



Disposition

Juvenile Delinquency: A Course for District Court Judges

November 15, 2023

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How do you feel about entering dispositions in delinquency cases?

① Start presenting to display the poll results on this slide.

The big picture

Before entering disposition

Disposition hearings

Disposition levels

Dispositional alternatives

Disposition Purposes

Meet the
needs of
the juvenile



Achieve State
objectives,
including public
protection

Promote public
safety

Parent and
juvenile
accountability and
responsibility

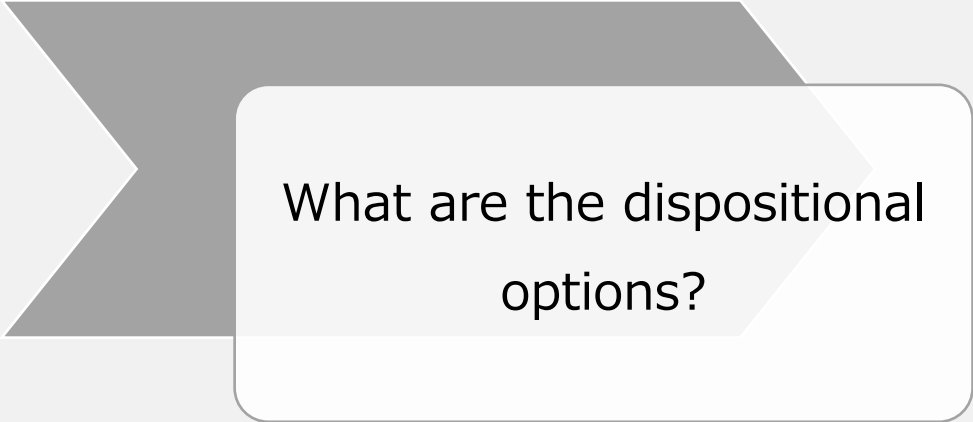
Appropriate
consequences,
treatment, training,
and rehabilitation

G.S. 7B-2500

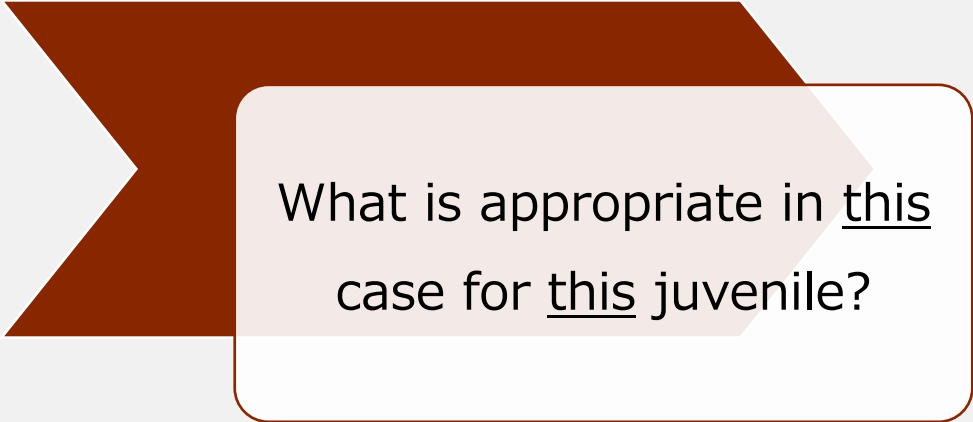


Juveniles are not “sentenced.”

A disposition is a plan for an individual juvenile



What are the dispositional options?



What is appropriate in this case for this juvenile?



The big picture

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Predisposition Reports

G.S. 7B-2413

- Risk and needs assessment must be attached
- If no report available, and court makes written finding that it is not necessary, can proceed with disposition hearing
- Cannot submit to the court prior to adjudication
- Juvenile must be allowed to inspect and given opportunity for rebuttal

Parts can be kept from the juvenile if disclosure would seriously harm the treatment or rehabilitation of the juvenile or violate a promise of confidentiality given to a source of information

The background features a dark brown wood grain texture. Three overlapping circles are positioned in the upper half of the frame. Each circle is defined by a thin white outline and filled with a semi-transparent, light beige color. The circles overlap in the center, creating a layered effect.

Mental Health Evaluations



In re E.M., 263 N.C.App. 476 (2019) – the old statute

Faced with any amount of evidence that a juvenile is mentally ill, “a trial court has a statutory duty to refer the juvenile to the area mental health…services director for appropriate action.”

In re E.M., 263 N.C.App. 476

In re A.L.B., 849 S.E.2d 352

2019

2021

2019

2020

In re E.A., 267 N.C.App. 396

In re K.M., 854 S.E.2d. 453

Including When:

A new disposition is being entered as a result of a violation of probation

There is a mental health evaluation provided to the court

A representative from the LME testifies at the disposition hearing

New Law for Petitions Filed On and After 12/1/21

G.S. 7B-2502(a2) – (a4)

Statutory Requirement

G.S. 7B-2502(a2) – (a4)

A comprehensive clinical assessment (CCA) or equivalent mental health assessment is REQUIRED if:

The juvenile is suspected to have mental illness, developmental disability, or intellectual disability, &

Adjudicated delinquent, &

A CCA or equivalent mental health assessment was not conducted within 45 of adjudication hearing

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**How often do you have a timely
CCA?**

① Start presenting to display the poll results on this slide.

Who

G.S. 7B-2502(a2)

The court SHALL order
DJJ to make a referral
for a CCA or equivalent
mental health
assessment

What

If an Assessment is Ordered

Court SHALL review prior to disposition, If:

- ✓ Court finds sufficient evidence that juvenile has severe emotional disturbance, developmental disability, or intellectual disability,
- ✓ The disturbance or disability substantially contributed to the delinquent behavior, and
- ✓ Juvenile is eligible for Level 3 disposition and/or recommended for PRTF

Then, court SHALL order a care review team to be convened by juvenile justice

Severe Emotional Disturbance

G.S. 7B-1501(24a)

Developmental Disability

G.S. 122C-3(12a)

Intellectual Disability

G.S. 122C-3(17a)





Who is On The Care Review Team?

