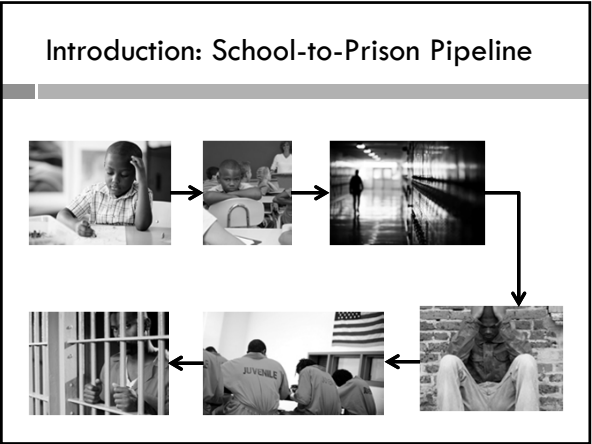
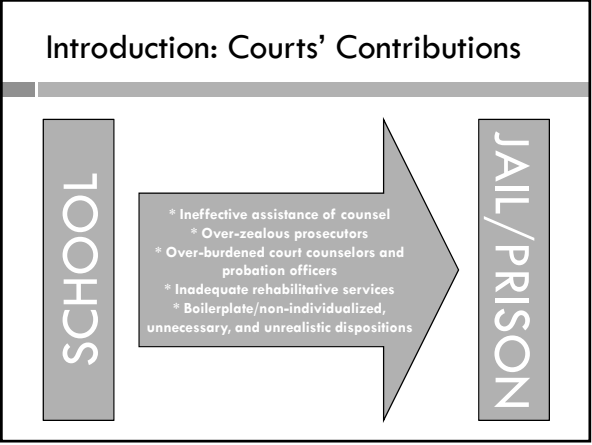


JUVENILE DISPOSITIONS & COLLATERAL CONSEQUENCES

NC Judicial College ■ Advanced Juvenile Law Program
May 15, 2014



- ### Introduction: Schools' Contributions
- 466,889 students in grades 3-8 (68%) failed at least one end-of-grade exam
 - 191,259 high school students (55.9%) failed at least one end-of-course exam
 - 19,246 students who entered high school 4 years earlier (22.7%) didn't graduate on time
 - 247,919 short-term suspensions given to 130,444 students
 - 1,423 long-term suspensions given to 1,399 students
 - Students missed nearly 750,000 school days due to out-of-school suspensions
 - 37 expulsions given
 - 47% of delinquency complaints school-based



Disposition: Probation

Term	Consideration
"not associate with specified persons"	Does the youth attend school with the person(s)?
"cooperate with a supervised day program"	Will this interfere with attending school?
"submit to house arrest"	Will this interfere with attending school or accessing other education services?
not "be in specified places"	Is school or some other place related to school (e.g., library) included?
"abide by a prescribed curfew"	Is the youth taking evening classes or participating in other evening school-sponsored events?

Disposition: Probation

Term	Consideration
"maintain passing grades in up to four courses"	Has the youth ever maintained passing grades? Does the youth have a disability (or an inadequate IEP or PEP) that makes maintaining passing grades unrealistic?
"attend school regularly"	Is the youth currently suspended? Does the youth have a behavioral disability that makes not getting suspended unrealistic?
"excuse the juvenile from compliance with the compulsory school attendance law"	How will the youth receive a sound basic education otherwise?
"not be licensed to operate a motor vehicle"	Is driving himself/herself to school the only way the youth can get to and from school?
"other conditions determined appropriate by the court"	What impact will the condition(s) have on the youth's education?

Disposition: Out-of-Home Placement

Placements

- Multipurpose group home
- Wilderness program
- Residential treatment facility
- Detention facility
- Youth development center

Considerations

- Will the placement provide adequate education (and special education) services?
- Is the youth currently receiving high-quality education (and special education) services in his/her community?
- Who will facilitate the educational transition?

Disposition: In General

- Learn about youth's education
 - Predisposition report
 - Push court counselors to provide more information about education
 - Ask probing questions
 - Youth or youth's attorney
- Consider not giving disposition at all (7B-2501(d)); instead, dismiss or continue for up to 6 months
 - Prosecution can be sufficient
- Modify or vacate order if problems encountered (7B-2510(e) & 7B-2600)



Disposition: In General

- Provide copies of orders to youth, parent/guardian, and attorney while in court
 - Opportunity to review and answer questions
- Think outside the box, tie to developmental research, and avoid cookie cutter approaches
 - E.g., Mediation/restorative justice
 - Push court counselors to do the same
- Consider implicit bias and disparities
 - Review disaggregated data regularly



