

### **13.6 Dispositional Alternatives**

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## **13.6 Dispositional Alternatives**

### **A. Purpose of Disposition**

The philosophy underlying dispositional alternatives available under the Juvenile Code was changed by the repeal of former G.S. 7A-646, which required that the court impose the least restrictive dispositional alternative and order commitment to the Division of Youth Services only after other alternatives were found to be inappropriate or were proven to be unsuccessful. Under the current statute, G.S. 7B-2501, the court must balance the needs of the juvenile with the need for public safety within the permissible dispositional alternatives. It remains the role of counsel to advocate on behalf of the juvenile for the least restrictive and least punitive disposition desired by the juvenile.

### **B. Statutory Categories**

The court must choose dispositional alternatives within the appropriate dispositional level, which is determined by the juvenile delinquency history level and the offense classification. *See infra* § 13.7, Delinquency History Levels and Offense Classification. There are 24 dispositional alternatives. G.S. 7B-2506(1) through (24). Some Level 1 and Level 2 alternatives are identical except that a more severe disposition is allowed under Level 2. For example, alternative (4) provides for restitution up to \$500, and alternative (22) provides for restitution over \$500. Likewise, alternative (6) allows up to 100 hours of community service, and alternative (23) allows up to 200 hours; alternative (12) provides for a limit of five 24-hour periods of intermittent detention, and alternative (20) provides for up to fourteen 24-hour periods.

Each alternative is described briefly below, along with case law applicable to that alternative. Within the dispositional limits for each class of offense and delinquency history level under G.S. 7B-2508, the court may:

1. If a juvenile needs more adequate care or supervision, or is in need of placement:
  - a. require supervision in the home by a designated person or agency, subject to court-ordered conditions;
  - b. make a change in the juvenile's custody; or
  - c. place the juvenile in the custody of the department of social services.
2. Excuse the juvenile from compulsory school attendance if the court finds that a suitable alternative plan can be arranged.

3. Order the juvenile to cooperate with a community-based program, an intensive substance abuse program, or a residential or nonresidential program, not to exceed 12 months.
  - *In re M.A.B.*, 170 N.C. App. 192, 194 (2005) (court did not improperly delegate its authority under G.S. 7B-2506(3) by ordering juvenile to cooperate with placement in a residential or nonresidential treatment program as directed by juvenile court counselor or mental health agency, as court ordered participation in program but allowed another person or agency to determine specifics)
  - *In re S.R.S.*, 180 N.C. App. 151, 159 (2006) (citing *Hartsock*, below, the Court of Appeals held that the trial court improperly delegated authority to juvenile court counselor to decide on type and provider of counseling)
  - *In re Hartsock*, 158 N.C. App. 287, 292 (2003) (court could not delegate its authority under G.S. 7B-2506(14) to juvenile court counselor or counselor from treatment program to place juvenile in residential treatment)
4. Require restitution up to \$500 payable within 12 months.
  - *In re D.A.Q.*, 214 N.C. App. 535, 538 (2011) (court erred by failing to find that restitution was in the juvenile's best interest before ordering the juvenile to pay restitution)
  - *In re Z.A.K.*, 189 N.C. App. 354, 362 (2008) (court improperly ordered restitution without finding that restitution was in the juvenile's best interest)
  - *In re M.A.B.*, 170 N.C. App. 192, 194 (2005) (court did not improperly delegate authority by ordering juvenile to pay up to \$500 restitution payable within 12 months with amount to be determined on submission of medical bills to court)
  - *In re McDonald*, 133 N.C. App. 433, 436 (1999) (court erred in ordering juvenile to pay \$200 restitution as it failed to make findings of fact regarding amount of damage suffered by victim and only evidence presented were pictures of damaged property)
5. Impose a fine.
6. Order up to 100 hours of supervised community service to be done within 12 months.
7. Order participation in the victim-offender reconciliation program.
8. Place the juvenile on probation under supervision of the juvenile court counselor. *See infra* § 13.6C, Probation.
9. Prohibit the juvenile from obtaining a driver's license for as long as the juvenile is under the court's jurisdiction.