Care Review Team

At a minimum:

The juvenile.

The juvenile's parents, guardian, or custodian.

Representatives from Juvenile Justice

Representative from the local management entity/managed care org or prepaid health plan in which the juvenile is enrolled.

Representatives from any State agency or local department of social services that is currently providing services to the juvenile or the juvenile's family.



Care Review Team Shall

Develop a recommendation plan for appropriate services and resources that address the identified needs of the juvenile

Submit recommendation to the court within 30 calendar days of the order requiring the team

The Court SHALL

Review the recommendation plan when determining the juvenile's disposition in accordance with G.S. 7B-2501(c).

Payment for Treatment –G.S. 7B-2502(b)

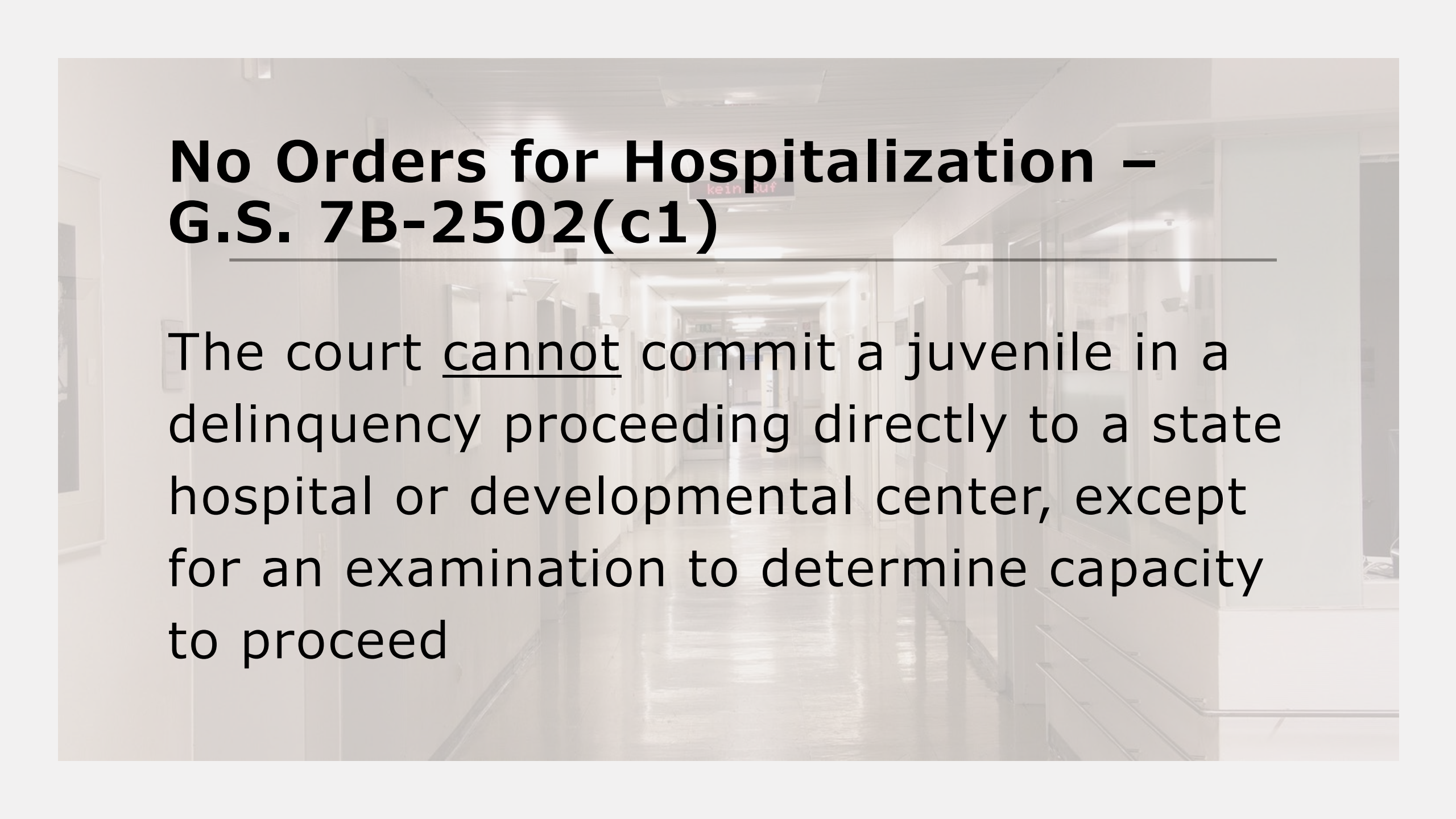
If the juvenile does not have insurance for the recommended treatment, the court SHALL conduct a hearing to determine who should pay the cost of assessment, evaluation, or treatment

County manager, or any other person who is designated by the chair of the board of county commissioners, of the county of the juvenile's residence shall be notified of the hearing, and allowed to be heard

