug testing

- ii. Can delegate authority to require substance abuse monitoring and treatment to the chief court counselor (G.S. 7B-2510(b)(2)).
- d. Mandatory drug testing for youth committed to the YDC
 - i. G.S. 7B-2513(i): A juvenile who is committed to the Division for placement in a youth development center shall be tested for the use of controlled substances or alcohol. The results of this initial test shall be incorporated into the plan of care as provided in subsection (f) of this section and used for evaluation and treatment purposes only.