

## **Determining Dispositional Options for Delinquent Juveniles**

Within statutory guidelines, the court must select a disposition designed to protect the public and to meet the needs and best interests of the juvenile, based on:

- the seriousness of the offense;
- the need to hold the juvenile accountable;
- the importance of protecting the public safety;
- the degree of culpability indicated by the circumstances of the case;
- the rehabilitative and treatment needs of the juvenile, as indicated by a risk and needs assessment; and
- appropriate community resources available to meet the juvenile's needs.

### **Dispositions Available in Every Case**

#### **Dismissal or Continuance** [G.S. 7B-2501(d)]

At the dispositional hearing in any case, the court may

1. dismiss the case, or
2. continue the case for up to 6 months to give the family an opportunity to meet the juvenile's needs through
  - a. more adequate supervision at home,
  - b. placement in a private or specialized school or agency,
  - c. placement with a relative, or
  - d. some other plan that the court approves.

#### **Evaluation and Treatment** [G.S. 7B-2502]

In every case, the court may order

1. examination of the juvenile by an expert.
2. medical, surgical, psychiatric, psychological, or other evaluation or treatment for the juvenile (and may order a parent or the county to pay for it).
3. testing of the juvenile for controlled substances or alcohol (required if adjudication is for an offense that involves possession, use, sale, or delivery of alcohol or a controlled substance).

If there is evidence that the juvenile is mentally ill or developmentally disabled, the court must refer him/her to the local mental health, developmental disabilities, and substance abuse services director for an interdisciplinary evaluation and the mobilization of resources to meet the juvenile's needs.

The court may never commit the juvenile directly to a state hospital or mental retardation center. Except for purposes of an evaluation of the juvenile's competence to proceed, a juvenile's admission to a state hospital must be by consent of an authorized person or by way of an involuntary commitment proceeding.

**Level 1 Dispositions** [G.S. 7B-2506(1) – (13), (16); G.S. 7B-2508(c)]

In addition to the evaluation, treatment, dismissal, and continuance options described above, the Juvenile Code lists twenty-four dispositional alternatives that are divided into three “levels” —

- Community (Level 1)
- Intermediate (Level 2)
- Commitment (Level 3)

Community (Level 1) dispositions are available in every case in which a juvenile has been adjudicated delinquent. Specific factors discussed below determine whether the court must select a disposition from Level 2 or Level 3, but even when that is the case, the court also may select a Level 1 disposition.

So, following adjudication in any case, the court may:

1. order
  - a. supervision of the juvenile in his own home, subject to conditions placed on the juvenile or the parent; or
  - b. placement of the juvenile in the custody of a parent, a relative, DSS, or another suitable person.
2. excuse the juvenile from compulsory school attendance when suitable alternative plans can be arranged.
3. order the juvenile to cooperate, for up to 12 months, with
  - a community-based program,
  - an intensive substance abuse treatment program, or
  - a residential or nonresidential treatment program.
4. order the juvenile to pay restitution of up to \$500.
5. impose a fine (not to exceed maximum fine for an adult for the same offense).
6. order the juvenile to perform up to 100 hours of community service.
7. order the juvenile to participate in a victim-offender reconciliation program.
8. place the juvenile on probation.
9. order that the juvenile not have a driver’s license.
10. impose a curfew.
11. order the juvenile not to associate with particular people or be in specific places.
12. order intermittent detention for up to five 24-hour periods specified by the court.
13. order the juvenile to cooperate with placement in a wilderness program.
14. order the juvenile to cooperate with a supervised day program.

In some cases these, along with the options described on the preceding page, are the only dispositional options available to the court.

## Dispositions Available in Only Some Cases

### **Level 2 Dispositions** [G.S. 7B-2506(13) – (23); G.S. 7B-2508(d)]

In some cases the court is required to order at least one intermediate (Level 2) disposition. In some cases the court has the option of ordering a Level 2 disposition but may choose to order only a Level 1 disposition. And in other cases the court may either commit the juvenile to the Department of Juvenile Justice and Delinquency Prevention or order at least one Level 2 disposition. These scenarios are explained further below.

Two dispositional options – placement in a wilderness program and participation in a supervised day program – are categorized as both Level 1 and Level 2 dispositions. Thus, either of these may satisfy a requirement that the court order a Level 2 disposition, but they also are available when the court is limited to Level 1 dispositions.

