

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 609
HOUSE BILL 1207

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.

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

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

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

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

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

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

b. If the judge believes, or if there is evidence presented to the effect that the juvenile is mentally ill or is ~~mentally retarded~~ developmentally disabled, the judge shall refer ~~him~~ the juvenile to the area mental health, developmental disabilities, and substance abuse services director for appropriate action. A juvenile shall not be committed directly to a State hospital or mental retardation center; and orders purporting to commit a juvenile directly to a State hospital or mental retardation center except for an examination to determine capacity to proceed shall be void and of no effect. The area mental health, developmental disabilities, and substance abuse director shall be responsible for arranging an interdisciplinary evaluation of the juvenile and mobilizing resources to meet ~~his~~ the juvenile's needs. If institutionalization is determined to be the best service for the juvenile, admission shall be with the voluntary consent of the parent or guardian. If the parent, guardian, or custodian refuses to consent to a mental hospital or retardation center admission after such institutionalization is recommended by the area mental health, developmental disabilities, and substance abuse director, the signature and consent of the judge may be

substituted for that purpose. In all cases in which a regional mental hospital refuses admission to a juvenile referred for admission by a judge and an area mental health, developmental disabilities, and substance abuse director or discharges a juvenile previously admitted on court referral prior to completion of his treatment, the hospital shall submit to the judge a written report setting out the reasons for denial of admission or discharge and setting out the juvenile's diagnosis, indications of mental illness, indications of need for treatment, and a statement as to the location of any facility known to have a treatment program for the juvenile in question."

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

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

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

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

(b1) At the dispositional hearing or a subsequent hearing in the case of a juvenile who has been adjudicated delinquent, undisciplined, abused, neglected, or dependent, if the court finds that it is in the best interest of the juvenile for the parent to be directly involved in the juvenile's treatment, the court may order the parent to participate in medical, psychiatric, psychological, or other treatment of the juvenile ~~and to pay the costs thereof. If the court finds that the parent is unable to pay the cost of the treatment, the court may charge the cost to the county of the juvenile's residence. juvenile. The cost of the treatment shall be paid pursuant to G.S. 7A-647(3)a.~~

(b2) At the dispositional hearing or a subsequent hearing in the case of a juvenile who has been adjudicated delinquent, undisciplined, abused, neglected, or dependent, the court may determine whether the best interest of the juvenile requires that the parent undergo psychiatric, psychological, or other treatment or counseling directed toward remediating or remedying behaviors or conditions that led to or contributed to the juvenile's adjudication or to the court's decision to remove custody of the juvenile from the parent. If the court finds that the best interest of the juvenile requires the parent undergo treatment, it may order the parent to comply with a plan of treatment approved by the court or condition legal custody or physical placement of the juvenile with the parent upon the parent's compliance with the plan of treatment. The court may order the parent to pay the cost of treatment ordered pursuant to this subsection. In cases in which the court has conditioned legal custody or physical placement of the juvenile with the parent upon the parent's compliance with a plan of treatment, the court may charge the cost of the treatment to the county of the juvenile's residence if the court finds the parent is unable to pay the cost of the treatment. In all other cases, if the court finds the parent is unable to pay the cost of the treatment ordered pursuant to this subsection, the court

may order the parent to receive treatment currently available from the area mental health program that serves the parent's catchment area.

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

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

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

In the General Assembly read three times and ratified this the 21st day of June, 1996.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives