

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1207
Committee Substitute Favorable 6/14/96

Short Title: Length of Juvenile Commitment.

(Public)

Sponsors:

Referred to:

May 16, 1996

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE MAXIMUM PERIOD OF TIME A JUVENILE MAY BE COMMITTED IN ACCORDANCE WITH THE STRUCTURED SENTENCING ACT AS RECOMMENDED BY THE SENTENCING AND POLICY ADVISORY COMMISSION AND TO AMEND THE PROCEDURE FOR COURT-ORDERED TREATMENT OF A JUVENILE TO REQUIRE THE COUNTY TO ARRANGE FOR TREATMENT OF THE JUVENILE WHEN THE PARENT CANNOT AFFORD TO PAY THE COST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-646 reads as rewritten:

"§ 7A-646. Purpose.

The purpose of dispositions in juvenile actions is to design an appropriate plan to meet the needs of the juvenile and to achieve the objectives of the State in exercising jurisdiction. If possible, the initial approach should involve working with the juvenile and ~~his~~ the juvenile's family in their own home so that the appropriate community resources may be involved in care, supervision, and treatment according to the needs of the juvenile. Thus, the judge should arrange for appropriate community-level services to be provided to the juvenile and ~~his~~ the juvenile's family in order to strengthen the home situation.

1 In choosing among statutorily permissible dispositions for a delinquent juvenile, the
2 judge shall select the least restrictive disposition both in terms of kind and duration, that
3 is appropriate to the seriousness of the offense, the degree of culpability indicated by the
4 circumstances of the particular case and the age and prior record of the juvenile. A
5 juvenile should not be committed to training school or to any other institution if ~~he~~ the
6 juvenile can be helped through community-level resources. Article 81B of Chapter 15A
7 of the General Statutes does not apply to juvenile dispositions, except as provided in G.S.
8 7A-652(c)."

9 Sec. 2. G.S. 7A-652(c) reads as rewritten:

10 "(c) In no event shall commitment of a delinquent juvenile be for a period of time
11 in excess of ~~that period for which an adult could be committed for the same act. the maximum~~
12 term of imprisonment for which an adult in prior record level VI for felonies or in prior
13 conviction level III for misdemeanors could be sentenced for the same offense. Any
14 juveniles committed for an offense for which an adult would be sentenced for 30 days or less. A
15 juvenile committed only for an offense that would be a Class 3 misdemeanor if
16 committed by an adult shall be assigned to a local detention home as defined by G.S. 7A-
17 517(15) or a regional home as defined by G.S. 7A-517(26)."

18 Sec. 3. G.S. 7A-647(3) reads as rewritten:

19 "(3) In any case, the judge may order that the juvenile be examined by a
20 physician, psychiatrist, psychologist or other qualified expert as may be
21 needed for the judge to determine the needs of the juvenile.

22 a. Upon completion of the examination, the judge shall conduct a
23 hearing to determine whether the juvenile is in need of medical,
24 surgical , psychiatric, psychological, or other treatment and who
25 should pay the cost of the treatment. The county manager, or
26 such person who shall be designated by the chairman of the
27 county commissioners, of the juvenile's residence shall be
28 notified of the hearing, and allowed to be heard. If the judge
29 finds the juvenile to be in need of medical, surgical, psychiatric,
30 psychological or other treatment, ~~he~~ the judge shall allow permit
31 the parent or other responsible persons to arrange for ~~care.~~
32 treatment. If the parent declines or is unable to make necessary
33 arrangements, the judge ~~may~~ shall order the needed treatment,
34 surgery or care, and the judge may order the parent to pay the
35 cost of ~~such~~ the care pursuant to G.S. 7A-650. If the judge finds
36 the parent is unable to pay the cost of ~~care, treatment,~~ the judge
37 ~~may charge the cost to the county.~~ shall order the county to arrange
38 for treatment of the juvenile and to pay for the cost of the
39 treatment. The county department of social services shall
40 recommend the facility that will provide the juvenile with
41 treatment.

