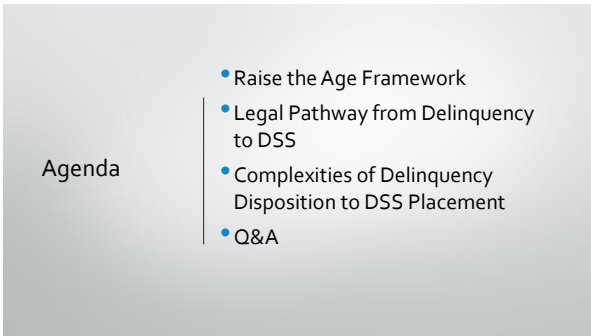




The Impact of Raise the Age on DSS

Social Service Attorneys' Winter Conference
February 21, 2020

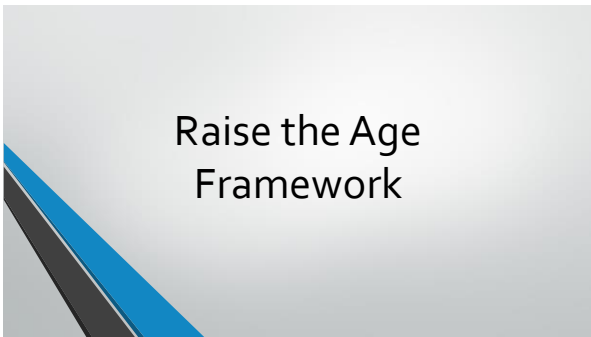
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Agenda

- Raise the Age Framework
- Legal Pathway from Delinquency to DSS
- Complexities of Delinquency Disposition to DSS Placement
- Q&A

2



Raise the Age Framework

3



Effective Date
Offenses committed on or
after December 1, 2019

4

Expanded Juvenile Jurisdiction

New Juvenile Jurisdiction
All crimes and infractions, and indirect contempt, committed at ages 16 and 17 (G.S. 7B-1501(7)b.)

Except For

- 1. Motor vehicle offenses under G.S. Chapter 20
- 2. Youth falls under once an adult, always an adult

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Once an Adult, Always an Adult

No subsequent juvenile court jurisdiction for offense committed after conviction for ANY

Felony

Non-chapter 20 misdemeanor

Impaired driving offense

G.S. 7B-1604(b)

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Length of Jurisdiction
G.S. 7B-1601

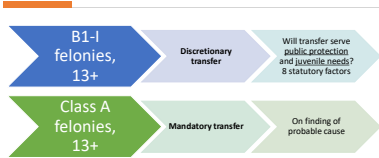
The court can always terminate jurisdiction sooner by its own order

Offense committed under age <u>16</u>	Youth reaches age <u>18</u> *
Offense committed at age <u>16</u>	Youth reaches age <u>19</u>
Offense committed at age <u>17</u>	Youth reaches age <u>20</u>

* In some limited circumstances, jurisdiction for very serious felonies committed under age 16 and resulting in a commitment to a YDC can extend to age 19 or 21 (G.S. 7B-1602)

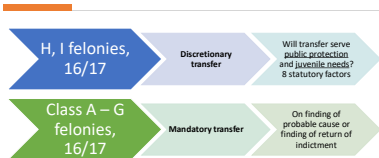
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Transfer to Superior Court
Age 13 – 15 Felony
G.S. 7B-2200, 7B-2203



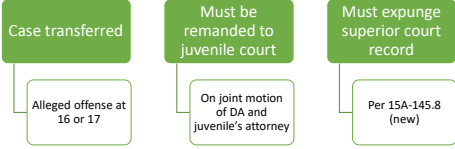
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Transfer to Superior Court
Age 16 – 17 Felony
G.S. 7B-2200.5, 7B-2203



9

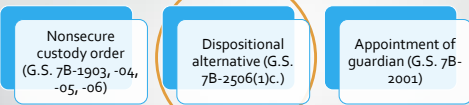
Reverse Waiver



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Legal Pathway from Delinquency to DSS

