

15.9 Revocation of Post-Release Supervision

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A. Motion and Notice

The juvenile, the juvenile court counselor providing post-release supervision, or the court on its own motion, may request a review hearing concerning the juvenile's progress on post-release supervision. Written notice of the allegations must be provided to the juvenile within a reasonable time. The notice must specify that the purpose of the hearing is to determine whether the juvenile has violated the terms of post-release supervision and whether revocation is warranted. G.S. 7B-2516(a).

B. Hearing on Motion

A hearing must be held to determine whether the allegation that the juvenile has violated the terms of post-release supervision is true. The statute provides that the juvenile shall be represented by an attorney at the hearing and has the right to confront and cross-examine witnesses. Additionally, the juvenile is allowed to admit, deny, or explain the violation alleged and to present proof, including affidavits and other evidence. A record of the proceeding must be made and maintained in the juvenile's record. G.S. 7B-2516(a).

Preparation for a hearing on allegations of violation of the terms of post-release supervision involves elements of preparation for both adjudicatory and dispositional hearings. Counsel should meet with the juvenile and contact necessary witnesses regarding the alleged violation. Witnesses should be subpoenaed or affidavits obtained supporting the juvenile's position on the allegations. Records should be reviewed, particularly those of the supervising juvenile court counselor. If a violation is found, counsel should be prepared to offer alternatives to revocation of post-release supervision.

The standard of proof is by the greater weight of the evidence. If violation of the terms of post-release supervision is found, the court may, but is not required to, revoke the post-release supervision. The court may also impose any other disposition provided by statute. G.S. 7B-2516(b).

C. Disposition on Revocation

The juvenile must be placed in a youth development center for an indefinite term of at least 90 days if post-release supervision is revoked. G.S. 7B-2516(c). The statute contains outer age limits on commitment after revocation. The juvenile may not remain committed past the juvenile's:

- 21st birthday if the juvenile is committed for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree forcible rape pursuant to G.S. 14-27.21, first-degree statutory rape pursuant to G.S. 14-27.24, first-degree forcible sexual offense pursuant to G.S. 14-27.26, and first-degree statutory sexual offense pursuant to G.S. 14-27.29 if committed by an adult;
- 19th birthday if the juvenile is committed for an offense that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than those listed immediately above; and
- 18th birthday if the juvenile is committed for an offense other than those listed above.

It is unsettled whether the term of commitment is subject to the same limitations on the maximum set forth for the original commitment in G.S. 7B-2513(a)—basically, the maximum that an adult could receive for that class of offense. *See supra* “Maximum term” in § 15.6A, Indefinite Term of at Least Six Months. G.S. 7B-2516(c) does not restate these maximums, which supports the view that they do not apply. *See* LaToya Powell, [Extended YDC Commitments and the 30-Day Notice Requirement](#), ON THE CIVIL SIDE, UNC SCH. OF GOV'T BLOG (July 12, 2017). However, the General Assembly may not have intended to authorize a greater term of commitment than initially permitted based solely on a violation of post-release supervision. G.S. 7B-2513(a) contains a single exception to these maximums—a determination by the Division pursuant to G.S. 7B-2515 that a greater period of commitment is needed for care or treatment. G.S. 7B-2513(a) does not contain an exception to the maximums based on revocation of post-release supervision under G.S. 7B-2516. Whether or not the maximums apply, counsel should consider requesting a hearing at an appropriate time to review the juvenile’s commitment.