Potential Hearing Outcomes

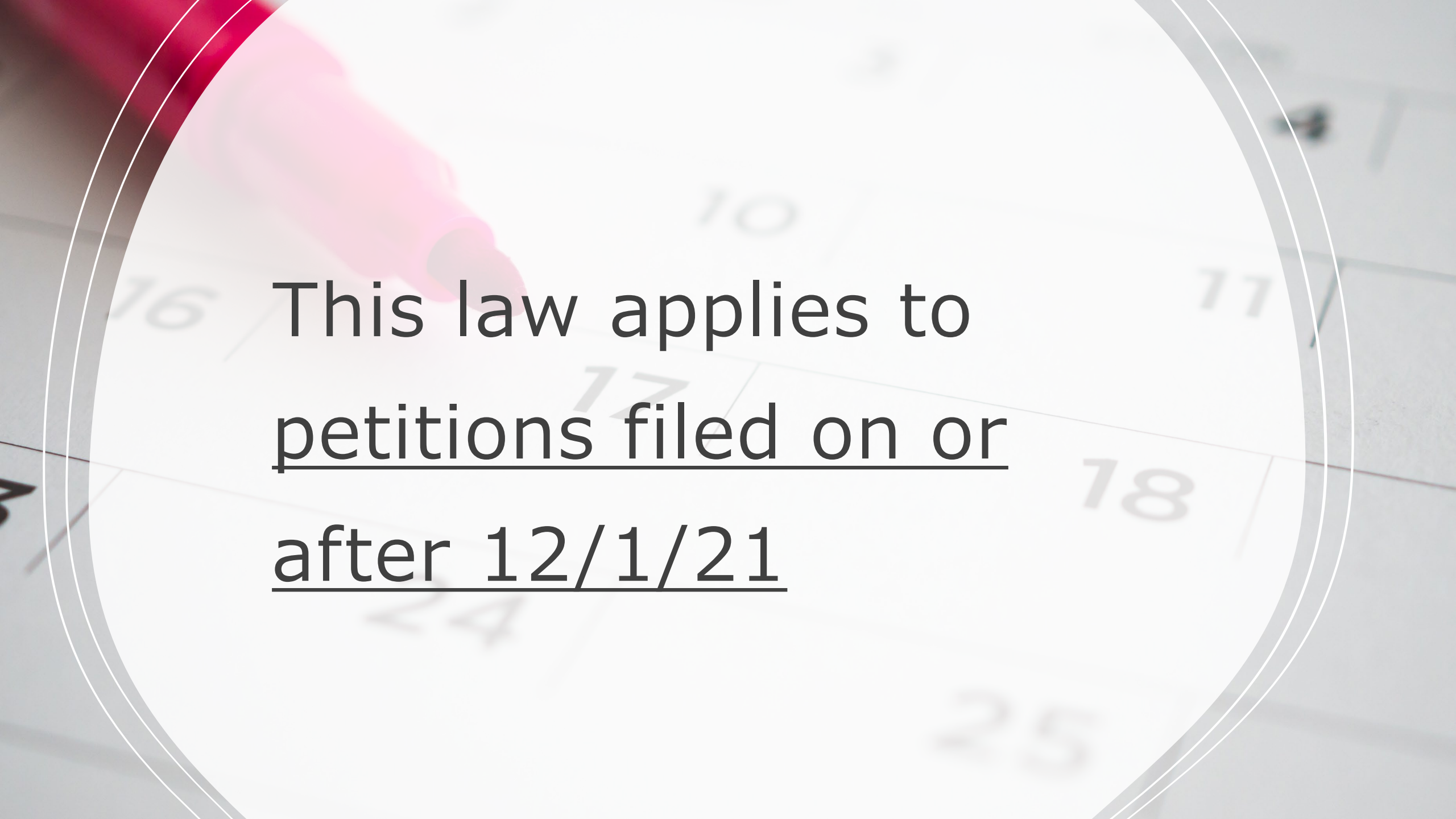
- PGC SHALL be allowed to arrange for evaluation and treatment
- If PGC declines or is unable to make necessary arrangements, parent can be ordered to pay cost of care
- If court finds (1) parent and (2) juvenile justice are unable to pay cost of evaluation or treatment, the court SHALL order the county to pay



