

2026 Civil Defense Special Topic

Jurisdiction

Secure custody

Capacity remediation review hearings

Suppressing school-based statements and searches

Segment I. Preliminary Procedures



Age at Offense

Delinquency jurisdiction for all offenses from ages 10 - 15

G.S. 7B-1501(7)a.



Ages 13 - 15 could have a
disqualifying previous
criminal conviction

Offenses at 8 & 9

Delinquency jurisdiction only if:

- **Class A – G felony**
- **Previous delinquency adjudication followed by a new offense**

G.S. 7B-1501(7)c. – d.



Offenses at 16 & 17

Delinquency jurisdiction for all offenses EXCEPT

- 1) Chapter 20 motor vehicle offenses**
- 2) Class A – E felonies and their transactionally related offenses**

G.S. 7B-1501(7)b.





Offense date
is
IMPORTANT

Cases That Begin with Criminal Procedure

Offenses 12/1/19- 11/30/2024

- Chapter 20 offenses at 16/17
- Once an adult cases
- Other exceptions

Beginning with offenses on 12/1/24

- Chapter 20 offenses at 16/17
- Once an adult cases
- Other exceptions
- Class A – E felonies at 16/17 and their transactionally related offenses

Jurisdiction – Once an Adult, Always an Adult

No
juvenile
court
jurisdiction
for offense
committed
after
conviction
for

Felony

Non-chapter 20 misdemeanor

Impaired driving offense



Jurisdiction When Age Out Before Begun or Completed

Only:

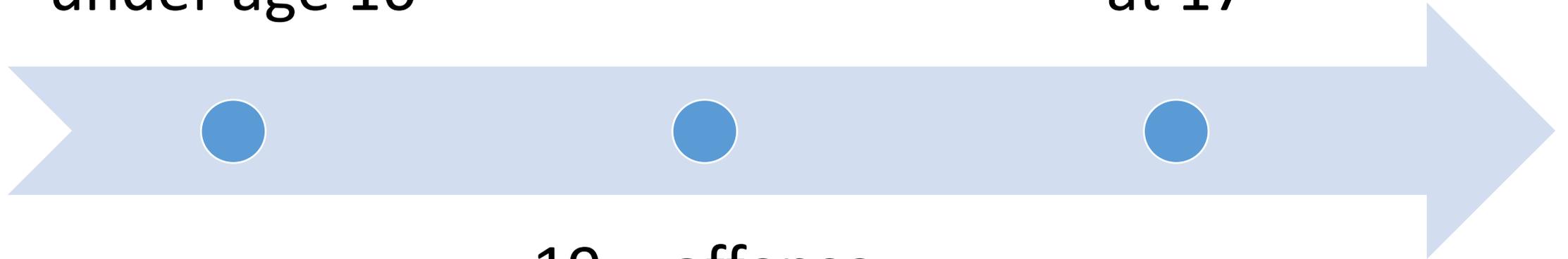
- **Cases that could have been transferred**
- **For transfer or dismissal**

G.S. 7B-1601 (c), (c1), (d), (d1)

Jurisdiction Ends

18 - offense
under age 16

20 – offense
at 17



19 – offense
at 16

Extended Commitments

Age at offense	Offense type	Commitment to age
Any	first degree murder, first-degree forcible rape, first-degree statutory rape, first-degree forcible sexual offense, or first-degree statutory sexual offense	21
Under 16	Other B1 - E	19
16	Other B1 - E	20
17	Other B1 - E	21

Jurisdiction

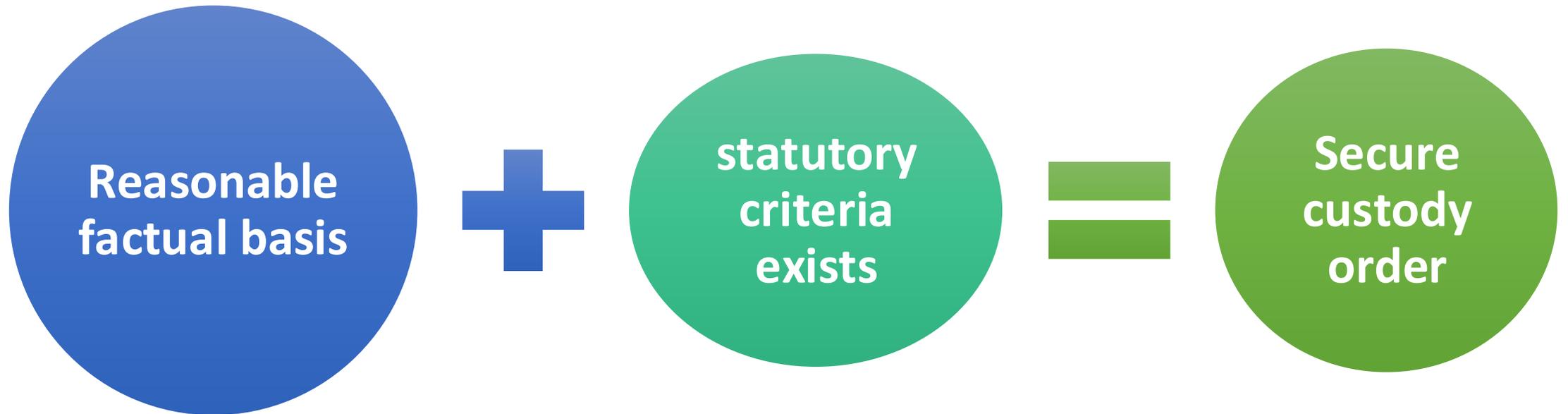
Secure custody

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Segment I. Preliminary Procedures

