

POST-DISPOSITION

Juvenile Delinquency: A Course for District Court
Judges

November 15, 2023

Probation

DSS Custody

Modifying Dispositions

YDC Exit & Post-Release Supervision

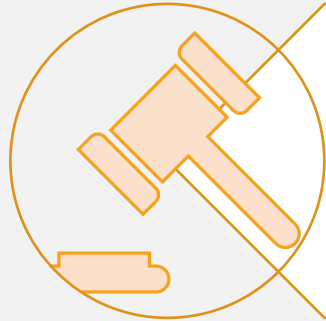
Appeals

Terminating Jurisdiction

EXTENSION OF PROBATION



Violation of probation not required

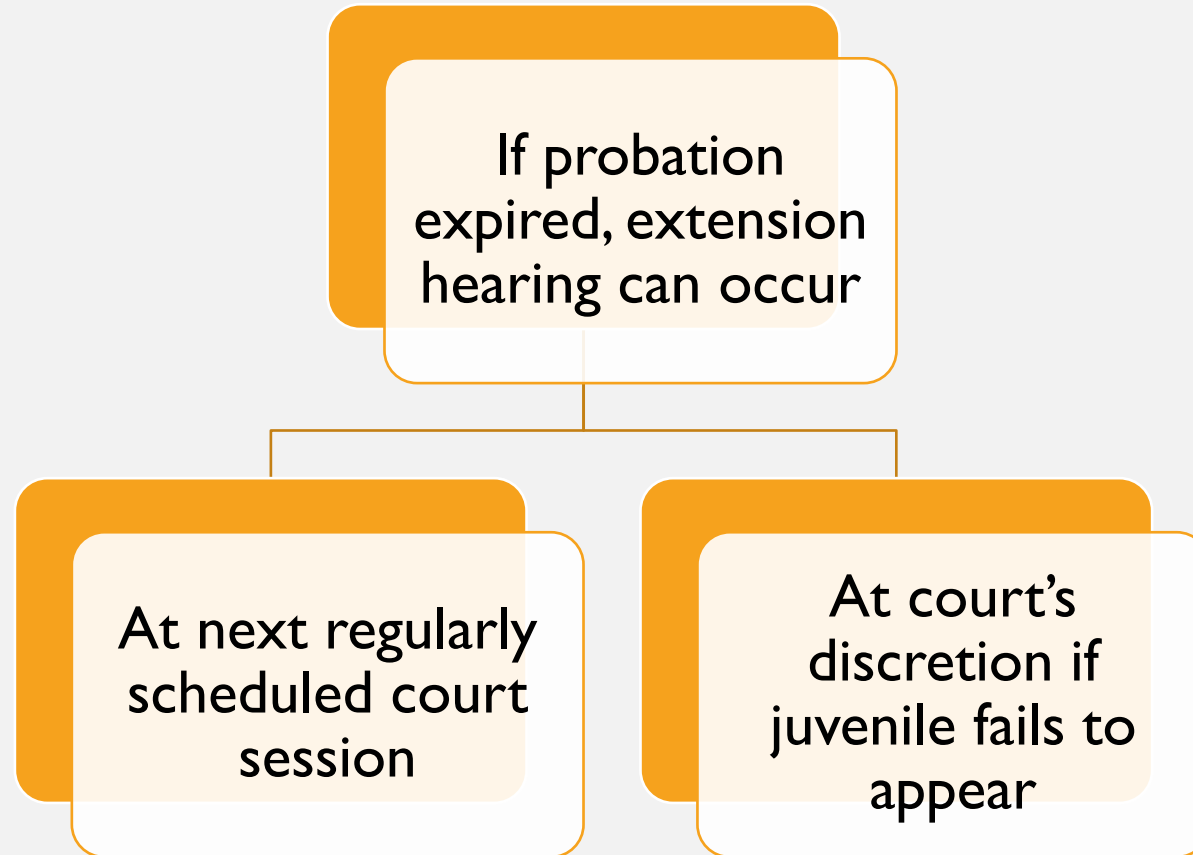


Term can be extended up to 12 months on notice and hearing



On finding that extension necessary to protect community or safeguard juvenile's welfare

EXTENSION OF PROBATION



G.S. 7B-2510(c)

PROBATION VIOLATION HEARINGS



- Disposition hearing
- Greater weight of the evidence = burden
- Same act may be both violation and new offense
 - *In re O'Neal*

G.S. 7B-2510(e)

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A juvenile violates their conditions of probation by failing to attend school. Can a secure custody order be entered?

