

# **GOVERNOR'S CRIME COMMISSION JUVENILE AGE STUDY**

**A STUDY OF THE IMPACT OF  
EXPANDING THE JURISDICTION OF THE  
DEPARTMENT OF JUVENILE JUSTICE  
AND DELINQUENCY PREVENTION**



**FINAL REPORT TO  
THE GOVERNOR OF NORTH CAROLINA  
AND TO THE 2009 SESSION OF THE  
GENERAL ASSEMBLY  
OF NORTH CAROLINA**

## JUVENILE AGE STUDY SUMMARY

### Study Overview

- The 2008 NC General Assembly directed the Governor’s Crime Commission to study the impact of raising the age of juvenile court jurisdiction in North Carolina. Material in this document and in the *Juvenile Age Study Final Report* is informational and not an endorsement by the Crime Commission of a particular position on the matter of North Carolina’s juvenile age.
- The Crime Commission formed an Advisory Committee and worked with outside groups to conduct the study. The end result of the work is the *Juvenile Age Study Final Report*, that includes three main parts:
  - 1) COST-BENEFIT ANALYSIS - *authored by The ESTIS Group, LLC*
  - 2) IMPLEMENTATION AND ACTION PLAN - *authored by The ESTIS Group, LLC*
  - 3) LEGAL ANALYSIS - *authored by Professor Janet Mason, UNC School of Govt.*

### Cost-Benefit Analysis of Raising the Age of Juvenile Court Jurisdiction

- Cost-Benefit Analysis (CBA) is a tool used to evaluate the economic ramifications of a decision. CBA assigns a correlative dollar value to anticipated losses and gains.
- GCC contracted with the ESTIS Group to construct a cost-benefit framework, analyzing the costs and benefits of moving 16 and 17 year-old persons out of the adult criminal system and into the juvenile system, based on the most reliable economic data available.
- Their analysis found that, if North Carolina’s juvenile system were enhanced with more evidence-based programs, the monetary benefits of the age change could outweigh the costs, by about \$7.1 million.
- The ESTIS Group also noted that costs will likely outweigh the monetary benefits by \$37.5 million if the juvenile system is not enhanced and if 16 and 17-year olds are added.

### Net Costs and Benefits (in millions) of Changing the Age of Juvenile Court Jurisdiction

Costs and Benefits	SYSTEM AS IT IS NOW	ENHANCED JUVENILE SYSTEM
Budgetary Cost	(\$79.6)	(\$53.7)
DJJDP – (“Juvenile Justice”)	(112.2)	(103.6)
DOC - Dept. of Corrections (prisons, etc.)	44.5	45.9
Judicial Branch (judges, DA’s, etc.)	(8.2)	(6.4)
Local Government (jails, police, etc.)	(3.6)	10.5
Victim Benefit (from reduced recidivism)	1.6	20.3
Offender Benefit (not having a record)	40.5	40.5
<b>Net Cost or Benefit</b>	<b>(\$37.5)</b>	<b>\$7.1</b>

Adapted from The ESTIS Group’s Exhibit 1

### **Implementation and Action Plan**

- The ESTIS Group, working with the Crime Commission’s Juvenile Age Study Advisory Committee, developed a plan of action for implementing a change to the juvenile age.
- To deal with an influx of older offenders into the juvenile system, changes have to be made
- Step-by-step implementation schedules and planning issues are laid out for the Department of Juvenile Justice and Delinquency Prevention (*see Final Report* pp.99-110), for the Department of Correction (*see Final Report* pp.111-112), for the Administrative Office of the Courts (*see Final Report* pp.113-114), and for local governments (*see Final Report* pp.115-117).

### **(Legal Analysis) Statutory Implications of Raising the Age of Juvenile Jurisdiction**

- This section reviews North Carolina statutory law, suggesting revisions and flagging issues where appropriate and provides a user-friendly guide for North Carolina legislators who might look at the statutory ramifications of this issue.

<b>LOCATION OF STATUTES THAT MAY NEED CHANGING IF THE JUVENILE AGE IS RAISED:</b>	
Chapter 5A (Contempt)	Chapter 50B (Domestic Violence)
Chapter 7B (Juvenile Code)	Chapter 90 (Medicine and Allied Occupations)
Chapter 14 (Criminal Law)	Chapter 143B (Executive Organization)
Chapter 15A (Criminal Procedure Act)	Chapter 148 (State Prison System)
Chapter 20 (Motor Vehicles)	

### **(Legal Analysis) Overview of Laws Related to the Sharing of Juvenile Information**

- This section identifies required privacy and confidentiality rights associated with juvenile record information and offers a helpful, quick-read for anyone who interested in what happens with juvenile records.