Secure Custody G.S. 7B-1903



Secure Custody
is Only
Authorized
when Explicitly
Allowed by
Statute

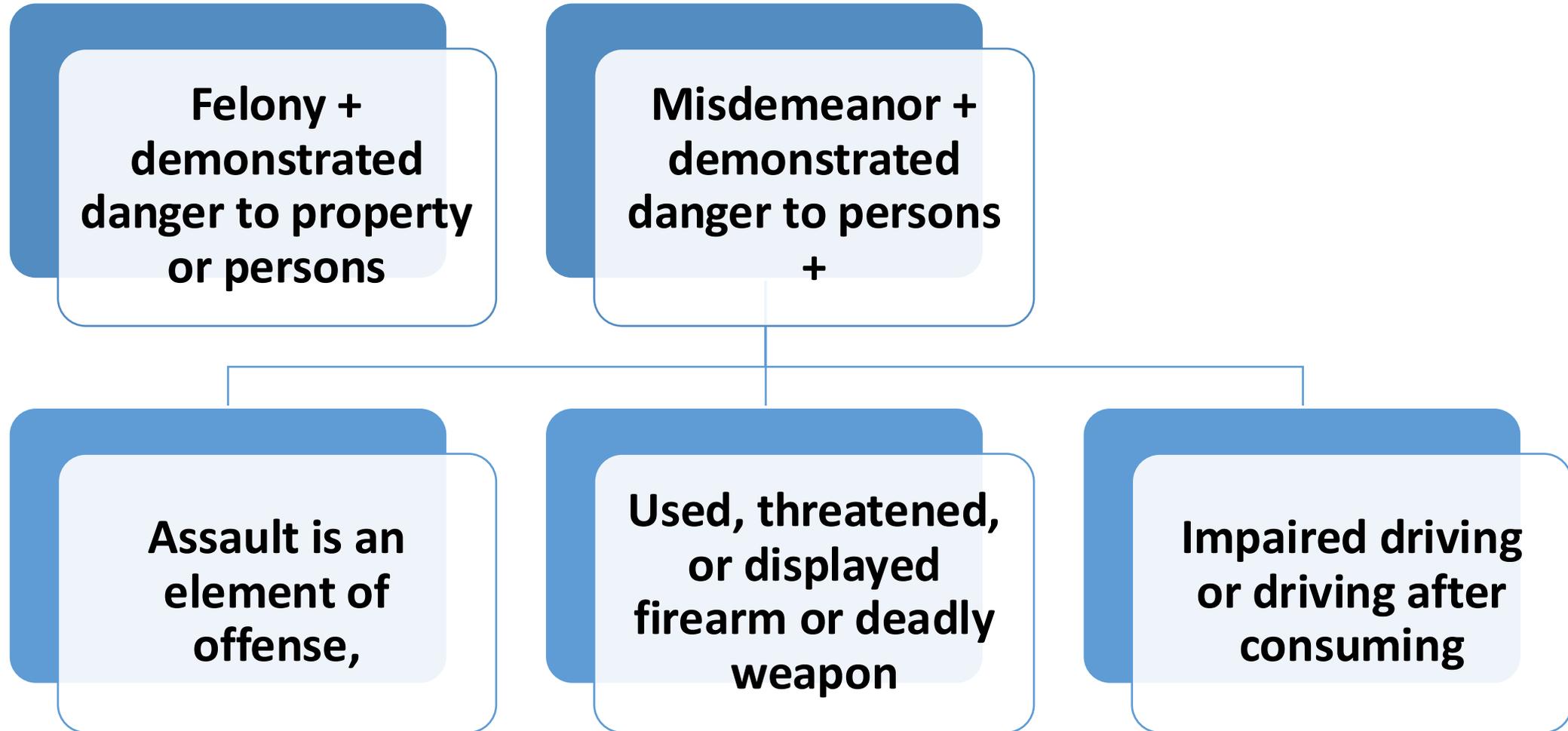
G.S. 7B-1903 pending juvenile matters,
allegation of probation or PRS violation,
protection of the juvenile, absconding

G.S. 7B-2506(12), (20) dispositional alternative

G.S. 7B-2510(e) finding of probation violation

G.S. 5A-32(c) direct contempt

Pending Delinquency Petition



Pending Delinquency Petition

Willfully failed
to appear

Reasonable
cause to believe
will not appear

A person is captured in mid-stride, running on a paved path. They are wearing a light blue long-sleeved shirt, black athletic pants with a white stripe down the side, and grey and white sneakers. The background features a lush green park with several large trees and a clear blue sky. The overall scene is bright and active.