When a Level 2 disposition is required or available, the court may:

1. order the juvenile to cooperate with placement in a wilderness program.
2. order the juvenile to cooperate with a supervised day program.
3. order the juvenile to cooperate with placement in a residential treatment facility, an intensive nonresidential treatment program, an intensive substance abuse program, or a group home other than a state-operated multipurpose group home.
4. place the juvenile on intensive probation.
5. order the juvenile to participate in a regimented training program.
6. order the juvenile to submit to house arrest.
7. suspend a more severe disposition, on the condition that the juvenile meet certain conditions agreed to by the juvenile.
8. order intermittent detention for up to fourteen 24-hour periods specified by the court.
9. place the juvenile in a state-operated residential multipurpose group home.
10. require the juvenile to pay restitution of more than five hundred dollars (\$500.00).
11. order the juvenile to perform up to 200 hours of community service.

### **Level 3 Disposition** [G.S. 7B-2506(24); G.S. 7B-2508(e); G.S. 7B-2513]

The only Level 3 disposition is commitment of the juvenile to the Department of Juvenile Justice and Delinquency Prevention, for a period of at least six months, for placement in a youth development center. (While the commitment must last at least six months, after the department's initial assessment of the juvenile at a youth development center, the court may approve a plan for providing commitment services at a different location.)

**NOTE:** Virtually every commitment must:

1. be for a minimum of six months;
2. otherwise, be for an *indefinite* period of time;
3. specify an absolute maximum (age 18, 19, or 21); and
4. specify the time before which the juvenile must have notice and an opportunity for a hearing on extension of the commitment beyond either
  - a. the adult maximum or
  - b. the juvenile's 18<sup>th</sup> birthday, if extended commitment (to age 19 or 21) is an option in the case.

## Determining Which Dispositions Are Available in a Particular Case

The evaluation, treatment, dismissal, continuance, and community (Level 1) dispositions are available in every case. Whether the court either may or must order an intermediate (Level 2) or commitment (Level 3) disposition depends primarily on three factors:

1. the nature of the adjudicated offense that is the basis for the disposition;
2. the juvenile's history of prior delinquency adjudications; and
3. whether the juvenile was on probation when s/he committed the offense for which a disposition is being ordered.

These factors determine a cell on the "Dispositional Chart" that specifies either a level or a choice of two levels from which the court must select a disposition. Factors that come into play to determine whether an exception exists to the level(s) indicated on the Chart include:

- whether the juvenile previously has been committed to a youth development center or training school
- whether the juvenile has been a "chronic" offender
- whether the juvenile has "extraordinary needs"

1. **Offense Classification.** Offenses are classified as:

- violent: Class A through E felonies
- serious: Class F through I felonies and Class A1 misdemeanors
- minor: Class 1, 2, and 3 misdemeanors

A critical first step at every disposition is to determine the one offense that is the basis for the disposition. [It also is critical to distinguish between disposition hearings and hearings on violation of probation or post-release supervision, since very different rules apply in violation hearings.] Multiple adjudications in the same session of court must be consolidated for disposition and be considered on the basis of the most serious offense.

<p><b><u>First Determination:</u> The disposition being entered is for a _____ (violent, serious, or minor) offense.</b></p>
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2. **Delinquency History Level.** A juvenile has a low, medium, or high delinquency history level, based on any prior delinquency adjudications and the juvenile's probation status when the current offense was committed. (In this context, "prior" means before the date of the disposition hearing.) These are assigned points as follows:

- each prior adjudication of a violent offense (Class A through E felony): 4 points
- each prior adjudication of a serious offense (Class F through I felony or Class A1 misdemeanor): 2 points
- each prior adjudication of a minor offense (Class 1, 2, or 3 misdemeanor): 1 point
- juvenile was on probation when s/he committed the offense for which a disposition is being ordered: 2 points

If the juvenile was adjudicated delinquent for more than one offense in a single session of court, only the adjudication for the offense with the highest point total is used. This rule applies even if the adjudications are for unrelated offenses that occurred on different dates. The key is whether they were adjudicated on the same date. Points are not assigned for the offense for which a disposition is being ordered.

**Probation Status.** Two points are added if the offense for which disposition is being ordered was committed while the juvenile was on probation. (The juvenile’s probation status when s/he committed any prior offenses is not relevant and does not result in the assignment of additional points.)

The juvenile’s delinquency history level is classified as follows:

- low: 0 – 1 point
- medium: 2 – 3 points
- high: 4 or more points

**Second Determination:** The juvenile has \_\_\_\_ points and therefore has a \_\_\_\_\_ (low, medium, or high) delinquency history level.

