

13.3 Preliminary Matters

- A. Continuance of Dispositional Hearing
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A. Continuance of Dispositional Hearing

After adjudication the court may continue the dispositional hearing for preparation of the predisposition report and risk and needs assessment or at the request of the juvenile. G.S. 7B-2413, 7B-2501(b); *see also In re Vinson*, 298 N.C. 640, 661–62 (1979) (stating that dispositional hearing must be continued at juvenile’s request under recently enacted G.S. 7A-639 (now G.S. 7B-2413), G.S. 7A-640 (now G.S. 7B-2501(a),(b)), and G.S. 7A-632 (now G.S. 7B-2406); case decided under earlier, different version of Code and remanded on other grounds). The statute providing for continuances under the hearing procedures statute, G.S. 7B-2406, has been held to apply to dispositional hearings, giving the court discretion to continue a dispositional hearing “for good cause.” *In re R.D.R.*, 175 N.C. App. 397, 401 (2006) (court had discretion to continue disposition on its own motion for one week, until adjudicatory date for another petition involving juvenile). This statute states that the continuance is only “for as long as is reasonably required to receive” evidence or other information. G.S. 7B-2406.

If the juvenile is opposed to a continuance of disposition, counsel should cite the statute setting forth that one of the purposes of the subchapter on delinquent juveniles is to provide “swift, effective dispositions.” G.S. 7B-1500(2)a. Additionally, G.S. 7B-2413 provides that the court “shall proceed to the dispositional hearing upon receipt of the predisposition report,” indicating that the dispositional hearing should not be continued in the absence of a sufficient reason if the report has been prepared.

If the court continues the dispositional hearing for more than sixty days after adjudication and the juvenile appeals the adjudication order (permissible under G.S. 7B-2602), the trial court is divested of jurisdiction over the case and may not conduct a dispositional hearing while the appeal is pending. *In re J.F.*, 237 N.C. App. 218, 228 (2014).

B. Secure Custody Pending Dispositional Hearing

The court may order the juvenile into secure custody after an adjudication of delinquency pending the dispositional hearing. G.S. 7B-1903(c). This will not be an issue if disposition immediately follows adjudication. There may be reasons for a continuance, however, such as the need for preparation of a predisposition report or the juvenile’s need for time to subpoena witnesses or documents.

If the court indicates that it is considering secure custody pending disposition, counsel should consider arguing that secure custody is not warranted. The criteria for secured custody in G.S. 7B-1903(b)(1)–(6) may apply at this stage of the proceedings and at least

provides guidance on deciding whether secure custody is warranted. For example, if the juvenile was adjudicated for a misdemeanor that did not involve dangerous conduct and the juvenile did not miss any court dates, counsel should assert that there are insufficient grounds to place the juvenile in secure custody.

If the court orders the juvenile to be placed in secure custody, it must issue a written order with “appropriate findings of fact.” G.S. 7B-1903(c). The court must also hold review hearings every 10 calendar days. *Id.* The juvenile may waive review hearings for up to 30 calendar days. *Id.*

For a further discussion of secure custody after adjudication, see “Criteria for secure custody” in § 8.6G, Secure Custody Following Adjudication of Delinquency.