

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 674
HOUSE BILL 944

AN ACT TO CLARIFY STATE POLICY IN CERTAIN JUVENILE CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-286 (3) through (5) is rewritten to read as follows:

- "(3) In the case of any child who is alleged to be delinquent or undisciplined and where the court finds it necessary that such child be detained in secure custody for the protection of the community or in the best interest of the child before or after a hearing on the merits of the case, the court may order that such child be detained in a juvenile detention home as provided in G.S. 110-24, or if no juvenile detention home is available, in a separate section of a local jail which meets the requirements of G.S. 110-24, provided the court shall notify the parent, guardian or custodian of the child of such detention. In order to provide authority for approval of detention care when the district court is not in session, the chief district judge or the district judge having primary responsibility for hearing juvenile cases in the district may delegate the court's authority to detain by administrative order which shall be filed in the office of the clerk of superior court. Such administrative order shall specify which judicial officials shall be contacted for approval of detention care in the following order: any available district judge; the chief juvenile probation officer or any juvenile probation officer; or the clerk or assistant clerk of superior court. No child shall be held in any juvenile detention home or jail for more than five calendar days without a hearing to determine the need for continued detention under the special procedures established by this Article. If the judge orders that the child continue in the detention home or jail after such a hearing to determine the need for continued detention, the court order shall be in writing with appropriate findings of fact.
- (4) In the case of any child who is delinquent or undisciplined, the court shall consider the following summary of State policy in relation to such child in order to design an appropriate disposition to meet the needs of the child and to achieve the objectives of the State in exercising these two categories of juvenile jurisdiction: The initial approach should involve working with the child in his own home so that the appropriate primary resources (such as the parents, school and other community services) may be involved in child care, supervision and treatment according to the needs of the child. Thus, the court should arrange for appropriate community-level services to be provided to the child and/or his family in order to strengthen his own home, such as juvenile probation services, mental health services, educational services, social services and others as may be appropriate. In cases where it is necessary to place a delinquent child outside his own home, first consideration should be given to residential resources in the child's own community, such as a relative's home, a foster home, small group homes, halfway houses, group child care, and others as may be available. A child

should not be committed to training school or to any other institution solely for unlawful absence from school; such a child should generally be helped through community level resources. A commitment to training school or to any State institution is generally appropriate only for a child over 10 years of age whose offense would be a crime if committed by an adult and where the child's behavior constitutes some threat to the safety of persons or property in the community so that the child needs to be removed from the community for the protection of the community. After considering these policy objectives, the court may:

- a. Continue the case in order to allow the family an opportunity to meet the needs of the child through more adequate supervision or placement in a private or specialized school, or placement with a relative, or through some other plan approved by the court;
 - b. Place the child on probation for whatever period of time the court may specify, and subject to such conditions of probation as the court finds are related to the needs of the child and which the court shall specify, under the supervision of the juvenile probation officer;
 - c. Excuse the child from compliance with the compulsory school attendance law, provided the court finds that suitable alternative plans can be arranged by the family or through other community resources for one of the following: an education related to the needs or abilities of the child, such as (but not limited to) vocational education or special education; a suitable plan of supervision or placement; or some other plan that the court finds to be in the best interest of the child.
- (5) In the case of a child who is delinquent, the court may commit the child to the Office of Youth Development, Department of Social Rehabilitation and Control, for placement in one of the residential programs operated by the Department, provided the court finds that such child meets each of the following four criteria for commitment to an institution and supports such finding with appropriate findings of fact in the order of commitment as follows:
- a. The child has not or would not adjust in his own home on probation or while other services are being provided;
 - b. Community-based residential care has already been utilized or would not be successful or is not available;
 - c. The child's behavior constitutes some threat to persons or property in the community or to the child's own safety or personal welfare.
 - d. If the child is less than 10 years of age or his offense would not be a crime if committed by an adult, the court must find that all community-level alternatives for services and residential care have been exhausted.

Said commitment shall be for a definite term or an indefinite term, not to extend beyond the eighteenth birthday of the child, as the Department or its administrative personnel may find to be in the best interest of the child. The Department, or its administrative personnel, shall have final authority to determine when any child who has been admitted to any program operated by the Department has sufficiently benefitted from the program as to be ready for release. If the Department finds that any child committed to its care is not suitable for any program operated by the Department, the Department

shall have the right to make a motion in the cause so that the court may enter an alternative disposition."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.