### **Other Key Findings of the Juvenile Age Study**

- An enhanced juvenile justice system can save money
- For persons who are arrested, there is a greater chance of receiving services (48%) and sanctions in the juvenile system than in the adult system (23%)
- The juvenile system produces benefits outside the scope of avoided budgetary and victim costs. Currently, first-time adult offenders 16 and 17 years of age who do not re-offend, retain records of arrest and conviction. Studies show that records of arrest, and to a greater degree convictions and incarceration, reduce future earnings of offenders and decrease their overall likelihood of employment.

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July 1, 2009

TO THE GOVERNOR AND TO THE MEMBERS OF THE 2009 GENERAL ASSEMBLY:

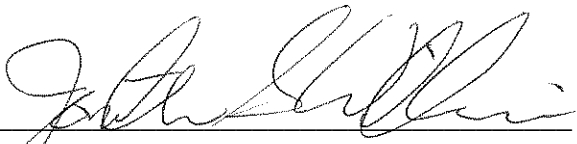
The Governor's Crime Commission submits for your consideration a Final Report on the Study of the Impact of Expanding the Jurisdiction of the Department of Juvenile Justice and Delinquency Prevention, pursuant to S.L. 2008-107, § 18.1.

Respectfully Submitted,



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Scott Thomas, Chair  
GOVERNOR'S CRIME COMMISSION



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Jonathan Williams, Acting Director  
GOVERNOR'S CRIME COMMISSION

## MEMBERSHIP

Bodies Involved in Study of the Impact of Expanding the Jurisdiction of the Department of  
Juvenile Justice and Delinquency Prevention

### JUVENILE AGE STUDY PROPOSAL REVIEW PANEL

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Immediate-Past Chair, Juvenile Justice  
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Immediate-Past Executive Director,  
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# STUDY-AUTHORIZING LEGISLATION

S.L. 2008-107, Sec. 18.1

**SECTION 18.1.(a)** The Governor's Crime Commission and its adjunct committees shall study the legal, systematic, and organizational impact of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention to include persons 16 and 17 years of age who commit crimes or infractions under State law or under an ordinance of local government. In particular, the Commission shall perform the following functions regarding the proposed expansion of the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention to include 16- and 17-year-olds who commit crimes or infractions under State or local law:

- (1) Identify the costs to the State court system and State and local law enforcement.
- (2) Review the relevant State laws that should be conformed or amended, including, but not limited to, the motor vehicle and criminal laws, the laws regarding expunction of criminal records, and other juvenile laws.
- (3) Review the experience of any other states which have within recent years expanded the juvenile justice jurisdiction to 16- and 17-year-olds.
- (4) Identify the practical issues for the Department of Juvenile Justice and Delinquency Prevention to implement best practices for programs and facilities that would meet the unique needs of the older youth under the proposal without adversely affecting the existing departmental programming.
- (5) Review the relevant State laws on sharing of juvenile information with other State departments and agencies.
- (6) Create a specific plan of the actions that are necessary to implement the expansion of the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention.
- (7) Determine the total cost of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention.
- (8) Conduct a cost benefit analysis of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention with specific information on possible future fiscal savings anywhere within State government as a result of expenditures necessary to implement the expansion.
- (9) Determine whether federal or other funds are available to aid in the transition and expansion, or both, of the age of juvenile jurisdiction to 16- and 17-year-olds.

**SECTION 18.1.(b)** The Commission may contract with an independent group or groups for the oversight and management of this study project, a service needs study, and a courts study, and to periodically report those findings to the Commission.

**SECTION 18.1.(c)** The Department of Juvenile Justice and Delinquency Prevention and all other departments, agencies, institutions, or officers of the State or any political subdivision of the State, shall cooperate with the Commission in this study, shall provide the



Commission with any requested facilities, data, or other assistance, and help the Commission identify any collateral effect which might result from implementation of the proposal on the program and operations of the relevant State department, agency, or the political subdivision.