Absconder

Protection of Juvenile

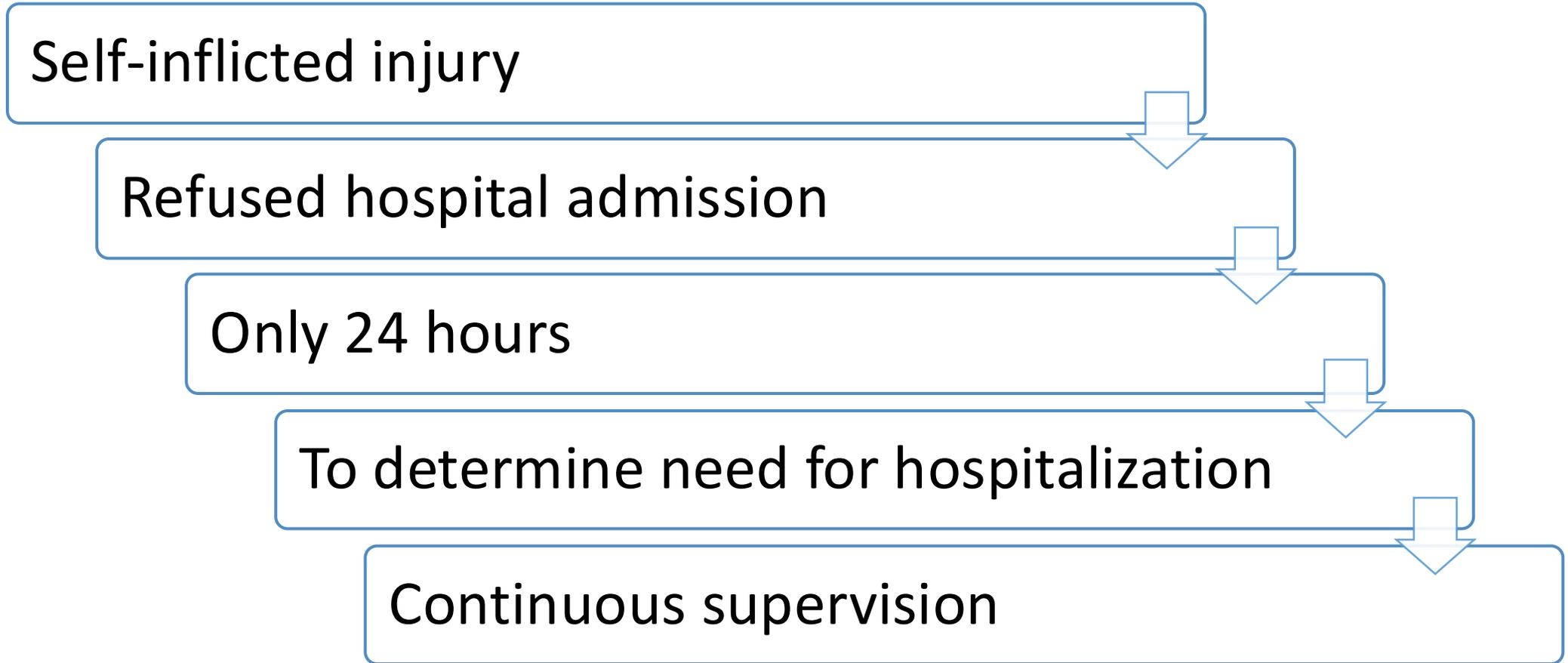
Self-inflicted injury

Refused hospital admission

Only 24 hours

To determine need for hospitalization

Continuous supervision



Undisciplined - Runaway



Nonsecure custody not appropriate or refused



Needed for medical or psychiatric evaluation or family return



24 hours

Undisciplined

**Willfully
failed to
appear**

24 hours

Probation Violation

Alleged to have committed acts that damage property or injure persons

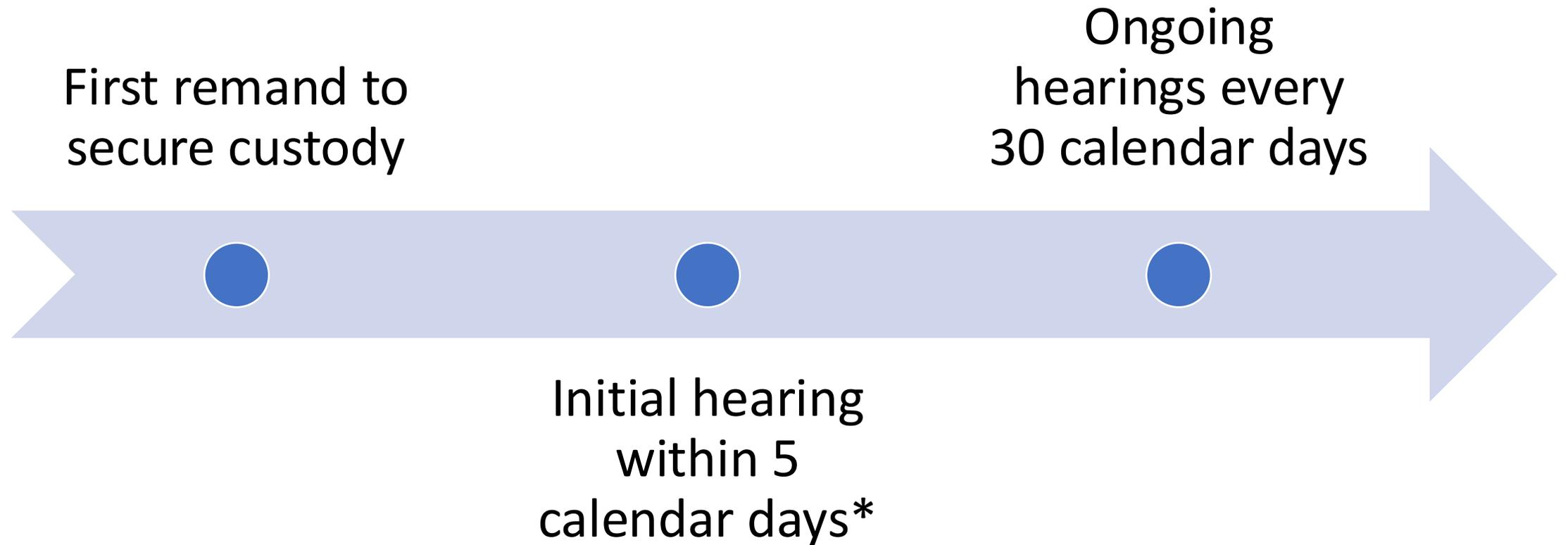
Only while the allegations of the violation are pending. *In re D.L.H.*, 198 N.C.App. 286, 292 (2009), rev'd on other grounds, 364 N.C. 214 (2010).

Probation or PRS Violation

**Willfully failed to
appear**

Custody Hearing Timelines

G.S. 7B-1906



* If initial custody was ordered by the juvenile court counselor, a custody hearing must be held on the next regularly scheduled session of district court

Ongoing Hearings Within 10 Days



Or on order of the court

* If mandatory transfer case, court must find good cause to order a 10-day schedule

Custody Hearings (G.S. 7B-1906)

Rules of evidence do not apply

Court shall receive testimony

State bears the burden to show by clear and convincing evidence that:

Must continue to meet detention criteria in G.S. 7B-1903

Restraints on juvenile's liberty are necessary
AND

No less intrusive alternative will suffice

Conditions
on Release
from Secure
Custody
G.S. 7B-1906(f)

Written promise to produce the juvenile in court;

Release into the care of a responsible person or organization;

Restrictions on activities, associations, residence, or travel if reasonably related to securing presence in court

Any other conditions reasonably related to securing presence in court

Jurisdiction

Secure custody

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Segment I. Preliminary Procedures

Remediation



Mental health treatment
and/or psychoeducational
programming



Based on
recommendations in
forensic evaluation

Where?

Least Restrictive Environment Considering

- Whether there is PC
- Nature of incapacity
- Age or developmental maturity
- Nature and seriousness of allegations
- Availability and appropriateness of community-based programming
- Need for supervision; community-based supervision or alternatives (e.g. family, caregivers, programs)
- Prior treatment or interventions
- Any other relevant factors

REMEDICATION TIME LIMITS

G.S. 7B-2401.4(f)

Most serious offense alleged	Remediation time limit
First-degree murder, forcible rape, statutory rape, forcible sexual offense, or statutory sexual offense	The sooner of 36 months from the finding of incapacity or the maximum jurisdiction of the juvenile court
Any other Class B1 – E felony	The sooner of 12 months from the finding of incapacity or the maximum jurisdiction of the juvenile court. An extension of 12 months can be granted for <i>good cause</i> . Remediation can never extend beyond the sooner of 24 months from the finding of incapacity or the maximum jurisdiction of the juvenile court.
Class F – I felony or misdemeanor	The sooner of 6 months from the finding of incapacity or the maximum jurisdiction of the juvenile court. An extension of 6 months can be granted. Remediation can never extend beyond the sooner of 12 months from the finding of incapacity or the maximum jurisdiction of the juvenile court.