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3 Pathways

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More Information

- <https://www.sog.unc.edu/publications/bulletins/delinquency-and-dss-custody-without-abuse-neglect-or-dependency-how-does-work-o>

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Delinquency Disposition Levels

- Level 1 - Community
- Level 2 - Intermediate
- Level 3 - Commitment

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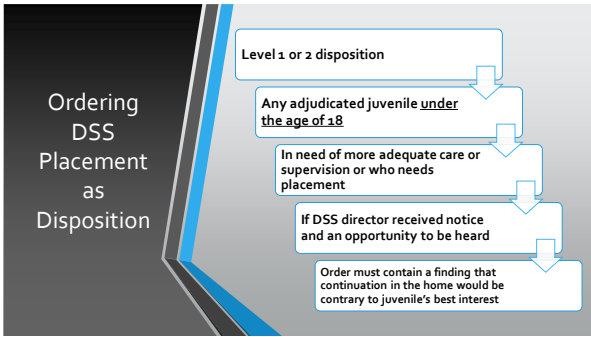
Disposition Chart

Delinquency History

Offense	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)

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16



17



18

906.1
Hearings
are
Required

Delinquency dispositional DSS placements must be reviewed in accordance with G.S. 906.1, Review and permanency planning hearings (G.S. 7B-2506(1)c.)

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Complexities of
Delinquency Disposition to
DSS Placement

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Which Law
Governs These
Placements?

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Parties

Delinquency

- State (prosecutor)
- Juvenile
- Parents
- Guardian
- Custodian

A/N/D

- County DSS
- Juvenile
- Parents
- Guardian (if in place when petition is filed or if named in child's permanent plan)
- Custodian (if in place when petition is filed or if named in child's permanent plan)
- Caretake (under certain circumstances)

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Juvenile Representation

- Attorney (appointed or retained) in delinquency matter
- 7B-601 GAL in all abuse and neglect actions and some dependency actions

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Attorneys for Parents

Parents are not entitled to court-appointed counsel in delinquency proceeding

Indigent parents are entitled to court-appointed counsel in any 906.1 hearing regarding a delinquency dispositional placement (G.S. 7B-2506(1)c.)

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Dispositional Alternatives

• Governed by G.S. 7B-2506

G.S. 7B-903 (A/N/D)	G.S. 7B-2506 (Delinquency)
Require that the juvenile be supervised in his or her home by DSS or another individual, subject to court-specified conditions placed on the parent, guardian, custodian, or caretaker	Require that a juvenile be supervised in his or her own home by DSS, a juvenile court counselor, or other personnel as may be available to the court, subject to court-specified conditions placed on the parent, guardian, custodian, or the juvenile
Place the juvenile in the custody of a parent, relative, other suitable person, or private agency; <i>the court must also consider whether jurisdiction should be terminated and whether a G.S. Chapter 50 custody order should be entered pursuant to G.S. 7B-911^(b)</i>	Place the juvenile in the custody of a parent, relative, other suitable person, or private agency
Place the juvenile in DSS custody	Place the juvenile in DSS custody

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What about Juveniles Who Turn 18 While in DSS Placement?

- Delinquency orders of disposition last until the youth ages out of juvenile jurisdiction (18, 19, or 20) unless the court terminates jurisdiction earlier or the disposition is modified
- Delinquent children are eligible for foster care (G.S. 131D-10.2(g))
- G.S. 131D-10.2(g) defines child as any unemancipated individual under the age of 21
- North Carolina Supreme Court – “[t]he age of emancipation is precisely fixed—18.” *Shoaf v. Shoaf*, 282 N.C. 287, 291 (1972)




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Practice Ideas

Calendar	Calendar go6.1 hearings and disposition reviews at the same time
Include	Always include the juvenile's delinquency attorney in review hearings
Suggest	Suggest adding a review hearing timeline to the delinquency dispositional order or adding a set maximum length of time for the DSS placement
Explore	If time allows, explore possible alternate custodians prior to the dispositional hearing

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If You Only Remember 1 Thing:
The delinquency case provides the legal basis for this DSS placement



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Q&A

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