**SECTION 18.1.(d)** The Commission shall submit a report of its findings and legislative, administrative, and funding recommendations by April 1, 2009, to the General Assembly and the Governor.

In addition to its final report, the Commission shall report in writing on the progress of this study on a quarterly basis beginning on October 1, 2008, and by the first day of every quarter thereafter until the Commission submits its final report to the General Assembly, to the chairs and co-chairs, as applicable, of the standing committees or subcommittees of the General Assembly listed in subsections (e) and (f) of this section. A copy of each progress report made to the standing committee and subcommittee chairs shall also be filed in the Legislative Library.

**SECTION 18.1.(e)** The Commission shall report to all of the following standing committees or subcommittees in the House of Representatives pursuant to this section:

- (1) Appropriations: Justice and Public Safety.
- (2) Children, Youth, and Families.
- (3) Education: Preschool, Elementary, and Secondary Education.
- (4) Juvenile Justice.
- (5) All of the Judiciary Committees.

**SECTION 18.1.(f)** The Commission shall report to all of the following standing committees or subcommittees in the Senate pursuant to this section:

- (1) Appropriations: Justice and Public Safety.
- (2) Education and Higher Education.
- (3) All of the Judiciary Committees.

**SECTION 18.1.(g)** Of the funds appropriated by this act to the Department of Crime Control and Public Safety, the Governor's Crime Commission for the 2008-2009 fiscal year, the Commission may use up to two hundred thousand dollars (\$200,000) to conduct the study authorized by this section. The Commission may also apply for, receive, or accept grants and contributions from any source of money or any other thing of value to be held and used for the purposes of the study authorized by this section.

## PREFACE

The Governor's Crime Commission was directed by Session Law 2008-107 to study the impact of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention. As contemplated in the Study legislation, the Crime Commission secured the expertise of outside groups:

The ESTIS Group, LLC was selected to perform cost-benefit analysis and to assist with implementation planning. Aaron Estis and members of his consultancy acquainted themselves with the structures, personages, and philosophies making up North Carolina's systems of juvenile and criminal justice. Considerable care was given to understanding the day-to-day workings of the State's systems, this being done to fully inform the *Cost Benefit Analysis and Implementation and Action Plan* which constitute the end products of The ESTIS Group's work.

Professor Janet Mason of the UNC School of Government graciously shared her legal acumen, authoring the sundry documents comprising the legal analysis: a document titled *Statutory Implications of Raising the Maximum Age of Juvenile Court Jurisdiction in North Carolina* (this accompanied by three Appendices) and a document titled *Overview of Laws Relating to the Sharing of Juvenile Information with State Departments and Agencies*. The former document highlights for possible revision those portions of the North Carolina General Statutes that would be directly implicated by a change in juvenile court jurisdiction. In her look at laws bearing on the sharing of juvenile information, Professor Mason examines both statutory and Administrative Code provisions.

Under the leadership of then-Crime Commission Chair Linda Hayes, a Juvenile Age Study Advisory Committee was assembled in the beginning of 2009, with membership pulled primarily from the ranks of the Crime Commission and the Commission's adjunct Juvenile Justice Planning Committee; the Advisory Committee convened for five meetings in 2009. The initial February 5<sup>th</sup> meeting served as a forum for Advisory Committee members to learn of the Study work then-accomplished and to guide The ESTIS Group on avenues of approach to the questions they were charged with answering. Subsequent meetings involved review and comment on study materials and methodology. The ESTIS Group's Final Report was delivered to the Advisory Committee in June, said Report joined with other documents to form this comprehensive *Juvenile Age Study Final Report*.

The *Juvenile Age Study Final Report* is a culmination of several months' work, representing the pooled efforts of Commission members, staff, and study consultants. Considerable assistance was rendered by the many persons from within and without State and local government who took time to aid the study consultants, sharing information and conveying a practitioner's appreciation for juvenile and criminal justice in North Carolina. The material presented in this *Final Report* is intended to inform the North Carolina General Assembly in its work; nothing herein is intended to be nor should be regarded as an endorsement by the Crime Commission of a particular position on the matter of North Carolina's juvenile age.

