

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1479

Short Title: Juvenile Contempt/Procedures and Sanctions.

(Public)

Sponsors: Representative Glazier.

Referred to: Judiciary II.

April 16, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE PROCEDURES AND SANCTIONS TO ADDRESS
3 CONTEMPT BY JUVENILES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 5A of the General Statutes is amended by adding a
6 new Article to read:

7 "Article 3.

8 "Contempt by Juveniles.

9 "**§ 5A-31. Contempt by a juvenile.**

10 (a) Each of the following, when done by an unemancipated minor who (i) is at
11 least six years of age, (ii) is not yet 16 years of age, and (iii) has not been convicted of
12 any crime in superior court, is contempt by a juvenile:

13 (1) Willful behavior committed during the sitting of a court and directly
14 tending to interrupt its proceedings.

15 (2) Willful behavior committed during the sitting of a court in its
16 immediate view and presence and directly tending to impair the
17 respect due its authority.

18 (3) Willful disobedience of, resistance to, or interference with a court's
19 lawful process, order, directive, or instruction or its execution.

20 (4) Willful refusal to be sworn or affirmed as a witness, or, when so sworn
21 or affirmed, willful refusal to answer any legal and proper question
22 when the refusal is not legally justified.

23 (5) Willful or grossly negligent failure to comply with schedules and
24 practices of the court resulting in substantial interference with the
25 business of the court.

26 (6) Willful refusal to testify or produce other information upon the order
27 of a judge acting pursuant to Article 61 of Chapter 15A of the General
28 Statutes, Granting of Immunity to Witnesses.

1 (7) Willful communication with a juror in an improper attempt to
2 influence the juror's deliberations.

3 (8) Any other act or omission specified in another Chapter of the General
4 Statutes as grounds for criminal contempt.

5 (b) Contempt by a juvenile is direct contempt by a juvenile when each of the
6 following conditions is met:

7 (1) The act is committed within the sight or hearing of a presiding judicial
8 official.

9 (2) The act is committed in, or in the immediate proximity to, the room
10 where proceedings are being held before the court.

11 (3) The act is likely to interrupt or interfere with matters then before the
12 court.

13 (c) Contempt by a juvenile that is not direct contempt by a juvenile is indirect
14 contempt by a juvenile.

15 **"§ 5A-32. Direct contempt by a juvenile.**

16 (a) A presiding judicial official may summarily impose measures in response to
17 direct contempt by a juvenile when necessary to restore order or maintain the dignity
18 and authority of the court and when the measures are imposed substantially
19 contemporaneously with the contempt. Before imposing measures summarily, the
20 judicial official shall do all of the following:

21 (1) Give the juvenile summary notice of the contempt allegation and a
22 summary opportunity to respond.

23 (2) Appoint an attorney to represent the juvenile and allow time for the
24 juvenile and attorney to confer.

25 (3) Find facts supporting the summary imposition of measures in response
26 to contempt by a juvenile. The facts shall be established beyond a
27 reasonable doubt.

28 (b) When a judicial official chooses not to proceed summarily, the official may
29 enter an order appointing counsel for the juvenile and directing the juvenile to appear
30 before a judge in a juvenile proceeding at a reasonable time specified in the order and
31 show cause why the juvenile should not be held in contempt. A copy of the order shall
32 be furnished to the juvenile and to the juvenile's attorney. If the direct contempt by a
33 juvenile is based on acts before a judge that so involve the judge that the judge's
34 objectivity may reasonably be questioned, the order shall be returned before a different
35 judge presiding in juvenile court.

36 (c) After a determination is made pursuant to subsection (a) or (b) of this section
37 that a juvenile has committed direct contempt, the court may order either or both of the
38 following:

39 (1) That the juvenile be detained in a juvenile detention facility for up to
40 five days.

41 (2) That the juvenile perform up to 30 hours of supervised community
42 service as arranged by a juvenile court counselor.

1 The court shall not impose any of these sanctions without finding first that the
2 juvenile's act or omission was willfully contemptuous or that the act or omission was
3 preceded by a clear warning by the court that the conduct is improper.

4 (d) A judicial official who finds a juvenile in direct contempt may at any time
5 terminate or reduce a sanction of detention or eliminate or reduce the number of hours
6 of community service ordered if warranted by the juvenile's conduct and the ends of
7 justice.