Court Order Requiring Remediation Services

G.S. 7B-2401.4(b), (c), (e)



MUST be based on recommendations from the forensic evaluation



Services MUST be in least restrictive environment; order MUST contain written findings of fact re: least restrictive environment

DJJDP Responsibility (G.S. 7B-2401.4(g))

Provision of
psychoeducational
programming

Work with community
partners to secure
additional services
recommended in
forensic evaluation

Remediation Reports to the Court

From remediation service provider

Every 90 days

Including:

- dates services were provided to the juvenile,
- a summary of the juvenile's attendance and participation, and
- information about the juvenile's progress in the areas relevant to the finding of incapacity, including psychoeducation and stabilization or improvement of symptoms leading to functional impairment

Remediation Review Hearings



Within 30 days of receiving remediation report



To review remediation services



Informal

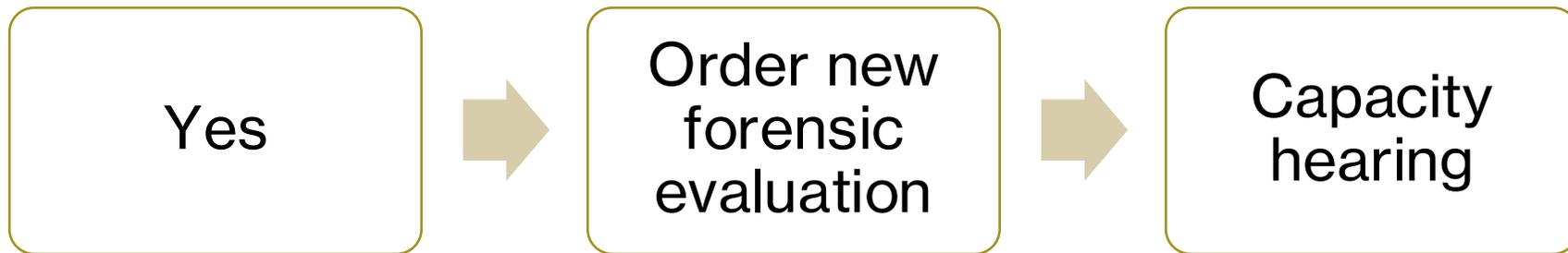


Any evidence that is relevant, reliable, and necessary



Should remediation continue or is reassessment of capacity warranted?

Is reassessment of capacity warranted?



G.S. 7B-2401.4(h)

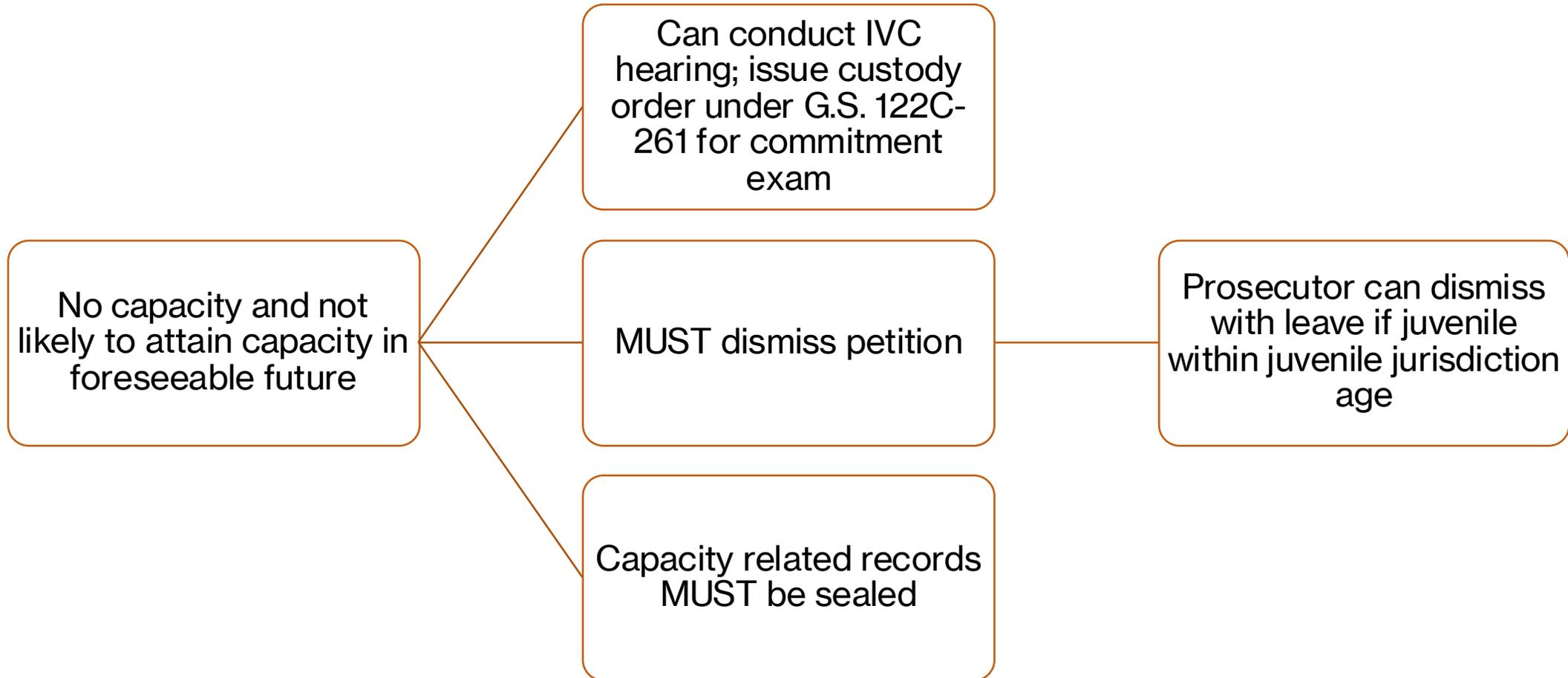
Notice that Juvenile Likely Completed Requirements of Remediation

From provider within 2 business days of making determination

To court, prosecutor, and juvenile's attorney

Must also send remediation reports to court and juvenile's attorney; court can release to prosecutor after making certain findings

Must return to court within 30 days of completion for review or further proceedings



G.S. 7B-2401.5

Jurisdiction

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Segment I. Preliminary Procedures

Preliminary Motions: Suppression

Motions can be made before or during hearing

Before: in writing with accompanying affidavit; served on the State who can answer

During: in writing or oral



Can summarily grant or deny motion

Grant: State concedes truth of allegations of fact that support motion or State stipulates evidence won't be offered in any juvenile proceeding

Deny: Legal basis not alleged or affidavit does not as a matter of law support alleged ground



If not determined summarily, hearing and finding of facts

Findings of facts and conclusions of law must be set forth in the record; G.S. 15A-974 applies and provides standards for suppression decisions

Interrogation rights

In custody



Interrogation

What is so different about
young people?