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SECURE CUSTODY ON VIOLATION OF PROBATION OR PRS

Only if the juvenile is
alleged to have
committed acts that
damage property or
injure persons

Requires new pending
charges

G.S. 7B-1903(d)

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Can you increase from a level 1 to a level 2 disposition and increase IC days in response to a probation violation?

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PROBATION VIOLATION
DISPOSITIONS

Options

Continue original conditions of probation

Modify conditions of probation

Order 2X the number of IC days at the same Level

Order new disposition at next higher level (NO Level 3 if underlying adjudication was for minor offense)

Court may not both increase the disposition level & double the IC days.

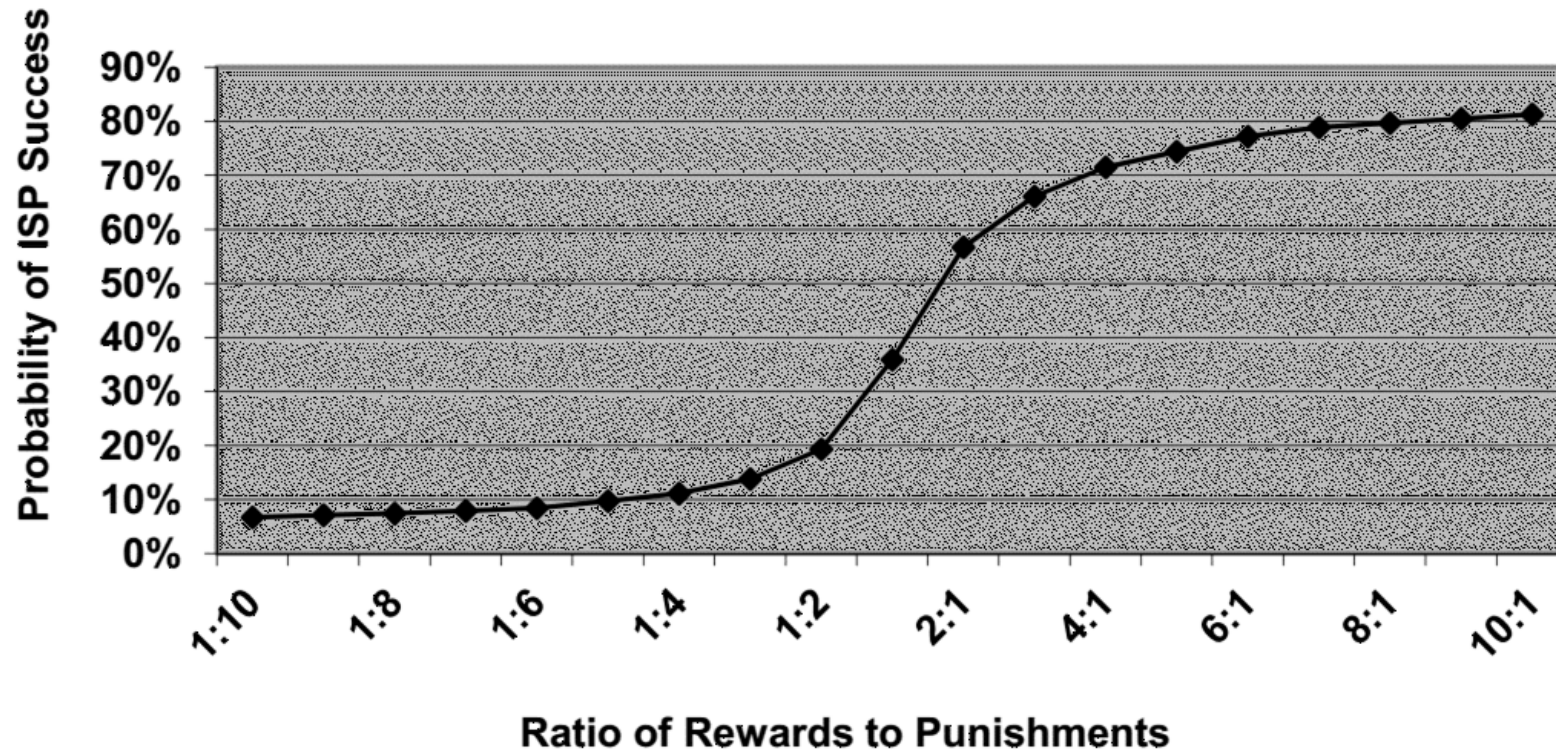
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How many rewards are needed for every punishment in order to change behavior?