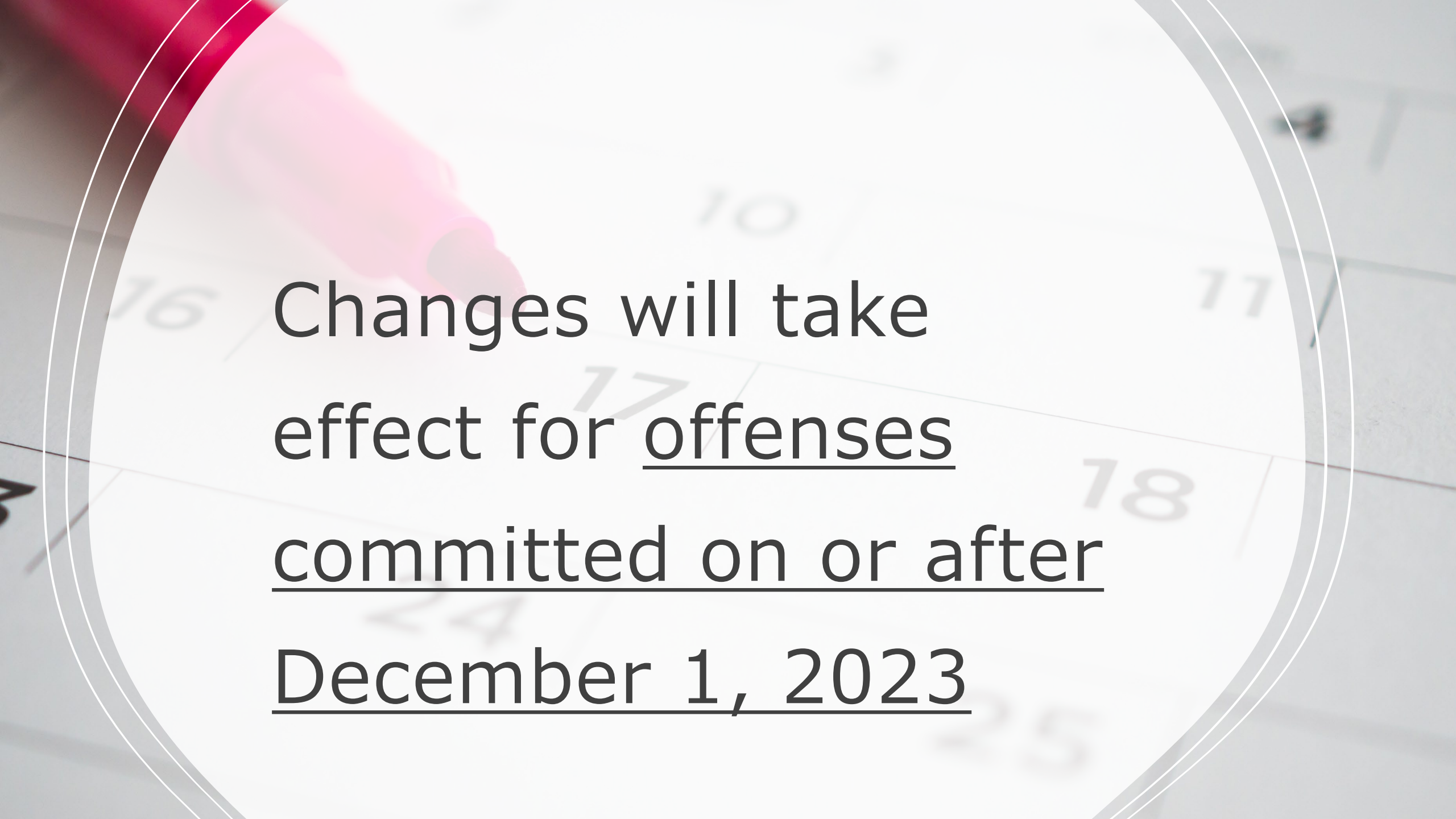


No Orders for Hospitalization – G.S. 7B-2502(c1)

The court cannot commit a juvenile in a delinquency proceeding directly to a state hospital or developmental center, except for an examination to determine capacity to proceed

A hand in a pink sleeve points to a date on a calendar grid. A magnifying glass with a white frame is positioned over the calendar, focusing on the text. The background is a blurred calendar with numbers like 10, 11, 17, 18, 24, and 25 visible.

This law applies to
petitions filed on or
after 12/1/21

A hand in a pink sleeve points to a date on a calendar. A magnifying glass is positioned over the calendar page, focusing on the text. The background is a blurred calendar with numbers like 10, 11, 17, 18, and 25 visible.

Changes will take
effect for offenses
committed on or after
December 1, 2023

Mandate triggered when no CCA (or equivalent) within 90 days before disposition hearing

Applies to juvenile “who has been identified with a suspected mental illness through the use of a validated screening instrument or other evidence presented to the court, or a suspected developmental disability or intellectual disability”

Every CCA or equivalent must be reviewed to determine if care review team criteria exist



The big picture

Before entering disposition

Disposition hearings

Disposition levels

Dispositional alternatives

Disposition Hearings



Upon receipt of
predisposition
report

G.S. 7B-2413

G.S. 7B-2501(a), (b)



Informal



Any evidence, including hearsay

- relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition



May consider written reports



Juvenile and parent must have opportunity to present evidence

The big picture

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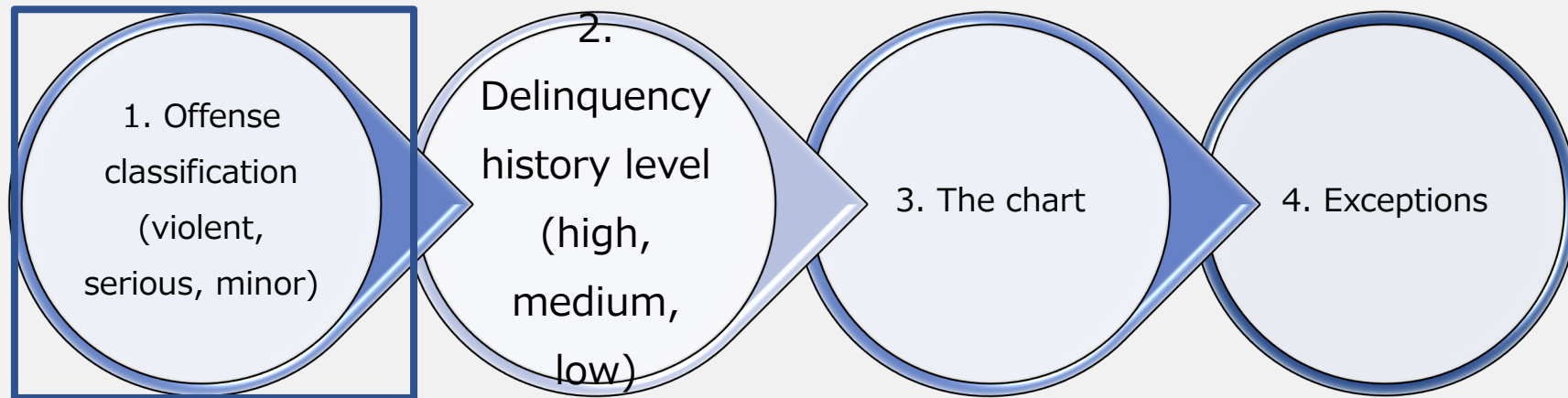
Determining the Disposition Level

Level 1 - Community

Level 2 - Intermediate

Level 3 - Commitment

Determining the Disposition Level



Offense Classification

1. Identify the offense for which disposition is being entered

□ If multiple offenses are adjudicated during a single session of court, offenses are consolidated for disposition and a single disposition is ordered for the consolidated offenses

