

8.1 Overview of Custody in Delinquency Proceedings

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Juveniles alleged to be delinquent usually remain in their own residences pending both the adjudicatory and dispositional hearings. The Juvenile Code provides for a juvenile to be placed in custody only in specific circumstances, discussed in this chapter. Because there is no right to bail in juvenile court, statutory restrictions on the use of secure custody are important. Counsel must be prepared to argue against an order for secure custody. *See infra* § 8.6A, Overview. Custody is not intended to be punishment under the Code; counsel has a crucial role in ensuring that its use is limited.

There are three types of custody in juvenile delinquency proceedings:

- Temporary custody means taking physical custody of a juvenile until a court order for secure or nonsecure custody can be obtained, such as where a law enforcement officer arrests a juvenile based on reasonable grounds to believe the juvenile is an absconder or has committed a crime for which arrest would be lawful.
- Secure custody is the placement of a juvenile in an approved locked facility after a petition has been filed and pending an adjudicatory or dispositional hearing, or pending placement pursuant to a dispositional order.
- Nonsecure custody is the placement of a juvenile without restriction on the juvenile's freedom of movement in the custody of the Department of Social Services or a person designated by the court. The juvenile may be placed in nonsecure custody after a petition has been filed and pending an adjudicatory or dispositional hearing, or pending placement pursuant to a dispositional order.