The *Final Report* is comprised of several parts, with particular sections corresponding to the respective study deliverables called for in the authorizing legislation. The table set forth below details the location of each within the greater document:

<b>JUVENILE AGE STUDY FUNCTION</b>	<b>LOCATION WITHIN DOCUMENT</b>	<b>PAGES</b>
Costs to Courts and Local Law Enforcement	<i>Cost-Benefit Analysis of Raising the Age of Juvenile Court Jurisdiction</i>	pp. 3-78
State Laws to be Conformed or Amended	<i>Statutory Implications of Raising the Maximum Age of Juvenile Court Jurisdiction in North Carolina</i>	pp. 135-214
Experiences of Other States	<i>Cost-Benefit Analysis – Background Raising the Age – Lessons from Connecticut and Illinois Implementation</i>	pp. 12-13 pp. 124-126
Practical Issues for DJJDP	<i>DJJDP Action Steps and Implementation Plan; Issues, Service Analysis, and Legal Considerations</i>	pp. 99-110; pp. 118-124
State Laws on Sharing of Juvenile Information	<i>Overview of Laws Relating to the Sharing of Juvenile Information with State Departments and Agencies</i>	pp. 215-218
Plan of Actions Needed to Implement Change	<i>Implementation and Action Plan – Raising the Age of Juvenile Court Jurisdiction</i>	pp. 79-134
Total Cost of Expanding Jurisdiction	<i>Cost-Benefit Analysis of Raising the Age of Juvenile Court Jurisdiction</i>	pp. 3-78
Cost-Benefit Analysis	<i>Cost-Benefit Analysis of Raising the Age of Juvenile Court Jurisdiction</i>	pp. 3-78
Availability of Federal or Other Funds	<i>Researching potential partnerships for implementation funding</i>	pp. 120-122

# **COST-BENEFIT ANALYSIS OF RAISING THE AGE OF JUVENILE COURT JURISDICTION**

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## **Executive Summary**

If the maximum age of initial juvenile court jurisdiction in North Carolina is raised from 15 to 17, with no change to the current juvenile system, the costs are expected to exceed the benefits by \$37.5 million. If, however, North Carolina makes substantial changes to its juvenile system to reduce recidivism, it is estimated that benefits could exceed costs by approximately \$7.1 million. Additional savings could be generated by reducing costs in the juvenile system.

The net costs and benefits of changing the age of juvenile court jurisdiction are shown in Exhibit 1. Two estimates are presented for the baseline and for the enhanced scenarios – one for a policy that applies to persons 16 years of age only and one that applies to persons 16 and 17 years of age. There are three major cost categories– Budgetary Costs, Victim Benefits, and Offender Benefits. These categories include all of the tangible and intangible costs for which there are established methodologies for measurement and for which there is a relationship between arrests (the unit of measure used in this cost-benefit analysis) and the cost category.

The budgetary cost (i.e., the impact on State and local government fiscal resources) is significant. The budgetary impacts occur over a three-year time frame for the analysis, but most of the costs are incurred in the first year.

### **Exhibit 1: Net Costs and Benefits (in Millions) of Changing the Age of Juvenile Court Jurisdiction**

Costs and Benefits	Baseline System		Enhanced System	
	Ages 16 & 17	Age 16	Ages 16 & 17	Age 16
Budgetary Cost	(\$79.6)	(\$35.8)	(\$53.7)	(\$24.2)
<i>DJJDP</i>	(112.2)	(50.5)	(103.6)	(46.6)
<i>DOC</i>	44.5	20.0	45.9	20.7
<i>AOC</i>	(8.2)	(3.7)	(6.4)	(2.9)
<i>Local Government</i>	(3.6)	(1.6)	10.5	4.7
Victim Benefit	1.6	0.7	20.3	9.1
Offender Benefit	40.5	18.2	40.5	18.2
<b>Net Cost</b>	<b>(\$37.5)</b>	<b>(\$16.9)</b>	<b>\$7.1</b>	<b>\$3.2</b>

Note: Totals may not add due to rounding.