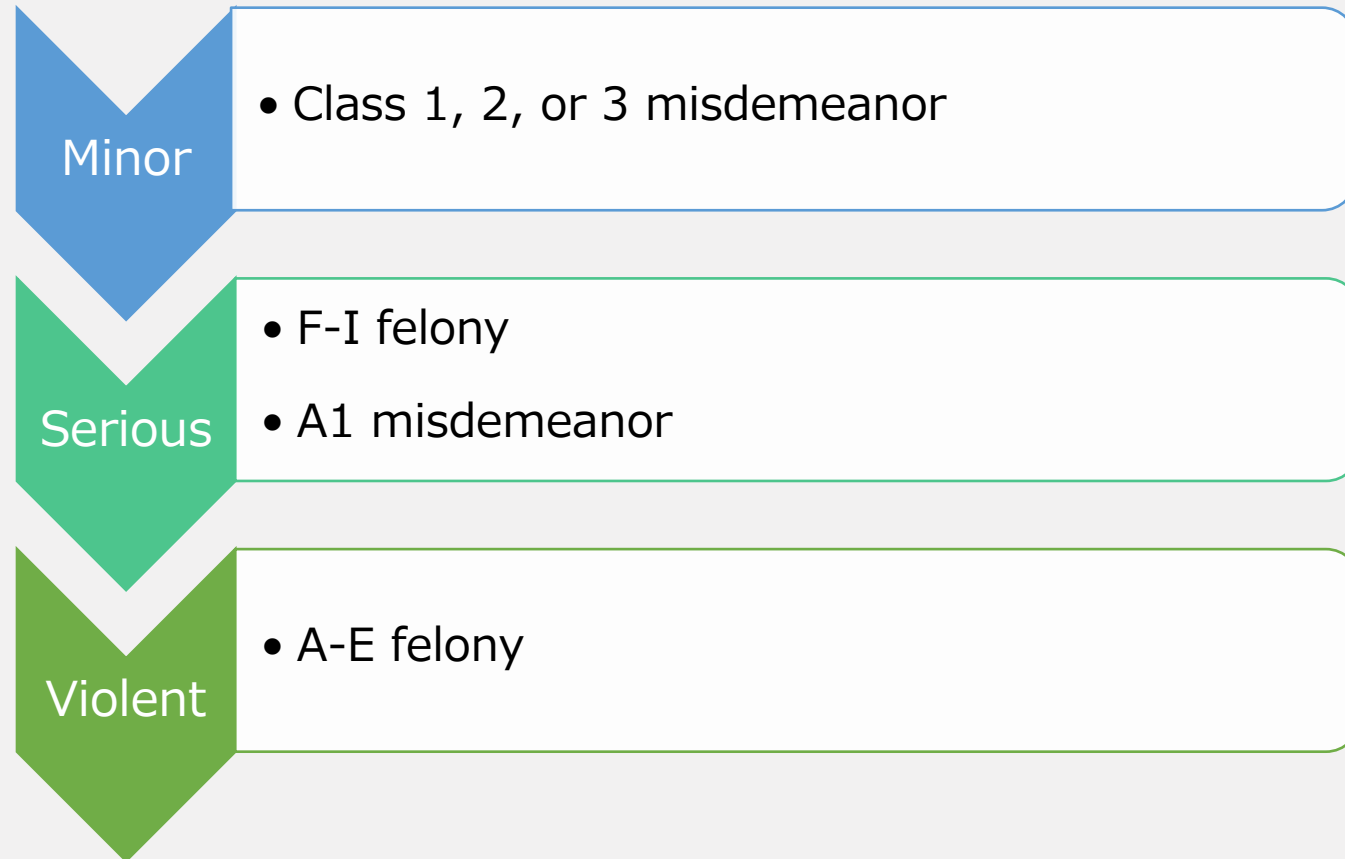
- Disposition MUST be based on the most serious offense

G.S. 7B-2508(h)

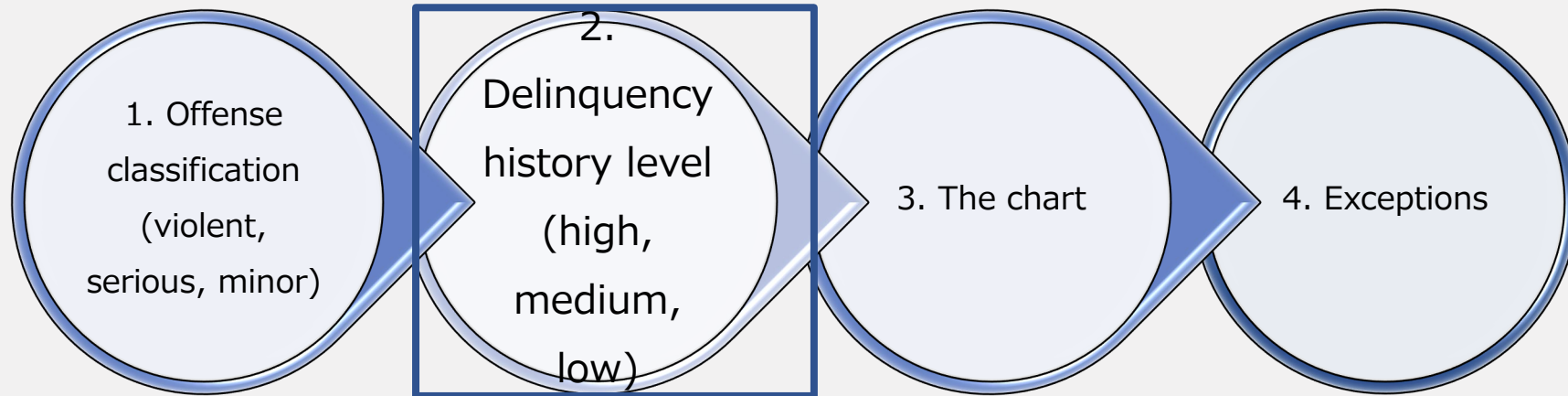
Offense Classification

2. Is the offense on which disposition is based minor, serious, or violent?

G.S. 7B-2508(a)