### Dispositional Chart for Delinquency Cases

Knowing the offense classification and the juvenile’s delinquency history level leads to a cell in the following Disposition Chart:

<b>Offense</b>	<b>Delinquency History Level</b>		
	<b>Low (0-1 point)</b>	<b>Medium (2-3 points)</b>	<b>High (4 or more points)</b>
<b>Violent</b>	Level 2 or 3	Level 3 <sup>1</sup>	Level 3 <sup>1</sup>
<b>Serious</b>	Level 1 or 2 <sup>2</sup>	Level 2 <sup>2</sup>	Level 2 or 3
<b>Minor</b>	Level 1	Level 1 or 2 <sup>2</sup>	Level 2 <sup>2,3</sup>

**Third Determination:** According to the Chart, the court must order a disposition from \_\_\_\_\_

- \_\_\_\_\_ Level 1
- \_\_\_\_\_ Level 1 or 2
- \_\_\_\_\_ Level 2
- \_\_\_\_\_ Level 2 or 3
- \_\_\_\_\_ Level 3

<sup>1</sup> The court may order a Level 2 disposition if the court finds that the juvenile has extraordinary needs.

<sup>2</sup> The court may order a Level 3 disposition if the juvenile has been committed previously to a youth development center (or training school).

<sup>3</sup> The court may order a Level 3 disposition if the juvenile has 4 “prior adjudications.” Each of the four or more successive offenses must be one that was committed after adjudication of the preceding offense.

## Exceptions to the Chart

### A. **Previous commitment.** [G.S. 7B-2508(d)]

When the Chart authorizes or requires a Level 2 disposition but not a Level 3 disposition, the court nevertheless may order a Level 3 disposition, *i.e.*, commit the juvenile to the Department of Juvenile Justice and Delinquency Prevention, if the juvenile has been committed before. This means that if the juvenile has been committed previously, he can be committed again at any subsequent delinquency disposition hearing.

### B. **History of chronic offending.** [G.S. 7B-2508(g)]

The Chart suggests that a Level 3 disposition is never an option when the court is ordering disposition for a minor offense, and that is almost always the case. The court may order a Level 3 disposition for a minor offense, however, if the juvenile has been adjudicated delinquent for four or more prior offenses. “Prior,” in this context, has a different meaning from the one used to determine a juvenile’s delinquency history level. Here, a prior offense is one that was committed and adjudicated before commission of the next offense. Each of the four or more successive offenses must be one that was committed after adjudication of the preceding offense.

### C. **Extraordinary needs.** [G.S. 7B-2508(e)]

When the Chart indicates that only a Level 3 disposition may be ordered, the court nevertheless may order a Level 2 disposition instead, if the court makes written findings substantiating that the juvenile has extraordinary needs. The appellate courts have not had occasion to interpret “extraordinary needs.”

**Fourth Determination: Despite level(s) indicated on the Chart, an exception authorizes the court to enter a disposition from \_\_\_\_\_ (Level 2; Level 3; not applicable).**

The court of appeals has expressed broad deference to trial courts’ discretion in ordering dispositions in delinquency cases. Affirming a trial court’s order committing a juvenile to the Department of Juvenile Justice and Delinquency Prevention, the court of appeals said:

Once a juvenile is placed in a dispositional level, the statutes provide dispositional alternatives which may be utilized by the trial court. However, in those instances where there is a choice of level, there are no specific guidelines solely directed at resolving that issue. Accordingly, choosing between two appropriate dispositional levels is within the trial court’s discretion. Absent an abuse of discretion, we will not disturb the trial court’s choice. ‘An abuse of discretion occurs when the trial court’s ruling “is so arbitrary that it could not have been the result of a reasoned decision.”’ (citations omitted)

There are overall guidelines for the trial court within the Juvenile Code, however, including . . . section 7B-2500, titled ‘Purpose,’ which provides in part:

The court should develop a disposition in each case that:

- (1) Promotes public safety;
- (2) Emphasizes accountability and responsibility of both the parent, guardian, or custodian and the juvenile for the juvenile’s conduct; and
- (3) Provides the appropriate consequences, treatment, training, and rehabilitation to assist the juvenile toward becoming a nonoffending, responsible, and productive member of the community.

*In re Robinson* 151 N.C. App. 733 737-738, 567 S.E.2d 227, 229-230 (2002).