

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1207
Committee Substitute Favorable 6/14/96
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Short Title: Length of Juvenile Commitment.

(Public)

Sponsors:

Referred to:

May 16, 1996

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY THE MAXIMUM PERIOD OF TIME A JUVENILE MAY BE
2 COMMITTED IN ACCORDANCE WITH THE STRUCTURED SENTENCING
3 ACT AS RECOMMENDED BY THE SENTENCING AND POLICY ADVISORY
4 COMMISSION AND TO AMEND THE PROCEDURE FOR COURT-ORDERED
5 TREATMENT OF A JUVENILE TO REQUIRE THE COUNTY TO ARRANGE
6 FOR TREATMENT OF THE JUVENILE WHEN THE PARENT CANNOT
7 AFFORD TO PAY THE COST.
8

9 The General Assembly of North Carolina enacts:

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

11 **"§ 7A-646. Purpose.**

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

1 provided to the juvenile and ~~his~~ the juvenile's family in order to strengthen the home
2 situation.

3 In choosing among statutorily permissible dispositions for a delinquent juvenile, the
4 judge shall select the least restrictive disposition both in terms of kind and duration, that
5 is appropriate to the seriousness of the offense, the degree of culpability indicated by the
6 circumstances of the particular case and the age and prior record of the juvenile. A
7 juvenile should not be committed to training school or to any other institution if ~~he~~ the
8 juvenile can be helped through community-level resources. Article 81B of Chapter 15A
9 of the General Statutes does not apply to juvenile dispositions, except as provided in G.S.
10 7A-652(c)."

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

12 "(c) In no event shall commitment of a delinquent juvenile be for a period of time
13 in excess of ~~that period for which an adult could be committed for the same act.~~ the maximum
14 term of imprisonment for which an adult in prior record level VI for felonies or in prior
15 conviction level III for misdemeanors could be sentenced for the same offense. Any
16 juveniles committed for an offense for which an adult would be sentenced for 30 days or less A
17 juvenile committed only for an offense that would be a Class 3 misdemeanor if
18 committed by an adult shall be assigned to a local detention home as defined by G.S. 7A-
19 517(15) or a regional home as defined by G.S. 7A-517(26)."

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

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

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

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

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

32 **"§ 7A-650. Authority over parents of juvenile adjudicated as delinquent,**
33 **undisciplined, abused, neglected, or dependent.**

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

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

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

1 ~~thereof. If the court finds that the parent is unable to pay the cost of the treatment, the court may~~
2 ~~charge the cost to the county of the juvenile's residence. juvenile. The cost of the treatment~~
3 ~~shall be paid pursuant to G.S. 7A-647(3)a.~~

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

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

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

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