Determining the Disposition Level



Delinquency History Level

G.S. 7B-2507

Points	History Level
0-1	Low
2-3	Medium
4+	High

- Points are assessed for each prior adjudication and conviction and if on probation at time of current offense
- If adjudicated for multiple offenses in a single session of court, only assign points for the adjudication with the highest point total
- Misdemeanor convictions for motor vehicle laws are excluded, except for impaired driving offenses and misdemeanor death by vehicle (all 2 points)

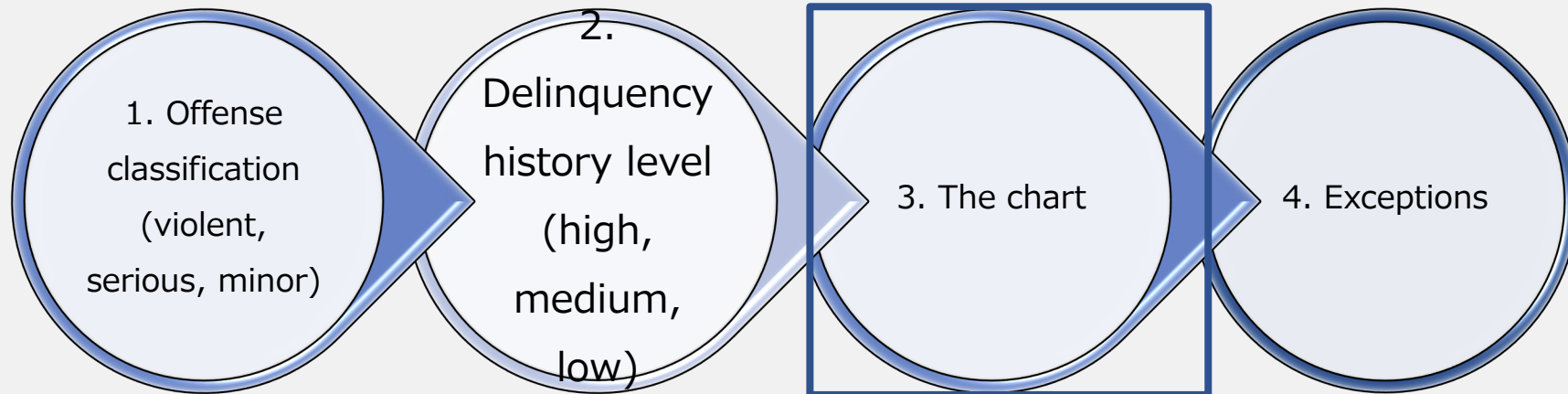


Delinquency History Level

Prior Adjudication = an adjudication that occurs before the adjudication of the offense before the court

G.S. 7B-2507(a), (f)

Determining the Disposition Level

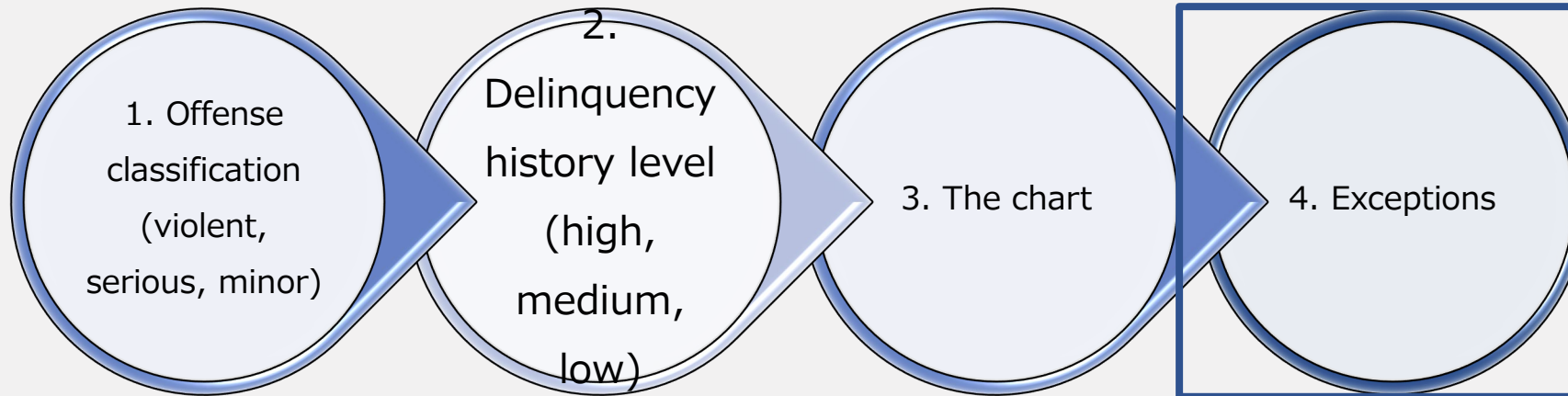


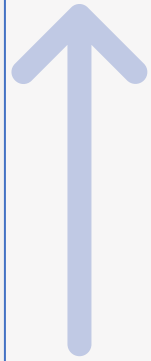
Disposition Chart

Offense	Delinquency History		
	Low	Medium	High
Violent	Level 2 or 3	Level 3	Level 3
Serious	Level 1 or 2	Level 2	Level 2 or 3
Minor	Level 1	Level 1 or 2	Level 2

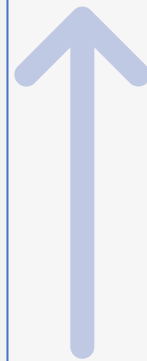
G.S. 7B-2508(f)