Admissibility of Custodial Statements

7B-2101(a)
interrogation rights –
17 and under (*State v.*
Fincher, 309 N.C. 1
(1983))

Miranda plus right to
have parent, guardian,
or custodian (or
caretaker if 16+)
present

PGCC or attorney can
be waived by 16+

The reasonable child standard and the custody analysis

J.D.B. v. North Carolina, 564 U.S. 261 (2011)

“child's age properly informs the *Miranda* custody analysis.”

“so long as the child's age was known to the officer at the time of police questioning, or would have been objectively apparent to a reasonable officer, its inclusion in the custody analysis is consistent with the objective nature of that test.”

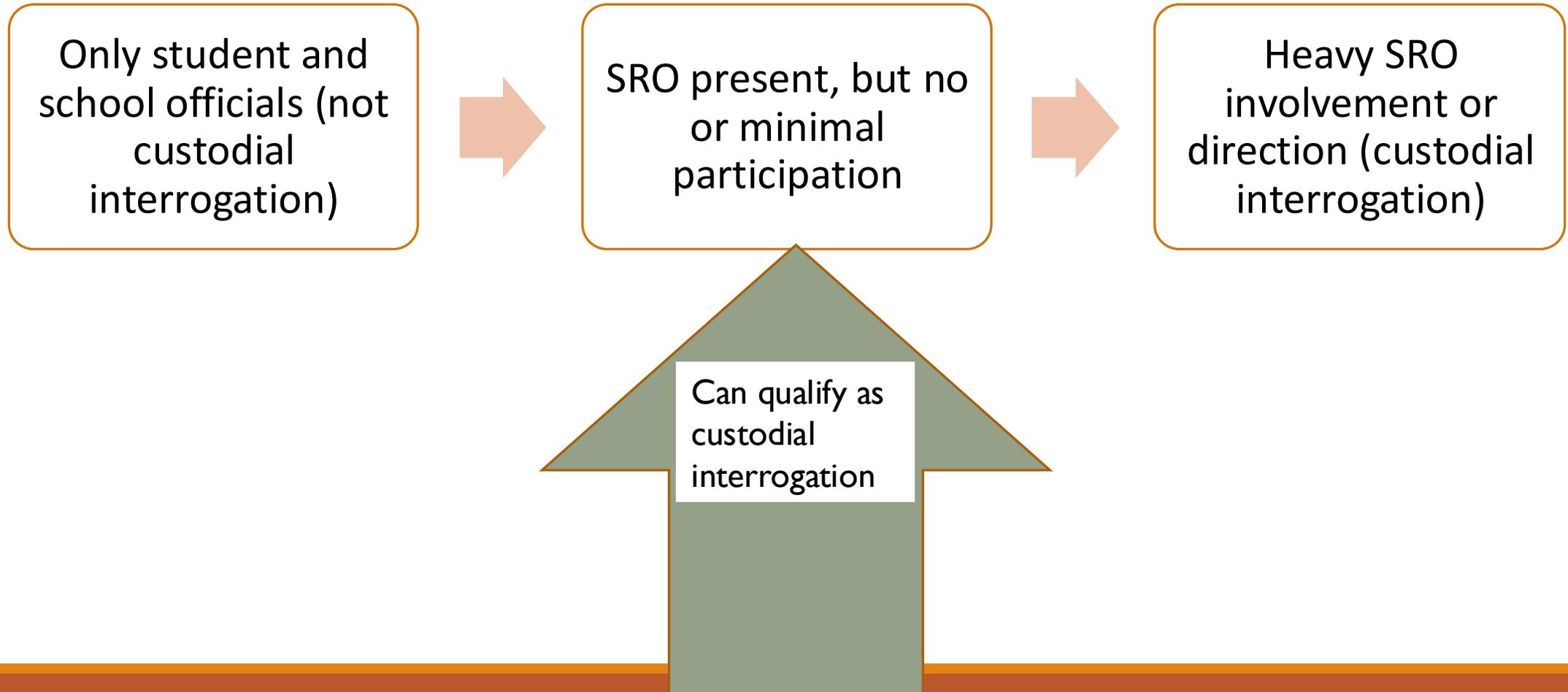
In the Matter of D.A.H., 2021-NCCOA- 135 (2021)

DID THE
QUESTIONING OF
THE JUVENILE AT
SCHOOL CONSTITUTE
A CUSTODIAL
INTERROGATION?



“As the United States Supreme Court recognized in *J.D.B.*, the Fifth Amendment requires that minors under criminal investigation be protected against making coerced, inculpatory statements, even when—and perhaps, in some cases, particularly because—they are on school property. *J.D.B.*, 564 U.S. at 275. Increased cooperation between educators and law enforcement cannot allow the creation of situations where no *Miranda* warnings are required just because a student is on school property.” (¶ 35)

SRO Involvement



Factors Most Relevant in Determining Custody in Context of Schoolhouse Interview

(1) traditional indicia of arrest;

(2) the location of the interview;

(3) the length of the interview;

(4) the student's age;

(5) what the student is told about the interview;

(6) the people present during the interview; and,

(7) the purposes of the questioning.

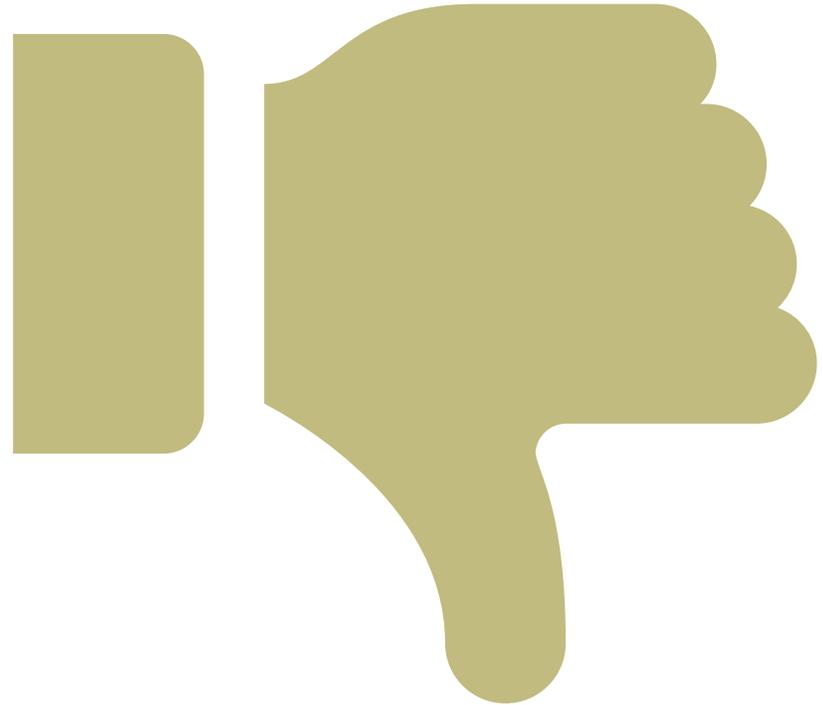
Factors Most Relevant in Determining Interrogation in Context of Schoolhouse Interview