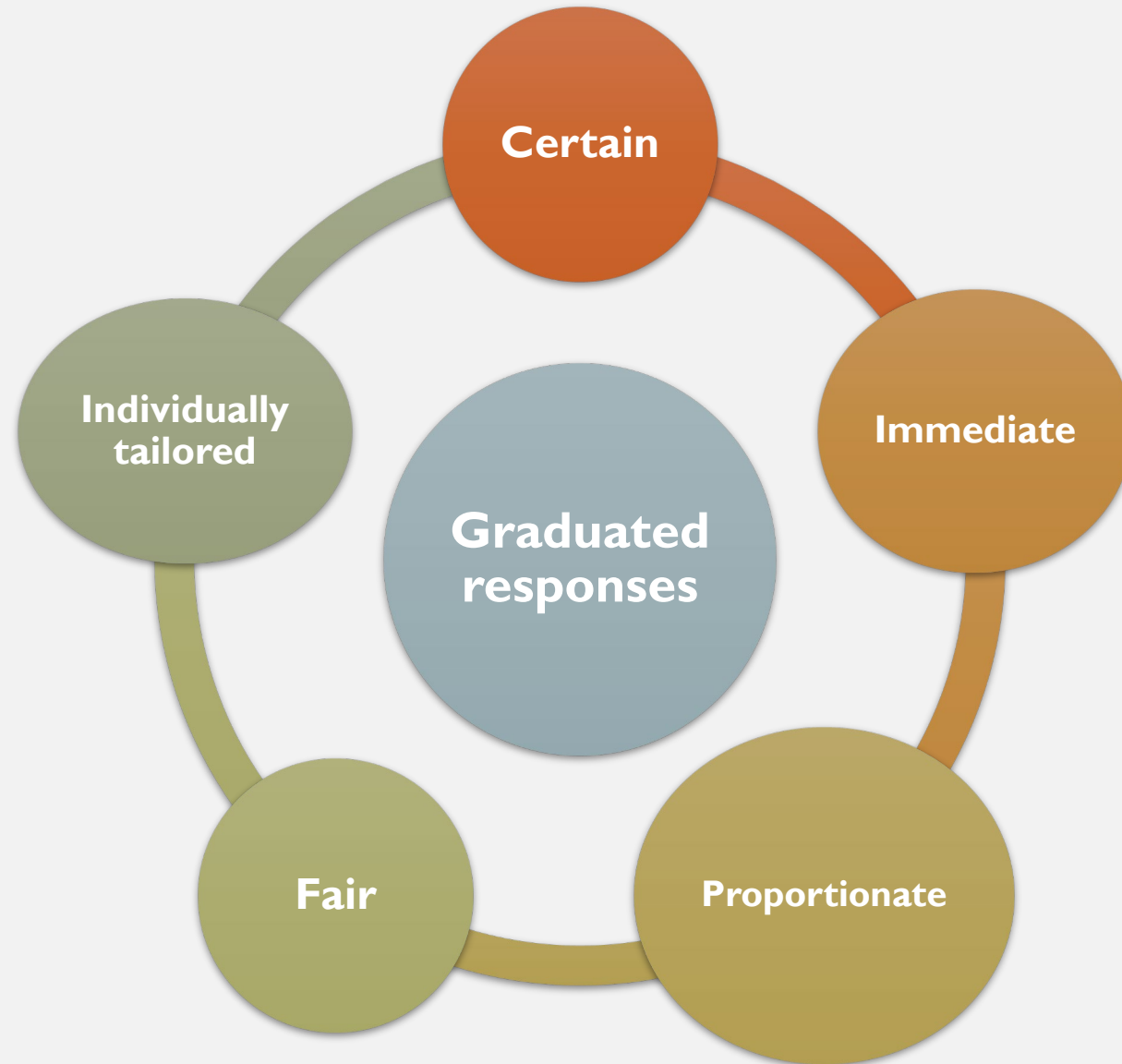
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WHAT WORKS IN PROBATION?



Source: Eric J. Wodahl et al., Utilizing Behavioral Interventions to Improve Supervision Outcomes, 38 Criminal Justice and Behavior 386 (2011).

WHAT WORKS IN PROBATION?