Determining the Disposition Level

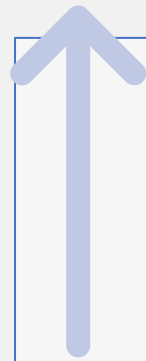




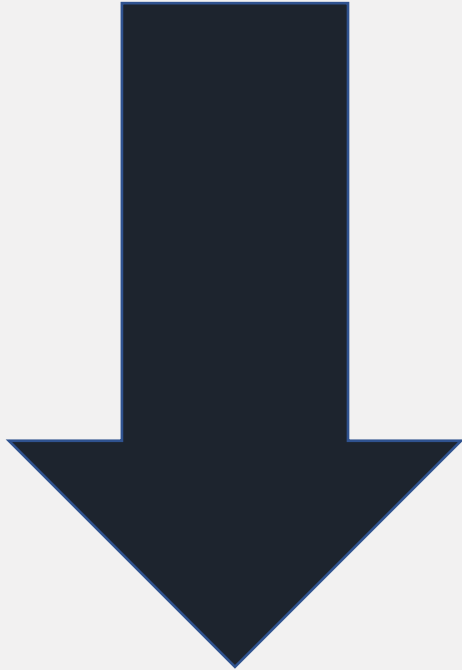
Can impose Level 3 for minor offense if 4 or more prior offenses (each committed after adjudication of preceding offense) (G.S. 7B-2508(g))



If adjudicated offense was part of criminal gang activity, must impose one Level higher (G.S. 7B-2508(g1))

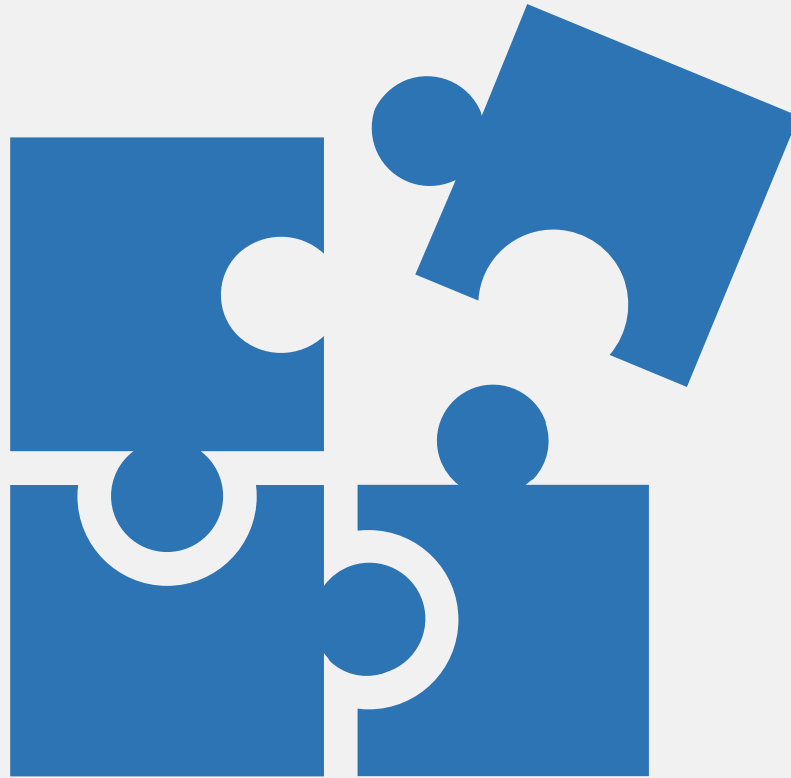


Level 2 can be elevated to Level 3 if prior Level 3 (G.S. 7B-2508(d))



Level 2 disposition may be imposed instead of a Level 3 disposition if the court submits written findings on the record that substantiate extraordinary needs on the part of the juvenile (G.S. 7B-2508(e))

Disposition Level Exercises





The big picture

Before entering disposition

Disposition hearings

Disposition levels

Dispositional alternatives

Selecting a Disposition – Mandatory Considerations

Seriousness of offense

Need to hold juvenile accountable

Importance of protecting public safety

Degree of culpability

Rehabilitative and treatment needs of
juvenile indicated by risk and needs
assessment

Disposition Orders

Each factor in G.S. 7B-2501(c) must be considered when entering a dispositional order. *In re I.W.P.* 815 S.E. 2d 696 (2018), *In re N.M.* ___ N.C.App. ___ (9/19/23)

Just checking the boxes isn't enough

Need written findings that address each of the five factors

otherwise be provided for the class of offense and delinquency history level. G.S. 7B-2508(g1).

6. Other Findings: *(continue on attached page(s) if necessary)*

NOTE: *State any findings regarding the seriousness of the offense(s); the need to hold the juvenile accountable; the importance of protecting the public; the degree of the juvenile's culpability; the juvenile's rehabilitative and treatment needs; and available and appropriate resources. Also use this space for any findings that are required to support a particular disposition, such as a finding of the juvenile's ability to pay if the Court is ordering restitution.*



(Over)

This box
CANNOT
be blank

Dispositions available in every case

Continue up to 6
months (7B-2501(d))

Order
evaluation/treatment
(G.S. 7B-2502))

Dismiss
(G.S. 7B-2501(d))

Probation
(Level 1 or 2)

Max 12 months
with 12-month
extension

Only certain
conditions can be
delegated to court
counselors

20 hrs of community
service

Substance abuse
monitoring/treatment

Life or educ. skills
program

Electronic monitoring

Intensive supervision



How many terms can one reasonably expect and adolescent to comply with?

And for how long?

How would you have done when you were 15?