(1) the nature of the questions asked (interrogative or mandatory);

(2) the willingness of the juvenile's responses;

(3) the extent of the SRO's involvement;

Would a Reasonable
13-Year-Old Have Felt
Free to Leave?



Was the questioning of a nature that the two authority figures should have known was likely to elicit an incriminating response?



**Deacon's confession was the product of a custodial
interrogation**

Court erred in denying the motion to suppress

**See "*Juvenile Interrogation*" Juvenile Law Bulletin for much
more on custodial interrogation**





Juvenile waiver

(b) When the juvenile is less than 16 years of age, no in-custody admission or confession resulting from interrogation may be admitted into evidence unless the confession or admission was made in the presence of the juvenile's parent, guardian, custodian, or attorney.

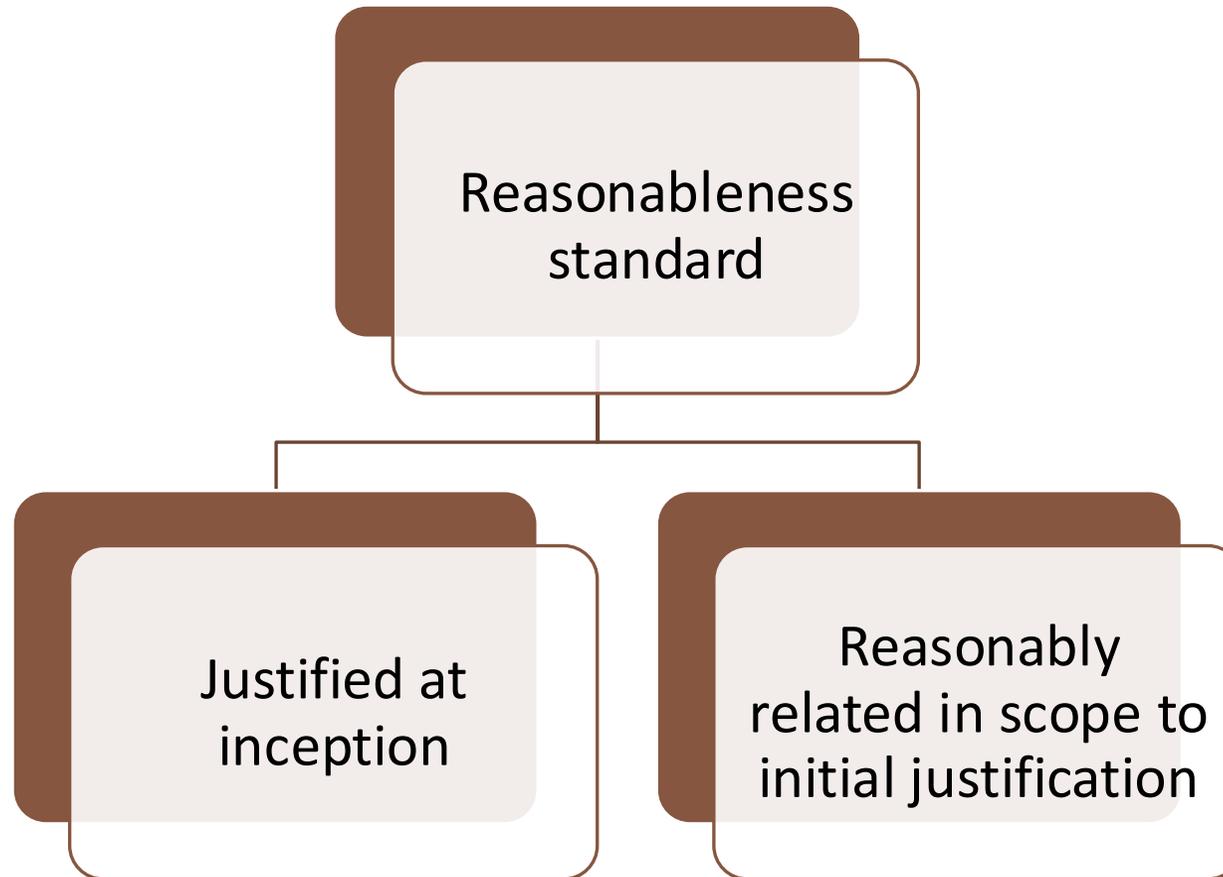
G.S. 7B-2101

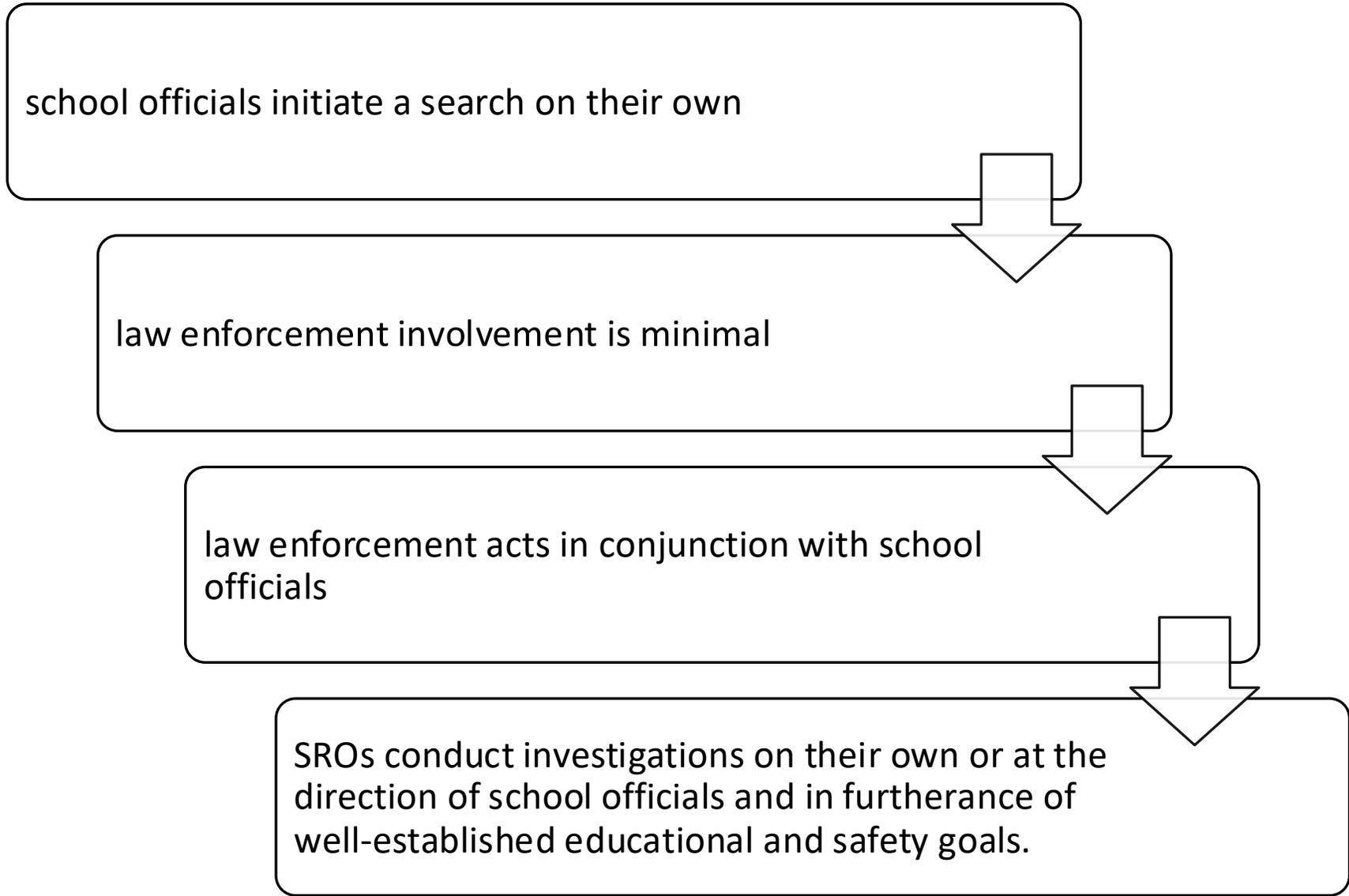
(d) Before admitting into evidence any statement resulting from custodial interrogation, the court shall find that the juvenile knowingly, willingly, and understandingly waived the juvenile's rights.

G.S. 7B-2101

Search and Seizure at School

New Jersey v. T.L.O, 469
U.S. 325 (1985)





Reasonableness Standard
Applies

Discovery

Admissions

Juvenile testifying

Segment II. Adjudication

Statutory Right to Discovery

7B-2300 – 2303

Right triggered by juvenile's
motion

Prosecutor can voluntarily
disclose without a motion when
in the interest of justice

Relevant written or recorded **statements** made by the juvenile or any other party charged in the same action and in prosecutor's possession

Books, papers, documents, photographs, motion pictures, mechanical or electronic recordings, tangible objects, or portions thereof in the possession of the prosecutor or any law enforcement officer who is investigating the alleged matter and **material** o the preparation of the defense, **intended for use** by the petitioner as evidence, or **obtained from or belong to the juvenile**

Results of **physical or mental examinations or of tests, measurements, or experiments** made in connection with the case and in prosecutor's possession

Juvenile Can Inspect And Copy

Substance of any oral statement, in written or recorded form, made by the juvenile or any other party charged in the same action

