

14.3 When Probation May Be Ordered

- A. Generally
 - B. Advocacy at Dispositional Hearing when Probation Is Ordered
-

14.3 When Probation May Be Ordered

A. Generally

Probation is a dispositional alternative after an adjudication of delinquency if the juvenile is eligible for a Level 1 or Level 2 disposition. *See supra* § 13.8, Dispositional Limits for Each Class of Offense and History Level. Under Level 1 (community disposition), regular probation may be ordered. G.S. 7B-2506(8), 7B-2508(c). Under Level 2 (intermediate disposition), the juvenile may be placed on either regular or intensive probation. G.S. 7B-2506(8), (15); 7B-2508(d).

B. Advocacy at Dispositional Hearing when Probation Is Ordered

Although probation is not a required dispositional alternative, it is routinely ordered. Counsel should work to create a dispositional plan that meets the juvenile's expressed interests and limits exposure to further sanctions. Counsel should argue against an order of probation when not warranted by the evidence to avoid exposing the juvenile to a possible allegation of violation of probation in the future, which could lead to commitment to a youth development center on revocation of probation in a case with a Level 2 disposition.

G.S. 7B-2510(a) authorizes courts to impose conditions of probation that are "related to the needs of the juvenile" and that are "reasonably necessary to ensure that the juvenile will lead a law-abiding life" *See also infra* § 14.5, Conditions of Probation: Case Law. If the juvenile does not have a significant record in juvenile court and the predisposition report and risk and needs assessment indicate that the juvenile has a supportive family, counsel should argue that probation would not address the juvenile's needs and is not necessary to ensure that the juvenile leads a law-abiding life.

If the court orders probation, counsel should seek to limit the conditions imposed as part of probation. Any conditions must be related to the adjudicated offense and the needs of the juvenile. *See* G.S. 7B-2501(c) (requiring court to select disposition that protects the public but also meets the needs and best interests of the juvenile). Also, if the court imposes multiple conditions, there is a risk that the juvenile will not understand all of the conditions and will be more likely to violate them. "Research shows that young adolescents have lower cognitive capacities, particularly in stressful situations, than adults." Theresa Hughes, [*A Paradigm of Youth Client Satisfaction: Heightening Professional Responsibility for Children's Advocates*](#), 40 COLUM. J.L. & SOC. PROBS. 551, 566 (2007). A "long recitation of rules" may also be difficult to understand by a person with impaired language skills, regardless of whether it is oral or in writing. Michele LaVigne & Gregory J. Van Rybroek, [*Breakdown in the Language Zone: The*](#)

[Prevalence of Language Impairments Among Juvenile and Adult Offenders and Why It Matters](#), 15 U.C. DAVIS J. JUV. L. & POL'Y 37, 80 (2011). Additionally, some of the conditions that the court can impose, such as remaining on “good behavior,” are vague. Others, such as making “specified financial restitution,” involve legal terminology. If the court imposes multiple conditions, there is a risk that the juvenile will not understand all of the conditions and will be more likely to be found in violation of the conditions of probation.

The risk is greater as the number of conditions increases. A court may impose 14 conditions of probation, plus community service, substance abuse monitoring, life skills or educational skills programs, electronic monitoring, and intensive supervision. G.S. 7B-2510. These conditions are in addition to the 14 dispositional alternatives that a court may impose for a Level 1 Disposition and the 23 dispositional alternatives that a court may impose for a Level 2 Disposition. G.S. 7B-2508(c), (d). Additionally, the forms that courts use to impose dispositional alternatives and conditions of probation reflect the language used in the statutes and do not provide simplified language that can be understood by juveniles. *See e.g.*, [AOC-J-464](#) (Supplemental Order for Conditions of Probation) (Dec. 2015). The court should explain each condition of probation to the juvenile in developmentally appropriate language during the dispositional hearing. Counsel should also carefully explain the conditions to the juvenile after the hearing and ensure that the juvenile understands each condition.