42 b. If the judge believes, or if there is evidence presented to the
43 effect that the juvenile is mentally ill or is ~~mentally retarded~~

1 developmentally disabled, the judge shall refer him—the juvenile
2 to the area mental health, developmental disabilities, and
3 substance abuse services director for appropriate action. A
4 juvenile shall not be committed directly to a State hospital or
5 mental retardation center; and orders purporting to commit a
6 juvenile directly to a State hospital or mental retardation center
7 except for an examination to determine capacity to proceed shall
8 be void and of no effect. The area mental health, developmental
9 disabilities, and substance abuse director shall be responsible for
10 arranging an interdisciplinary evaluation of the juvenile and
11 mobilizing resources to meet ~~his—the juvenile's~~ needs. If
12 institutionalization is determined to be the best service for the
13 juvenile, admission shall be with the voluntary consent of the
14 parent or guardian. If the parent, guardian, or custodian refuses to
15 consent to a mental hospital or retardation center admission after
16 such institutionalization is recommended by the area mental
17 health, developmental disabilities, and substance abuse director,
18 the signature and consent of the judge may be substituted for that
19 purpose. In all cases in which a regional mental hospital refuses
20 admission to a juvenile referred for admission by a judge and an
21 area mental health, developmental disabilities, and substance
22 abuse director or discharges a juvenile previously admitted on
23 court referral prior to completion of his treatment, the hospital
24 shall submit to the judge a written report setting out the reasons
25 for denial of admission or discharge and setting out the juvenile's
26 diagnosis, indications of mental illness, indications of need for
27 treatment, and a statement as to the location of any facility
28 known to have a treatment program for the juvenile in question."

29 Sec. 4. G.S. 7A-650 reads as rewritten:

30 **"§ 7A-650. Authority over parents of juvenile adjudicated as delinquent,**
31 **undisciplined, abused, neglected, or dependent.**

32 (a) If the court orders medical, surgical, psychiatric, psychological, or other
33 treatment pursuant to G.S. 7A-647(3), the court may order the parent or other responsible
34 parties to pay the cost of the treatment or care ordered.

35 (b) The court may order the parent to provide transportation for a juvenile to keep
36 an appointment with a court counselor.

37 (b1) At the dispositional hearing or a subsequent hearing in the case of a juvenile
38 who has been adjudicated delinquent, undisciplined, abused, neglected, or dependent, if
39 the court finds that it is in the best interest of the juvenile for the parent to be directly
40 involved in the juvenile's treatment, the court may order the parent to participate in
41 medical, psychiatric, psychological, or other treatment of the juvenile ~~and to pay the costs~~
42 ~~thereof. If the court finds that the parent is unable to pay the cost of the treatment, the court may~~

1 ~~charge the cost to the county of the juvenile's residence.~~ juvenile. The cost of the treatment
2 shall be paid pursuant to G.S. 7A-647(3)a.

3 (b2) At the dispositional hearing or a subsequent hearing in the case of a juvenile
4 who has been adjudicated delinquent, undisciplined, abused, neglected, or dependent, the
5 court may determine whether the best interest of the juvenile requires that the parent
6 undergo psychiatric, psychological, or other treatment or counseling directed toward
7 remediating or remedying behaviors or conditions that led to or contributed to the
8 juvenile's adjudication or to the court's decision to remove custody of the juvenile from
9 the parent. If the court finds that the best interest of the juvenile requires the parent
10 undergo treatment, it may order the parent to comply with a plan of treatment approved
11 by the court or condition legal custody or physical placement of the juvenile with the
12 parent upon the parent's compliance with the plan of treatment. The court may order the
13 parent to pay the cost of treatment ordered pursuant to this subsection. In cases in which
14 the court has conditioned legal custody or physical placement of the juvenile with the
15 parent upon the parent's compliance with a plan of treatment, the court may charge the
16 cost of the treatment to the county of the juvenile's residence if the court finds the parent
17 is unable to pay the cost of the treatment. In all other cases, if the court finds the parent is
18 unable to pay the cost of the treatment ordered pursuant to this subsection, the court may
19 order the parent to receive treatment currently available from the area mental health
20 program that serves the parent's catchment area.

21 (c) Whenever legal custody of a juvenile is vested in someone other than the
22 juvenile's parent, after due notice to the parent and after a hearing, the court may order
23 that the parent pay a reasonable sum that will cover in whole or in part the support of the
24 juvenile after the order is entered. If the court requires the payment of child support, the
25 amount of the payments shall be determined as provided in G.S. 50-13.4(c). If the court
26 places a juvenile in the custody of a county department of social services and if the court
27 finds that the parent is unable to pay the cost of the support required by the juvenile, the
28 cost shall be paid by the county department of social services in whose custody the
29 juvenile is placed, provided the juvenile is not receiving care in an institution owned or
30 operated by the State or federal government or any subdivision thereof.

31 (d) Failure of a parent who is personally served to participate in or comply with
32 subsections (a) through (c) may result in a civil proceeding for contempt."

33 Sec. 5. This act becomes effective December 1, 1996, and applies to
34 dispositions for offenses committed on or after that date.