Source: The ESTIS Group, 2009

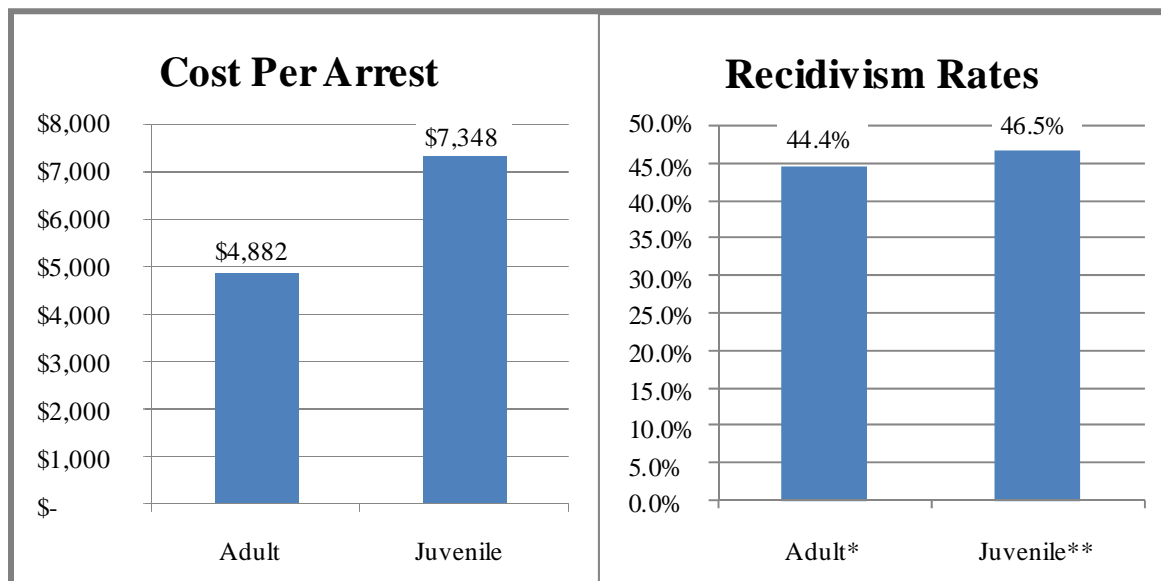
## **Discussion of the Results**

The slightly higher re-arrest rate for persons 15 years of age as compared with persons 16 and 17 years of age and the high cost of treating offenders in the juvenile system combine to produce a net cost when the age for juvenile court jurisdiction is raised (see Exhibit 2). The composite re-arrest rate for persons 15 years of age in the juvenile system (46.5 percent) is greater than the comparable re-arrest rate<sup>1</sup> for persons 16 and 17 years of age in the adult system (44.4 percent).<sup>2</sup>

<sup>1</sup> This rate represents an adjustment to the composite re-arrest rate of 43.7 percent for persons 16 and 17 years based on published reports by the Sentencing and Policy Advisory Committee. The purpose of the adjustment is to make the adult rate comparable to the juvenile rate for persons 15 years of age. The juvenile system cohort for which recidivism is measured is approximately 3,000 more persons than the adult system cohort. To make the two systems comparable for analysis, the population in the adult cohort was adjusted to account for this difference. The recidivism rate applied to these persons, who were not adjudicated in the adult system, is the rate for juveniles

The proposed change in the age of juvenile court jurisdiction produces a substantial benefit to society through improved outcomes for offenders. Offenders benefit and society benefits when offenders are able to reach the age of 18 without a record of criminal activity. Several studies have calculated the benefits derived from not having a criminal record in terms of lifetime earnings. The study deemed most applicable to the circumstances in North Carolina provides a range of possible impacts on offender lifetime earnings. Using the mid-point of the range, a 6.5 percent increase in lifetime earnings, the estimated lifetime offender benefits total \$40.5 million. Though this estimate is substantial, it is not sufficient to overcome the significant difference in costs between the adult and the juvenile systems in the baseline scenario.

**Exhibit 2: Critical Factors Affecting Cost-Benefit Analysis Results**



\*This is the rate for persons 16 and 17 years of age served in the adult system. The rate shown is a composite of the three-year re-arrest rate of 43.2% for persons in community supervision, 67.7% for persons served in prison, 36.1% for persons served in unsupervised probation, 30.5% for persons served by deferred prosecution, and an estimated rate of 32.5% for persons whose cases were not adjudicated or deferred.

\*\* Juvenile recidivism rate reflects the rate for persons 15 years of age served in the juvenile system. The rate shown is a composite of the three-year re-arrest rate of 46.5% for persons adjudicated to YDC or community supervision and a rate of 30.5% for persons whose cases were diverted.

