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Involuntary Commitment

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Due Process

- Criteria—The grounds for court-ordered treatment.
- Procedure—The process for obtaining court-ordered treatment.

Because the commitment statutes provide for a drastic remedy, those that use them must do so with “care and exactness.” In re Ingram, 74 N.C. App. 579 (1985), quoting Samons, 9 NC App. 490 (1970).



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G.S. 7B-2401, 15A-1003

- When a juvenile is found to be incapable of proceeding, the presiding judge, upon such additional hearing, if any, as he determines to be necessary, shall determine whether there are reasonable grounds to believe the juvenile meets the criteria for involuntary commitment under Part 7 of Article 5 of Chapter 122C of the General Statutes.
- Proceedings thereafter are in accordance with Part 7 of Article 5 of Chapter 122C of the General Statutes
- Evidence used at the hearing with regard to capacity to proceed is admissible in the involuntary civil commitment proceedings.

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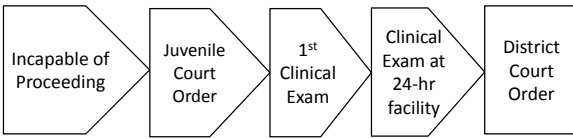
The Juvenile Court Role

Reasonable grounds to believe the juvenile meets the criteria for commitment



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The Pathway to Commitment



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Juvenile Court Role—15A-1003

If the court finds reasonable grounds to believe that the juvenile meets the criteria for either

- outpatient commitment, or
- inpatient commitment

the court shall make findings of fact and issue a custody order in the same manner, and under the same grounds, and with the same effect as an order issued by a clerk or magistrate pursuant to G.S. 122C-261.

Criteria for Inpatient Commitment

Inpatient commitment =
mental illness + dangerous to self, or
mental illness + dangerous to others

1. mental illness
2. dangerous to self
3. dangerous to others

Dangerous to Self

Within the relevant past, the individual has:

- Acted in a way to show unable to care for self
- Attempted or threatened suicide
- Attempted or engaged in self-mutilation

Dangerous to Self

- Unable to care for self + reasonable probability of serious physical debilitation
- Attempted or threatened suicide + reasonable probability of suicide
- Attempted or engaged in self-mutilation + reasonable probability of serious mutilation

Relevant Past

Acts are within the relevant past if they occur close enough to the present time to have probative value on the question whether the conduct will continue

Dangerous to Others

Within the relevant past, the individual has:

1. Inflicted, attempted, or threatened serious bodily harm + reasonable probability of conduct repeating
2. Created a substantial risk of serious bodily harm + reasonable probability of conduct repeating
3. Engaged in extreme destruction of property + reasonable probability of conduct repeating

[more info]
Previous episodes of dangerousness to others, when applicable, may be considered when determining whether there is a reasonable probability of the respondent's conduct repeating.

The Court's Role

The diagram illustrates the court's role in determining dangerousness. It features three main elements: a stack of papers labeled 'Court order', a book labeled 'Legal Criteria', and a grey button labeled 'belief'. A plus sign (+) is positioned between 'Court order' and 'Legal Criteria', and a minus sign (-) is positioned between 'Legal Criteria' and 'belief', indicating that legal criteria are added to court orders but belief is subtracted from the overall assessment.

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Court Findings—Provide Sufficient Factual Information

| Conclusions (Opinions) | Facts | Descriptive Facts |
|--|-------|---|
| <ul style="list-style-type: none">• Violent• Threatening• Aggressive• Assaulted someone | | <ul style="list-style-type: none">• Hit boss with a wrench• Said he would cut brother while he slept• Pushed Mom off the porch• Held hammer in air saying he was going to bust mother's head |

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Criteria for Outpatient Commitment

- Mentally ill
- Based on psychiatric history, needs treatment to prevent further disability or deterioration that would predictably result in dangerousness
- Capable of surviving safely in the community with available supervision from family, friends, or others
- Current mental status or nature of illness limits or negates ability to make an informed decision to seek voluntarily or comply with recommended treatment

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Juvenile Court Role

The court shall issue an order to

- a law enforcement officer or
- any other person authorized under G.S. 122C-251


to take the respondent into custody for examination by a physician or psychologist

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Clinical Examiner's Role

Examination—As soon as possible and w/n 24 hours after respondent is presented


- Outpatient commitment
- Inpatient commitment



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Examiner's Role—Findings and Recommendations

| Findings | | Result |
|------------------------|---|-------------------------|
| No commitment criteria | → | Release |
| Outpatient commitment | → | Release pending hearing |
| Inpatient commitment | → | Inpatient facility |



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First Examiner—Outpatient Commitment

If recommendation is outpatient, the examiner must

- Show the name, address, and telephone number of the proposed outpatient treatment physician or center.
- Give the respondent a written notice
 - listing the name, address, and telephone number of the proposed outpatient provider and
 - directing the respondent to appear at the address at a specified date and time.
- Notify by phone the designated outpatient provider and send a copy of the notice and examination .

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The Examination Form

Section III: Recommendation

| SECTION III - RECOMMENDATION FOR DISPOSITION |
|--|
| <input type="checkbox"/> Inpatient Commitment for _____ days (respondent must be mentally ill and dangerous to self or others) |
| <input type="checkbox"/> Outpatient Commitment (respondent must meet ALL of the first four criteria outlined in Section I, Outpatient) |
| Proposed Outpatient Treatment Center or Physician: (Name) _____ (Address and Phone Number) _____ |
| <input type="checkbox"/> Substance Abuse Commitment (respondent must meet both criteria outlined in Section I, Substance Abuse) |
| <input type="checkbox"/> Release respondent pending hearing - Referred to _____ |
| <input type="checkbox"/> Hold respondent at 24-hour facility pending hearing - Facility _____ |

- The findings of the physician and the facts on which they are based must be in writing and sent to the clerk of superior court by the most reliable and expeditious means

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Juvenile Court Role—Violent Crime

If the defendant was charged with a violent crime, including a crime involving assault with a deadly weapon, the judge's custody order shall

- require a law-enforcement officer to take the defendant directly to a 24-hour facility as described in G.S. 122C-252; and
- indicate that the defendant was charged with a violent crime and that he was found incapable of proceeding.

G.S. 15A-1003.

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Physician Examiner Role—Violent Crime

If the custody order states that the respondent was charged with a violent crime, including a crime involving assault with a deadly weapon, and that he was found incapable of proceeding, the physician

- Shall examine the respondent
- May not release the respondent until ordered to do so following the district court hearing.

G.S. 122C-266(b)

Commitment Hearing —Incapable of Proceeding—Violent Crime

- Clerk must notify chief district court and district attorney of county where defendant found incapable
- DA may represent the State's interest at the hearing
- Commitment order must show whether commitment proceedings were initiated as a result of violent offender being found incapable of proceeding
- 15 days before any discharge physician must notify clerk of proposed discharge and clerk shall schedule rehearing and give notice as above

G.S. 122C-268(c), -271(b), -277(b)

Questions

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