Collateral Consequences: Definition

- The "other" results
- Often are not discovered until years after juvenile court jurisdiction has ended
- Can have permanent and life-changing effects
- Obstacles that impeded young people from fulfilling their educational, social, and professional potential
- Promote stigmatization and social exclusion
- Send message that rehabilitation not rewarded
- Reduce public safety



"Convicted"

- Delinquency adjudication is NOT a criminal conviction, BUT:
 - Many people may not know that
 - ONLY applies to youth age 15 and younger
 - NC is ONLY state that treats all 16- and 17-year-olds as adults when they're charged with criminal offenses and then denies them ability to appeal for return to juvenile system

Source: G.S. § 78-2412

Collateral Consequences in General

- Subsequent proceedings
- College admission and financial aid
- Civic participation
 - Voting
 - Jury participation
- Public housing
- Immigration
- Employment and professional licensure
- Motor vehicle licensure
- Public benefits
- Military service
- Sex offender registration

Collateral Consequences & the School-to-Prison Pipeline



Collateral Consequences: Education - School Notification

- Juvenile court counselors must notify principal of school juvenile attends:
 - Petition filed alleges delinquency for offense that would be felony if committed by adult
 - Court transfers jurisdiction over juvenile to superior court
 - Court dismisses under G.S. 7B-2411 petition that alleges delinquency for offense that would be felony if committed by adult
 - Court issues dispositional order of probation that requires school attendance, concerning juvenile alleged or found delinquent for offense that would be felony if committed by adult
 - Court modifies or vacates order or disposition under G.S. 7B-2600 concerning juvenile alleged or found delinquent for offense that would be felony if committed by adult
- Stigmatization and profiling

Source: G.S. § 7B-3101(a)

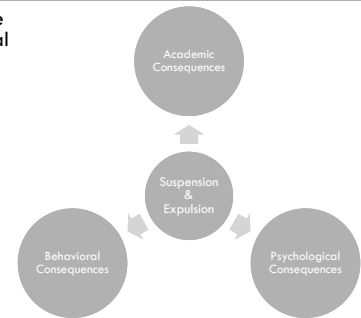
Collateral Consequences: Education - Enrollment

- When student transfers into public school system, her parent, guardian, or legal custodian must provide statement indicating whether student has been convicted of felony
- Local school board may deny admission to or place reasonable conditions on admission of student who has been convicted of felony
- Some school districts quick to move court-involved youth into alternative schools
 - Some have explicit policy allowing transfer when student simply charged with any offense
 - See e.g., Durham Public Schools Board Policy 4134

Source: G.S. § 115C-366(a4) and (a5)

Collateral Consequences: Education - Expulsion

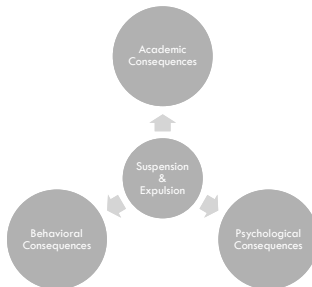
- Students can be expelled if local school board finds the student's "continued presence in school constitutes a clear threat to the safety of other students or school staff"



Source: G.S. § 115C-390.11(a)

Collateral Consequences: Education - Suspension

- "Board policies may authorize suspension for conduct not occurring on educational property, but only if the student's conduct otherwise violates the Code of Student Conduct and the conduct has or is reasonably expected to have a direct and immediate impact on the orderly and efficient operation of the schools or the safety of individuals in the school environment."



Source: G.S. § 115C-390.2(c)

Collateral Consequences: Education - Athletics

- Permanently ineligible to participate in high school athletics if:
 - Convicted of felony; or
 - Adjudicated delinquent for offense that would be felony if committed by adult



Source: NC High School Athletic Association, 2013-14 Handbook: Eligibility Information, p. 125

Collateral Consequences: Education - Other

- Students miss valuable class time while in court or locked up
- Education services in out of home placements (e.g., detention centers, youth development centers, and psychiatric residential treatment facilities) often inadequate



Source: Southern Education Foundation, *Just Learning* (2014)

Collateral Consequences: Additional Recommendations

- Notify youth of collateral consequences and answer questions before accepting plea or after ordering disposition
- Give adjudicated youth information about sealing and expunging records

Final Recommendations

- Familiarize yourself with:
 - Education law
 - School-to-prison pipeline data in your county
 - Local school systems and their key actors, board policies, and services
 - The quality of educational services in out-of-home placements you use
- Collaborate to keep youth in school with necessary services in place
 - Refer families to Advocates for Children's Services
- Encourage court counselors, defense attorneys, and prosecutors to be trained in education law

Contact Information

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