Josh Weber and Stephanie Shaw,
“Breaking the Rules: Rethinking
Condition Setting and
Enforcement in Juvenile Probation:
A Toolkit for Juvenile Probation
Agencies and Juvenile Courts”
(New York: The Council of State
Governments Justice Center,
2022)

Enforcement Approaches

Punitive responses

- Stricter conditions, extending probation, or detention/incarceration

Surveillance responses

- Increased monitoring and reporting such as more frequent case contacts and court reviews

Standardized graduated responses

- Continuum of incentives and sanctions applied to all youth in the same manner

Individualized graduated responses

- Developed in collaboration with youth and their families
- Based on youth’s risk to community safety; frequency, nature, and root causes of their behavior; and their circumstances

Developmentally appropriate responses and intervention plans

- Reviewed and updated the case plan based on current challenges and successes
- More intensive services, coaching or mentoring, and skill-building opportunities

Incentive-based responses

- Incentives and rewards for condition compliance, progress improvements, and goal attainment

WHAT'S CAN A JUDGE DO?

Scenarios -

<https://www.goodjuvenileprobationpractice.org/effective-responses>



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Does a delinquency disposition to DSS custody create an A/N/D case?

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DSS CUSTODY AS A DISPOSITION

906.1 review hearings required

90 days after disposition and then every 6 months

Waiver requires specific statutory findings (G.S. 7B-906.1(n))

Appropriateness of placement

Foster care plan

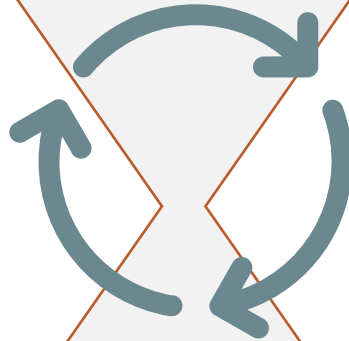
Safe, permanent home in reasonable time

DSS Custody as a Disposition

Consider

906.1 review
hearing

Dispositional
review hearing



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MODIFYING THE DISPOSITION

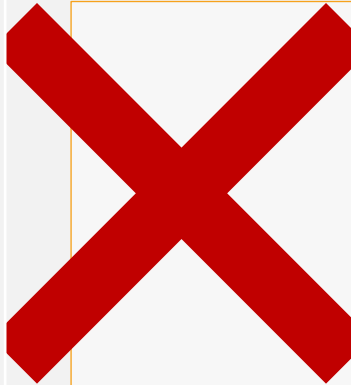
Upon motion
and after
notice

Review
hearing to
determine
whether
order is in
best interests
of juvenile

May modify or
vacate based
on changed
circumstances
or juvenile's
needs

May reduce
nature or
duration of
disposition if
imposed
illegally or is
unduly severe

MODIFYING THE DISPOSITION



May not modify an adjudication or disposition order, once a juvenile has given notice of appeal

In re Rikard, 161 N.C.App. 150 (2003)

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EXTENSION OF YDC COMMITMENT

J.L.H., 750 S.E.2d 197 (2013)

- Oral notice of extension hearing to juvenile's father was insufficient under 7B-2515(a)
- Statute is **mandatory** not directory
 - Protects juvenile's due process rights
 - If juvenile objects, court must hold a hearing

JUVENILE'S RELEASE FROM YDC

Can the court intervene in DJJ's plans to release a juvenile from YDC?

In re Doe, 329 N.C. 743 (1991)

- Upheld court's denial of juvenile's release where juvenile had not received court-ordered treatment

In re J.S.W., 211 N.C.App. 620 (2011)

- Upheld court's denial of Division's request for juvenile to have home visits & off-campus job

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Why might you want to monitor when a juvenile is released from the YDC?