Source: Cost per arrest - The ESTIS Group, 2009; Recidivism rates – The ESTIS Group, based on Sentencing Policy Advisory Committee tabulations, 2009.

This analysis shows that, with major improvements to the current juvenile justice system in North Carolina, changing the age of juvenile court jurisdiction can result in a net benefit of approximately \$7.1 million. Under an enhanced system that makes use of evidence-based

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whose cases were closed (these persons were also not adjudicated but are included in the juvenile recidivism rate), 32.5% re-arrested and 19.2% re-convicted within three years.

<sup>2</sup> This report is a prospective cost benefit analysis and as such requires assumptions about what is likely to occur in the future. An important assumption is that the experience of persons 15 years of age in North Carolina’s juvenile system is the best approximation for the experience of persons 16 and 17 years of age, should they be placed in the juvenile system. Because persons 16 and 17 years of age have always been in the adult system, there is no statistically valid data on what actually happens when 16 and 17 year olds are served in the juvenile system.

practices, integrated case management, and increased use of alternatives to secure placements, North Carolina should be able to reduce recidivism and reduce the cost per arrest for juveniles. The effort required to make these changes is substantial and may take several years to accomplish, but reflects the national trend in the evolution of juvenile justice programs.

### **Options for Lowering Future Costs and Increasing Benefits**

By implementing enhancements to the juvenile justice system, North Carolina can produce a net benefit with a change to the age of juvenile court jurisdiction. Enhancements to reduce costs and increase benefits fall into two broad categories – efforts to reduce recidivism and efforts to reduce the cost per arrest.

- **Reducing recidivism:** A number of evidence-based programs for juveniles have shown a significant reduction in recidivism. Among these are multi-systemic therapy and functional family therapy. A recent study by the Washington State Institute for Public Policy has shown reductions in recidivism from the use of these programs of up to 38.1 percent. If these programs are implemented along with an integrated case management approach for all persons under the supervision of the Department of Juvenile Justice and Delinquency Prevention, the overall composite rate of recidivism could be reduced from 41 to 31.5 percent.
- **Reducing the cost per arrest:** The cost per arrest is 50.1 percent higher in the juvenile system than it is in the adult system. Primary drivers of the difference in costs include the cost of supervision and the cost of secure placement. Many states have had success in reducing the number of juveniles sent to secure placement through changing the incentive structure for local jurisdictions, developing detention alternatives, and reducing or eliminating secure placement for certain low-level offenders. Redeploy Illinois, for example, has achieved its goal of reducing use of secure confinement by 25 percent in eight pilot sites. If North Carolina achieved such a reduction, it could reduce the cost of arresting persons 16 and 17 years of age by 4.0 percent, or by about \$9.9 million annually.

These and other cost-saving measures can help ensure that the change in age of initial juvenile court jurisdiction yields a net benefit rather than a net cost.

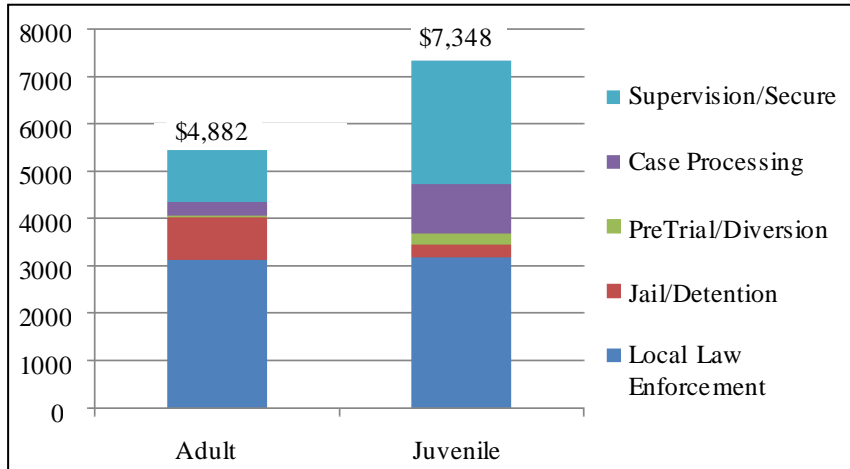
### **Cost and Benefits from the State and Local Perspective**

State and local governments incur a significant net cost from changing the age of juvenile court jurisdiction — about \$79.3 million. This study measures the unit cost per arrest, which includes the costs from initial contact with law enforcement to the point at which an offender is released from custody or supervision. The cost-benefit analysis results in a net cost primarily because the cost per arrest in the juvenile system is so much higher than the cost per arrest in the adult system.

