

ASSESSMENTS AND CONFIDENTIALITY IN DELINQUENCY CASES

There are many kinds of clinical assessments that may be needed in a delinquency matter. They can include mental health and substance use disorder assessments as well as assessments of problematic sexual behavior.

PRE-ADJUDICATION

Assessments

Assessments can be completed if there is a valid consent. When the juvenile is under 18, consent usually must be from a parent, guardian, or legal custodian. Minors can consent to their own diagnosis and treatment of abuse of controlled substances or alcohol and emotional disturbance.

Confidentiality

No statement made to the juvenile court counselor during the preliminary inquiry and evaluation process is admissible before the dispositional hearing (G.S. 7B-2408).

Predisposition reports, including a risk and needs assessment containing information about the juvenile's psychiatric and psychological history, cannot be submitted to the court before the juvenile is adjudicated delinquent (G.S. 7B-2413).

POST-ADJUDICATION

Assessments

The court can order assessments under G.S. 7B-2502:

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 (G.S. 7B-2502(a)).

That DJJ make a referral for a comprehensive clinical assessment (CCA) or an equivalent mental health assessment if there is a suspected mental illness, developmental disability, or intellectual disability and there was not a CCA within 45 days before the adjudication hearing (G.S. 7B-2502(a2)).

If an assessment reveals the youth has or has had a substance use disorder, consent or a court order is needed to disclose the assessment to the court and the parties.

THROUGHOUT A CASE

Confidentiality

Records maintained by DJJ can only be released pursuant to a court order, except for release to the juvenile and the juvenile's attorney, the juvenile's parent, guardian custodian or their authorized representative, professionals at DJJ who are directly involved in the case, and juvenile court counselors. (G.S. 7B-3001).

Health Insurance Portability and Accountability Act (HIPAA) prohibits disclosure of protected health records without a valid authorization or a court order. (45 CFR Parts 160, 164).

Mental health treatment records can only be released with a valid consent or court order. Consent for release of the record is required from the person who originally consented for the treatment. (G.S. 122C-52).

Records that identify the patient as having or having had a substance use disorder can only be released when there is a valid consent or court order. Consent is always required from the juvenile and is also required from the parent if the parent consented to the original treatment. (42 CFR Part 2).

Under G.S. 7B-3100, information may be shared among certain local agencies for the protection of the juvenile and others and to improve the educational opportunities of the juvenile when a petition has been filed and as long as the juvenile is under the jurisdiction of the court. Information related to the juvenile having, or having had, a substance use disorder can only be shared if there is consent to or a court order allowing the sharing of that information.