

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

H

D

HOUSE DRH10101-LT-124 (4/2)

Short Title: Juvenile Contempt/Procedures and Sanctions. (Public)

Sponsors: Representative Glazier.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE PROCEDURES AND SANCTIONS TO ADDRESS  
CONTEMPT BY JUVENILES.

The General Assembly of North Carolina enacts:

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

"Article 3.

"Contempt by Juveniles.

**"§ 5A-31. Contempt by a juvenile.**

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

- (1) Willful behavior committed during the sitting of a court and directly tending to interrupt its proceedings.
- (2) Willful behavior committed during the sitting of a court in its immediate view and presence and directly tending to impair the respect due its authority.
- (3) Willful disobedience of, resistance to, or interference with a court's lawful process, order, directive, or instruction or its execution.
- (4) Willful refusal to be sworn or affirmed as a witness, or, when so sworn or affirmed, willful refusal to answer any legal and proper question when the refusal is not legally justified.
- (5) Willful or grossly negligent failure to comply with schedules and practices of the court resulting in substantial interference with the business of the court.

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

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

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

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

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

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

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

16           (c) Contempt by a juvenile that is not direct contempt by a juvenile is indirect  
17 contempt by a juvenile.

18 **"§ 5A-32. Direct contempt by a juvenile.**

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

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

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

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

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

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

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

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

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

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

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

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

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

17          **"§ 5A-33. Indirect contempt by a juvenile.**

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

20          **"§ 5A-34. When minor can be in contempt.**

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

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

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

26               (2) Is married or otherwise emancipated; or

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

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

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

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

36          **"§ 7B-1603. Jurisdiction in certain circumstances.**

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

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

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

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

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

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

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

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

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

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

13 (1) For each prior adjudication of a Class A through E felony offense, 4  
14 points.

15 (2) For each prior adjudication of a Class F through I felony offense or  
16 Class A1 misdemeanor offense, 2 points.

17 (3) For each prior adjudication of a Class 1, 2, or 3 misdemeanor offense,  
18 1 point.

19 (4) If the juvenile was on probation at the time of offense, 2 points.

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

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

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

24 (1) Violent – Adjudication of a Class A through E felony offense;

25 (2) Serious – Adjudication of a Class F through I felony offense or a Class  
26 A1 misdemeanor;

27 (3) Minor – Adjudication of a Class 1, 2, or 3 ~~misdemeanor~~ misdemeanor  
28 or adjudication of indirect contempt by a juvenile."

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

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

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