Names of people to be called as **witnesses**

Any **physical evidence** or sample of it or tests or experiments made in connection with it when the evidence is available to the prosecutor or any law enforcement officer investigating the matter and the prosecutor **intends to offer it at trial**. The juvenile is permitted to inspect, examine, and test any such evidence, subject to appropriate safeguards

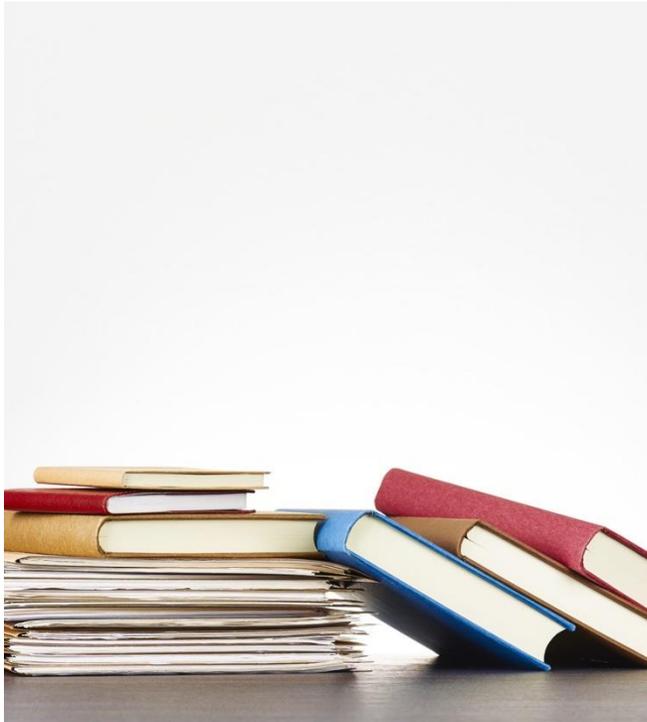
Juvenile Also Entitled To

State's
Discovery
Rights

Triggered by motion

Always entitled to names
of juvenile's witnesses

State Entitlements IF Disclosure To Juvenile Was Ordered



Inspect and copy:

- books, papers, documents, photographs, motion pictures, mechanical or electronic recordings, tangible objects, or portions thereof in the juvenile's possession and which the juvenile intends to introduce in evidence
- results of physical or mental examinations or of tests, measurements, or experiments made in connection with the case in the juvenile's possession and which the juvenile intends to introduce in evidence or which were prepared by a witness whom the juvenile intends to call if the results relate to the witness's testimony

State Entitlements IF Disclosure To Juvenile Was Ordered



Inspect, examine, and test, subject to appropriate safeguards, any physical evidence or a sample of it if the juvenile intends to offer the evidence or tests or experiments made in connection with the evidence in the case

Statutory Rights May Be Limited

Written motion required

Court can allow submission of supporting affidavits to the court for in camera inspection

Good cause standard



For a party **subject to a disclosure order** under the statute who

- Discovers additional evidence before or during hearing or decides to use additional evidence and
- The evidence is or may be subject to discovery or inspection under the statute

Ongoing Duty to Disclose



Constitutional Right to Exculpatory Material

Juveniles are entitled to the same due process protections as adults in proceedings where a loss of liberty is possible, *Matter of Mikels*, 31 N.C.App. 470 (1976)

Procedural standards for juveniles are required to be at least as strict as the standards for adults, *In re N.J.*, 221 N.C.App. 427 (2012).

