Juvenile Justice in NC:
A Historical Perspective

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November 15, 2011

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Treatment of Juveniles in Early America

-- no separate court
-- children treated much like adults

First special attention was in corrections:

- houses of refuge; pardons
- rehabilitation and discipline
- industrial and reform schools

Stonewall Jackson Manual Training and Industrial School

- opened in 1909
- youth still were tried in criminal court
- judge could commit those under 16 for indefinite period of time

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Early practice followed English common law:

- up to age 7 –
  conclusive presumption that child was incapable of criminal intent
- age 7 to 14 –
  rebuttable presumption that child incapable of criminal intent
- over age 14 –
  always prosecuted and punished as adult

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1915 – Probation Courts Act

- special jurisdiction for “delinquent” and “dependent” children under 18
- separated juvenile and adult probation and detention
- relied on counties for funding
- repealed in 1919

1919 – Juvenile Court Act

- “delinquent” defined as under age 16
- jurisdiction could continue to age of majority
- court could transfer felony case of 14- or 15-year-old to superior court

The 1919 Juvenile Court Act applied to children who were

- delinquent
- neglected
- dependent
- truant
- unruly
- wayward
- abandoned
- misdirected
- disobedient to parents or beyond their control
- destitute or homeless
- in danger of becoming so

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1919 Juvenile Court Act

- In every case, the issue was:

  "Is the child in need of the care, protection, or discipline of the state?"

- Procedures were informal.
- In many respects, resembled later juvenile codes.

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1919 to 1969: *Parens Patriae* Ruled

- laws held constitutional
- juveniles viewed as wards of state
- cases recognized as "civil," not "criminal"
- benevolent purposes used to justify
  - informality
  - broad judicial discretion
- lawyers rarely involved

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U.S. Supreme Court

- 1966 Kent v. U.S.
  - due process in transfer hearing
- 1967 In re Gault
  - due process at adjudication
  - written notice to child and parents
  - right to counsel
  - privilege against self-incrimination
  - rights of confrontation, sworn testimony, cross-examination
- 1970 In re Winship
  - proof beyond a reasonable doubt

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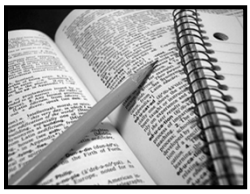
Juvenile Code rewrites in 1970 and 1980

- added due process protections
- cases look more like criminal cases
- distinguished undisciplined and delinquent
- expanded dispositional options
- lowered undisciplined age to 16
- added emancipation and expungement



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1994 Special Crime Session

1. lowered from 14 to 13 the age at which
   - probable cause hearings required in all felony cases
   - transfer to superior court allowed

2. allowed use of Class A – E felony adjudications in criminal cases,
   - under Rule 404(b) (other crimes, wrongs, acts)
   - as aggravating factor at sentencing

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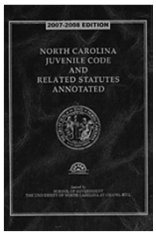
1997-1998:
Governor's Commission on Juvenile Crime and Justice
1999 Juvenile Code: G.S. Chapter 7B

- separate subchapter for "delinquent and undisciplined"
- expanded dispositional jurisdiction age
- restructured dispositional options
- raised undisciplined age back to 18



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Youth Accountability Task Force

- created by legislature to study raising juvenile delinquency age to 18
- 2011 final recommendations and proposed legislation
- Two bills introduced
  - H 632
  - S 506

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U.S. Supreme Court

- **1989: Stanford v. Kentucky**

  Capital punishment for crime committed at age 16 or 17 did not violate evolving standards of decency and did not constitute cruel and unusual punishment.

- **2005: Roper v. Simmons**

  Execution of persons who were under age 18 at the time of their capital crimes is prohibited by Eighth and Fourteenth Amendments.

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U.S. Supreme Court

- **2010: Graham v. Florida**

  Constitution does not permit sentencing a juvenile offender to life in prison without parole for a non-homicide crime.

- **2011: J.D.B. v. North Carolina**

  Age is a relevant factor in determining whether a juvenile is “in custody” for purposes of custodial interrogation.

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