

15.3 Juveniles Subject to Commitment

15.3 Juveniles Subject to Commitment

Commitment to the Division is a dispositional alternative only for a juvenile who is at least 10 years old and who has been adjudicated delinquent and for whom the dispositional chart in G.S. 7B-2508(f) prescribes a Level 3 disposition. G.S. 7B-2506(24), 7B-2513(a). An order of commitment may not be imposed for a juvenile who has been found to be undisciplined, or for one who has been adjudicated to be abused, neglected, or dependent. *See* G.S. 7B-2503 (Dispositional alternatives for undisciplined juveniles); G.S. 7B-903 (Dispositional alternatives for abused, neglected, or dependent juvenile).

A juvenile must be committed if the statutory dispositional chart prescribes a Level 3 disposition unless the court makes written findings that the juvenile has “extraordinary needs” that justify a Level 2 disposition. G.S. 7B-2508(e); *see supra* Appendix 13-3: Juvenile Disposition Options. Commitment may also be ordered for a juvenile who is eligible for a Level 2 disposition if a Level 3 disposition has been ordered in a prior juvenile proceeding, or for a juvenile who has been adjudicated of four or more prior non-overlapping offenses in which the juvenile committed each successive offense after being adjudicated of the preceding offense. G.S. 7B-2508(d), (g). A juvenile may also be subject to commitment upon a finding of a violation of probation if the juvenile is currently on a Level 2 disposition. G.S. 7B-2510(e), (f).

It is within the court’s discretion to choose between two appropriate dispositional levels. *In re Robinson*, 151 N.C. App. 733 (2002) (court did not abuse discretion in committing juvenile under Level 3 where he was adjudicated delinquent for two “violent” and one “serious” offense and had a “low” delinquency history level; court considered risk and needs assessment, severity of case, lack of progress to date, and community alternatives in determining that commitment was in juvenile’s best interest). Counsel should be prepared to argue for the lower dispositional level based on factors relating to the offense and the juvenile’s needs.

The court does not have discretion to order a disposition at a level higher than that authorized by statute. In *In re T.B.*, 178 N.C. App. 542 (2006), the court found that the juvenile had violated the conditions of his probation. Because the juvenile’s original disposition had been at Level 1, the court had discretion to order either a Level 1 or a Level 2 disposition for the probation violation. It did not have statutory authority, however, to order a Level 3 disposition. An order of commitment was therefore impermissible.