Brady likely applies in delinquency cases
(prosecutor duty to disclose material exculpatory evidence)

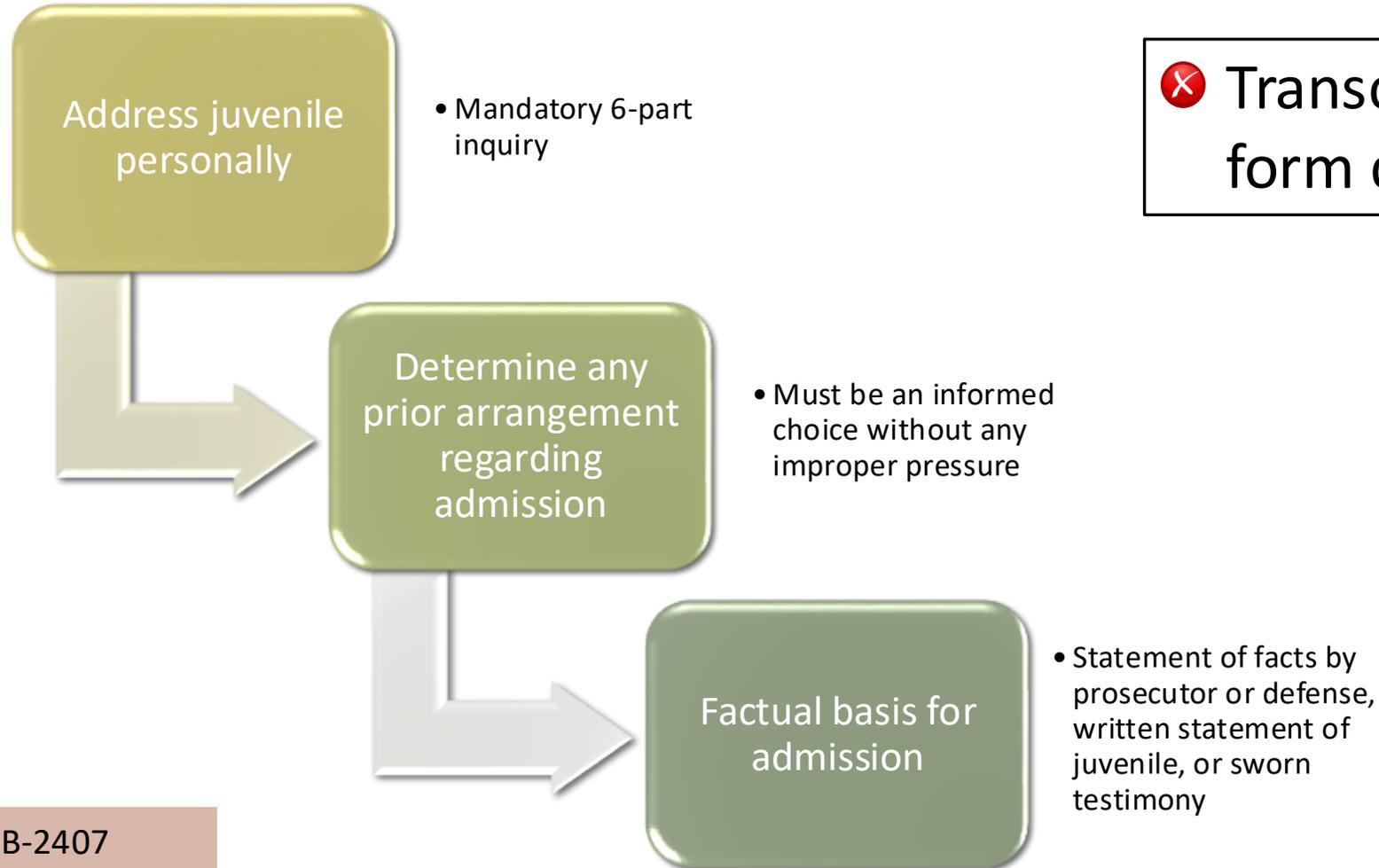
Discovery

Admissions

Juvenile testifying

Segment II. Adjudication

Juvenile Admissions



✘ Transcript of Admission form does not cure defect!

The court may accept an admission from a juvenile only after first addressing the juvenile personally and:

1. Informing the juvenile that the juvenile has a right to remain silent and that any statement the juvenile makes may be used against the juvenile;
2. Determining that the juvenile understands the nature of the charge;
3. Informing the juvenile that the juvenile has a right to deny the allegations;
4. Informing the juvenile that by the juvenile's admissions the juvenile waives the juvenile's right to be confronted by the witnesses against the juvenile;
5. Determining that the juvenile is satisfied with the juvenile's representation; and
6. Informing the juvenile of the most restrictive disposition on the charge

“The statute does not require the exact statutory language to be used during the colloquy, but rather requires the court to orally and clearly inform the juvenile of his rights”

Invalid Admissions

In re J.A.G., 206 N.C. App. 318 (2010) (court omitted three of the six mandatory inquiries)

In re A.W., 182 N.C. App. 159 (2007) (court omitted two of the six mandatory inquiries)

In re N.L.G., 2021-NCCOA-247 (2021) (court did not make any of the required inquiries)

Insufficient Factual Basis

In re N.J., 752 S.E.2d 255 (2013) (unpublished)

- vacated admission to PWISD b/c no factual basis for element of intent to sell or deliver

In re D.C., 191 N.C. App. 246 (2008)

- vacated admission to felony larceny b/c no factual basis for value of stolen truck

Discovery

Admissions

Juvenile testifying

Segment II. Adjudication

The court MUST talk with the juvenile about their right against self-incrimination

“failure to follow the statutory mandate when conducting an adjudication hearing constitutes reversible error unless proven to be harmless beyond a reasonable doubt.”
In re J.B. 820 S.E.2d 369 (2018)