Level 1 or 2

Can order these
dispositions only for
juveniles under 18

1. Supervision in own home by
DSS, JCC, or other

2. Placement in custody of parent,
guardian, custodian, relative, private
agency, or other suitable person

3. Placement in DSS custody

Custody to DSS

Required

- notice to DSS
- “reasonable efforts” findings
- review hearings

Not required

- petition by DSS
- end of court counselor role

UNC SCHOOL OF GOVERNMENT

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Delinquency and DSS Custody without Abuse, Neglect, or Dependency: How Does That Work?

Sara DePasquale and Jacquelyn Greene

Contents

Part One: Prevalence 3

Part Two: Parents' Constitutional Rights 5

Substantive Rights: Care, Custody, and Control 5

Procedural Rights 6

Part Three: Nonsecure Custody in Delinquency Proceedings 7

The Nature of the Order 7

Delinquency Nonsecure Custody Process and Issues That Arise from That Process 8

Impact on Parents' Constitutional Rights 14

How and When a Delinquency Nonsecure Custody Order Terminates 15

Part Four: DSS Custody as a Dispositional Alternative 15

Part Four, Section One: Delinquency Dispositional Order Placing the Juvenile in DSS Custody 16

The Nature of the Order 16

Delinquency Disposition Process and Issues That Arise from That Process 16

Elements of the Delinquency Dispositional Order 19

Impact on Parents' Constitutional Rights 21

Part Four, Section Two: G.S. 7B-906.1 Placement Reviews of a DSS Custody Delinquency Disposition 24

Nature of the Proceeding and Order 25

Delinquency G.S. 7B-906.1 Review Process and Issues That Arise from That Process 27

The Impact of 906.1 Hearings on Parents' Constitutional Rights 40

Elements Related to the Delinquency 906.1 Order 41

How and When Delinquency Dispositional Orders Placing Juveniles in DSS Custody Terminate 42

Part Five: DSS Guardianship 46

The Nature of the Delinquency Guardianship Order 46

Delinquency Guardianship Process and Issues That Arise from That Process 46

Elements of the Delinquency Guardianship Order 47

Impact on Parents' Constitutional Rights 48

How and When the Delinquency Guardianship Order Terminates 49

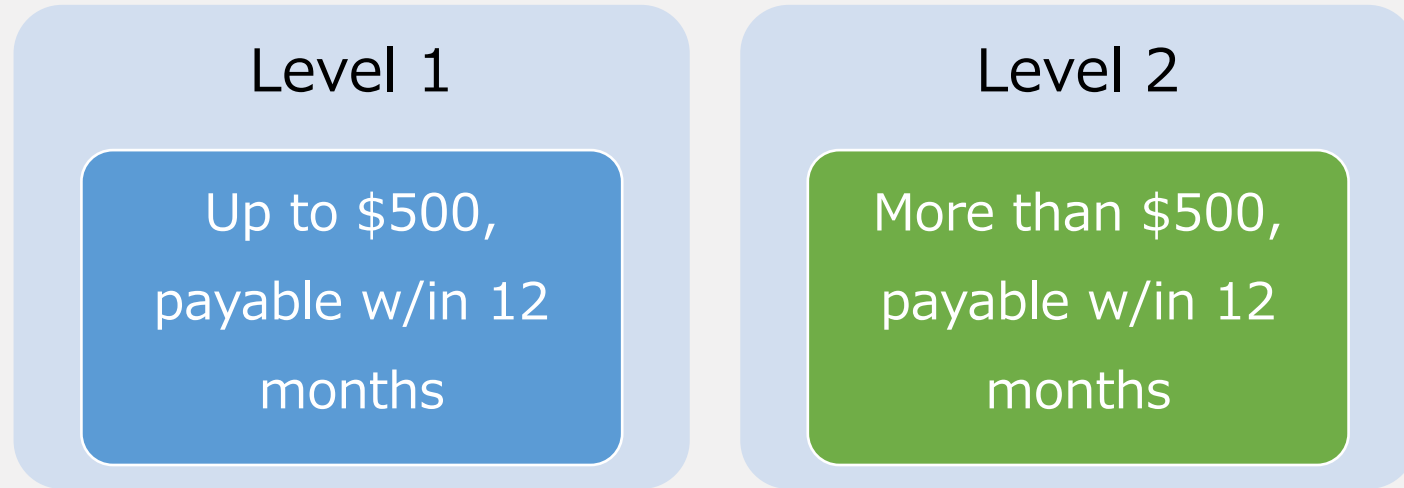
Part Six: Federal Foster Care Financing 49

Conclusion 51

1

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Restitution



Required Findings:

- Restitution is in juvenile's best interests
- Amount is fair and reasonable
- Juvenile (not juvenile's parents) has ability to pay

In re Schrimpsheer, 143 N.C. App. 461 (2001)

Intermittent Confinement

Level 1

Not more than 5
24-hour periods

Level 2

Up to 14 24-
hour periods

Timing and imposition can only be determined by the court; no delegation to court counselor

G.S. 7B-2506(12) & (20)

Community Service

Level 1

Up to 100 hours,
not to exceed 12
months

Level 2

Up to 200 hours

MUST:

- Be supervised
- Be consistent with the juvenile's age, skill, and ability
- Be related to the seriousness of the offense
- Specify nature of work and number of hours

YDC Commitments

- Minimum 6-month period, then indefinite
- Definite commitments of 6 months – 2 years are allowed only when:
 - Juvenile is 14 or older,
 - 2 or more previous felony adjudications, and
 - Previously committed to YDC



G.S. 7B-2513

Length of YDC Commitment

Cannot Exceed Maximum Commitment Period by Adult Penalty

Maximum term of imprisonment for an adult in prior record level VI for felonies or prior conviction level III for misdemeanors

Extended Jurisdiction for YDC Commitments (offenses committed on or after 12/1/21)

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

Notification of Extended Commitments

G.S. 7B-2515