8 (e) A judicial official may orally order that a juvenile the official is charging with
9 direct contempt be taken into custody and restrained to the extent necessary to assure
10 the juvenile's presence for summary proceedings or notice of plenary proceedings.

11 (f) The clerk shall place a copy of any order or other paper issued pursuant to
12 this section in the juvenile's juvenile file, if one exists, or in a new juvenile file.

13 (g) Appeal from an order finding a juvenile in direct contempt is to the Court of
14 Appeals.

15 **"§ 5A-33. Indirect contempt by a juvenile.**

16 Indirect contempt by a juvenile may be adjudged and sanctioned only pursuant to the
17 procedures in Subchapter II of Chapter 7B of the General Statutes.

18 **"§ 5A-34. When minor can be in contempt.**

19 (a) No act or omission by a minor younger than six years of age constitutes
20 contempt.

21 (b) The provisions of Article 1 and Article 2 of this Chapter apply to acts or
22 omissions by a minor who:

23 (1) Is 16 years of age or older;

24 (2) Is married or otherwise emancipated; or

25 (3) Before the act or omission, was convicted in superior court of any
26 criminal offense."

27 **SECTION 2.** G.S. 7B-1501(7) reads as rewritten:

28 "(7) Delinquent juvenile. – Any juvenile who, while less than 16 years of
29 age but at least 6 years of age, commits a crime or infraction under
30 State law or under an ordinance of local government, including
31 violation of the motor vehicle ~~laws.~~ laws, or who commits indirect
32 contempt by a juvenile as defined in G.S. 5A-31."

33 **SECTION 3.** G.S. 7B-1603 reads as rewritten:

34 **"§ 7B-1603. Jurisdiction in certain circumstances.**

35 The court has exclusive original jurisdiction of all of the following proceedings:

36 (1) Proceedings under the Interstate Compact on the Placement of
37 Children set forth in Article 38 of this ~~Chapter;~~ Chapter.

38 (2) Proceedings involving judicial consent for emergency surgical or
39 medical treatment for a juvenile when the juvenile's parent, guardian,
40 custodian, or person who has assumed the status and obligation of a
41 parent without being awarded legal custody of the juvenile by a court
42 refuses to consent for treatment to be ~~rendered;~~ and rendered.

43 (3) Proceedings to determine whether a juvenile should be emancipated.

- 1 (4) Proceedings in which a juvenile has been ordered pursuant to
2 G.S. 5A-32(b) to appear and show cause why the juvenile should not
3 be held in contempt."

4 **SECTION 4.** Article 17 of Chapter 7B of the General Statutes is amended
5 by adding a new section to read:

6 **"§ 7B-1707. Direct contempt by juvenile.**

7 The preceding sections of this Article do not apply when a juvenile is ordered
8 pursuant to G.S. 5A-32(b) to appear and show cause why the juvenile should not be
9 held in contempt."

10 **SECTION 5.** G.S. 7B-2507(b) reads as rewritten:

11 "(b) Points. – Points are assigned as follows:

- 12 (1) For each prior adjudication of a Class A through E felony offense, 4
13 points.
14 (2) For each prior adjudication of a Class F through I felony offense or
15 Class A1 misdemeanor offense, 2 points.
16 (3) For each prior adjudication of a Class 1, 2, or 3 misdemeanor offense,
17 1 point.
18 (4) If the juvenile was on probation at the time of offense, 2 points.

19 No points shall be assigned for a prior adjudication that a juvenile is in direct
20 contempt of court or indirect contempt of court."

21 **SECTION 6.** G.S. 7B-2508(a) reads as rewritten:

22 "(a) Offense Classification. – The offense classifications are as follows:

- 23 (1) Violent – Adjudication of a Class A through E felony offense;
24 (2) Serious – Adjudication of a Class F through I felony offense or a Class
25 A1 misdemeanor;
26 (3) Minor – Adjudication of a Class 1, 2, or 3 ~~misdemeanor~~ misdemeanor
27 or adjudication of indirect contempt by a juvenile."

28 **SECTION 7.** G.S. 143B-536 is amended by adding a new subdivision to
29 read:

30 "(14a) Assist in the implementation of any order entered pursuant to
31 G.S. 5A-32 as directed by a judicial official exercising jurisdiction
32 under that section."

33 **SECTION 8.** This act becomes effective December 1, 2007, and applies to
34 acts occurring or offenses committed on or after that date.