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POST-RELEASE SUPERVISION

Requires a plan – court should receive written notification of planning process

Minimum 90 days

Maximum 1 year

Supervised by juvenile court counselor

POST-RELEASE SUPERVISION - REVOCATION

Revocation Hearings

Written notice required

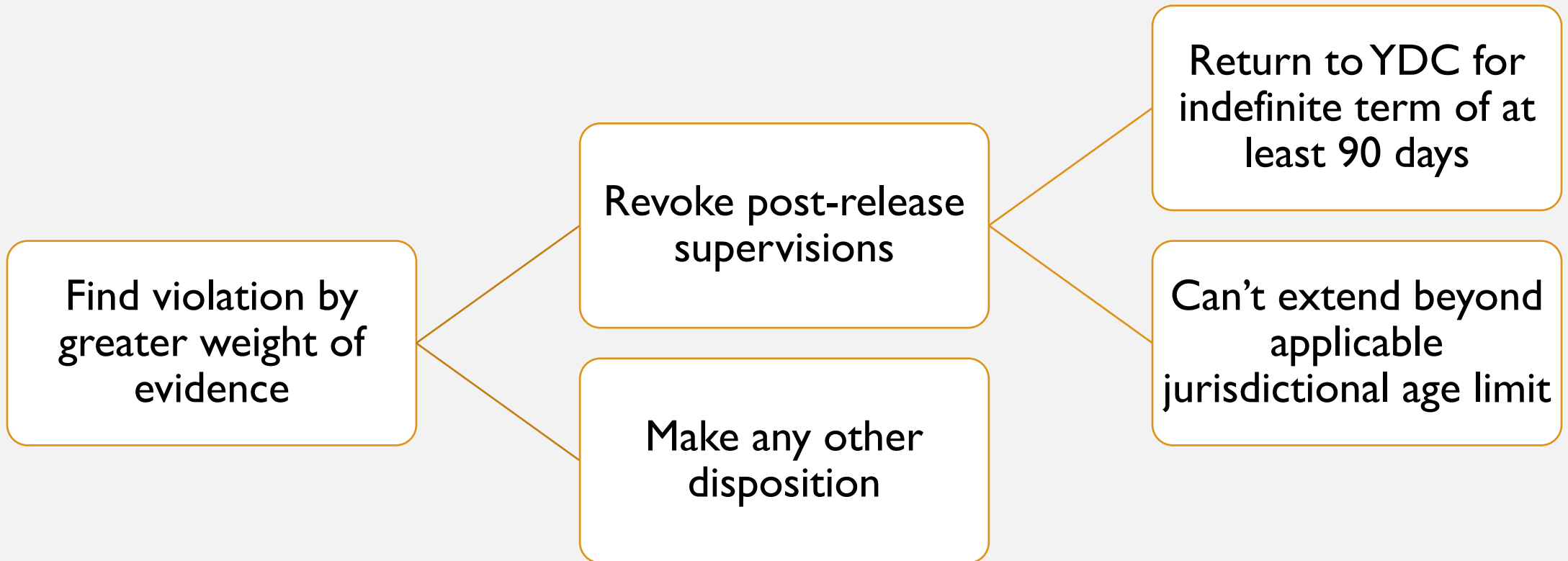
Juvenile must be represented by an attorney

Right to confront and cross-examine witnesses

Juvenile has right to present evidence

Record of proceeding must be preserved in juvenile's record

POST-RELEASE SUPERVISION - REVOCATION



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APPEALS

“Pending disposition of an appeal, the release of the juvenile, with or without conditions, should issue in every case unless the court orders otherwise. For compelling reasons which must be stated in writing, the court may enter a temporary order affecting the custody or placement of the juvenile as the court finds to be in the best interests of the juvenile or the State.”

RELEASE PENDING APPEAL - FINDINGS

Insufficient

- “release not appropriate”

In re G.C., 230 N.C.App. 511, S.E.2d (2013)

Sufficient

- Very detailed findings, including:
 - that the court had considered 3 sex offender evaluations;
 - juvenile denied acts, which reduced his amenability to treatment;
 - juvenile had not participated in any sex offender therapy;
 - the offenses were aggressive and premeditated;
 - juvenile consistently in presence of other juveniles; and
 - not being closely supervised by parents.

In re Lineberry, 154 N.C.App. 246 (2002)

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Does jurisdiction end when probation ends?

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TERMINATING JURISDICTION

The court can
terminate
jurisdiction at any
time

End of probation
does not
automatically
terminate
jurisdiction

Absolute maximum
jurisdiction by age
18, 19, 20, 21
depending...

IF JURISDICTION CONTINUES...

Court can:

- Modify disposition based on “change in circumstances or needs of the juvenile”
 - Order MH evaluation or treatment, if needed
 - Modify custody orders
- ❖ Not necessary in most cases, but an option if court feels additional oversight is needed.

A vibrant night sky filled with exploding fireworks in shades of blue, green, and white. The fireworks are scattered across the frame, with a large, bright explosion in the center. The background is a deep, dark blue, and the fireworks create a sense of movement and celebration.

YOU MADE IT TO THE END!!!