

8.8 Custody Pending Appeal

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If the juvenile appeals the case, the court must release the juvenile, with or without conditions, unless it enters a temporary order affecting custody or placement. Such an order must be in writing and must state “compelling reasons” that the placement or custody is in the best interests of the juvenile or the State. G.S. 7B-2605; *In re J.J., Jr.*, 216 N.C. App. 366, 376 (2011). The court of appeals has held that findings included in a dispositional order can support a custody order under G.S. 7B-2506. *In re R.A.S.*, 166 N.C. App. 515 (2004) (unpublished). However, a finding that no placement is available for the juvenile during the appeal is “clearly insufficient.” *In re W.G.C.*, 166 N.C. App. 516 (2004) (unpublished).

If counsel gives oral notice of appeal from a dispositional order imposing a period of confinement, counsel should ask the court to release the juvenile pursuant to G.S. 7B-2605. If counsel gives written notice of appeal after the dispositional hearing, counsel should include a request for release under G.S. 7B-2605 in the notice of appeal or in a separate motion. A sample notice of appeal and a sample motion for release pending appeal are available on the [Juvenile Defender website](#).

For a discussion of appeals in juvenile delinquency cases, see *infra* Ch. 16, Appeals.