10. Impose a curfew.
11. Order the juvenile not to associate with specified persons or be in specified places.
12. Impose intermittent detention, limited to five 24-hour periods.
  - *In re Hartsock*, 158 N.C. App. 287, 292 (2003) (order for intermittent confinement of no effect as court failed to specify when confinement would occur; delegation of authority would have been contrary to express language of statute)
13. Order placement in a wilderness program.
14. Order placement in a residential treatment facility, an intensive nonresidential treatment program, an intensive substance abuse program, or a group home other than a multi-purpose group home operated by a State agency.
  - *In re Hartsock*, 158 N.C. App. 287, 292 (2003) (court could not delegate its authority under G.S. 7B-2506(14) to juvenile court counselor or counselor from treatment program to place juvenile in residential treatment)
  - *In re M.A.B.*, 170 N.C. App. 192, 194 (2005) (court did not improperly delegate its authority under G.S. 7B-2506(3) by ordering juvenile to cooperate with placement in residential or nonresidential treatment program as directed by juvenile court counselor or mental health agency, as court ordered participation in program but left specifics to another person or agency)
  - *In re S.R.S.*, 180 N.C. App. 151, 159 (2006) (citing *Hartsock*, above, the Court of Appeals held that the trial court improperly delegated authority to juvenile court counselor to decide whether there would be out-of-home placement)
15. Place the juvenile on intensive probation under the supervision of a juvenile court counselor. *See infra* § 13.6C, Probation.
16. Order the juvenile to cooperate with a supervised day program under specified terms and conditions.
17. Order the juvenile to participate in a regimented training program. (There are no programs of this type, also called “boot camps,” in North Carolina as of the writing of this manual.)
18. Order house arrest.
19. Suspend imposition of a more severe, permissible disposition on the juvenile’s agreement to court-imposed conditions.
20. Order confinement in detention for up to fourteen 24-hour periods, not to be imposed consecutively with any intermittent detention under (12) above.

- *In re Hartsock*, 158 N.C. App. 287, 292 (2003) (order for intermittent confinement of no effect as court failed to specify when confinement would occur; delegation of authority would have been contrary to express language of statute)
- 21. Order residential placement in a multi-purpose group home operated by a State agency.
- 22. Order restitution of more than \$500 payable within 12 months.
  - *In re Schrimpsheer*, 143 N.C. App. 461, 465–66 (2001) (court must make findings of fact to determine whether others were jointly and severally liable for damages, total amount of damages, and amount of damages attributable to juvenile)
- 23. Order up to 200 hours supervised community service.
- 24. Commit the juvenile to the Division for placement in a youth development center, also known as “training school,” for a period of not less than six months.
  - *In re T.B.*, 178 N.C. App. 542, 546 (2006) (commitment to Department of Youth Services may be ordered only for juvenile who is eligible to receive Level 3 disposition)
  - *In re D.A.F.*, 179 N.C. App. 832, 835 (2006) (trial court did not abuse its discretion in ordering the juvenile to be committed to a youth detention center because it was a “reasoned decision” based on factors regarding juvenile’s needs and risk to public safety)

### **C. Probation**

The court may place the juvenile either on probation or intensive probation. G.S. 7B-2506(8), (15). During the probationary period, the juvenile is under the supervision of a juvenile court counselor and may be subject to conditions ordered by the court. The juvenile may be brought back into court on a motion alleging violation of the conditions of probation, possibly subjecting the juvenile to further dispositional orders of the court. G.S. 7B-2510(e). If the court indicates at disposition that it is considering probation, counsel should consider arguing against probation or seeking to limit the conditions imposed by the court. *See infra* § 14.3, When Probation May Be Ordered.

The conditions of probation are often one or more of the other dispositional alternatives listed in G.S. 7B-2506. *See infra* Chapter 14, Probation.