The cost per arrest of serving offenders 16 and 17 years of age in the adult system is estimated at \$4,882—33.5 percent less than the cost per arrest in the juvenile system (\$7,348). The difference between these two costs is driven primarily by the higher cost per arrest of supervision and secure placement in the juvenile system. One cause of this is staff ratios. For example, the ratio

of court counselors to juveniles is much higher than the ratio of adult system probation officers to offenders. A comparison of the cost per arrest is shown in Exhibit 3.

**Exhibit 3: Comparison of Costs per Arrest**



Source: The ESTIS Group, 2009

**Costs and Benefits from the Victim’s Perspective**

Victim costs include tangible and intangible costs and are based on well-established methodologies for measuring victim benefits. The cost to the victim is calculated by offense and includes the following:

- Property Loss and Damage
- Medical Care
- Mental Health Care
- Loss of Productivity
- Quality of Life (intangible benefits)

These costs increase or decrease along with recidivism. Owing to some differences in how the juvenile and adult systems work, raising the age results in a net benefit to victims of approximately \$1.6 million.

**Costs and Benefits from the Offender Perspective**

Offenders and the broader society benefit from a change to the age of juvenile court jurisdiction. This benefit results from being served in the juvenile system and not having a criminal record upon reaching the age of 18. The benefit is reflected in higher estimated lifetime earnings. This benefit is related to the change in age for juvenile jurisdiction and is not related to changes in the rate of recidivism. All persons 16 and 17 years of age who commit a felony offense (and are not bound over) benefit from not having a felony record when they age into adulthood. The net benefit to all offenders avoiding a felony conviction is approximately \$40.5 million. Included in offender net benefit is an estimated lifetime federal, state, and local tax liability.

The estimate of the net benefit to offenders is based on two factors: the number of 16 and 17 year olds who, if in the adult system would get a felony conviction but in the juvenile system would



not recidivate, and an estimate of how the absence of a felony conviction on a person's record affects his or her earning potential over a lifetime.

### **Conclusion**

The cost per arrest is 50.1 percent greater for a juvenile than it is for an adult in North Carolina. State governments make the additional expenditure for juveniles with the expectation that juveniles will be less likely to recidivate after receiving services in the juvenile system. Although persons 10 to 14 years of age may be less likely to recidivate as a result of being served in the juvenile system, it does not appear to be the case when persons 15 years of age in the juvenile system are compared with persons 16 and 17 years of age in the adult system in North Carolina. The recidivism rate is roughly the same for persons 15 years of age in the juvenile system as it is for persons 16 and 17 years of age in the adult system. Consequently, transferring 16 and 17 year olds from the adult system to the juvenile system creates no benefits from reduced recidivism. It does, however, generate a benefit in increased lifetime earnings for offenders.

Although increased lifetime earnings are clear benefits resulting from changing the age of juvenile court jurisdiction, they are not large enough to overcome the cost of moving 30,000 arrests of persons 16 and 17 years of age from the adult to the juvenile system. To address the gap in costs and benefits, North Carolina should enhance its juvenile justice system through the introduction of evidence-based programs, a change in the local incentive structure for choosing detention and secure placement over community based programs, use of integrated case management, and development of alternatives to detention and secure placement.

## **Introduction**

During its 2008 legislative session, the North Carolina General Assembly requested a report addressing on-going discussions about the appropriate age of juvenile court jurisdiction in North Carolina. The Sentencing Policy and Advisory Commission presented the “Report on Study of Youthful Offenders Pursuant to Session Law 2006-248, Sections 34.1 and 34.2” to the General Assembly in March of 2007 and recommended that the maximum age of initial juvenile court jurisdiction be raised to 17. In Section 18.1.(a) of North Carolina Session Law 2008-107, the Governor’s Crime Commission (GCC) was charged with conducting a review of the “legal, systematic, and organizational impact of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention to include persons 16 and 17 years of age...”

Commentators on the issue of the juvenile age in North Carolina have noted several concerns with transferring person 16 and 17 years of age from the adult to the juvenile system. The transfer would double the number of persons under the supervision of the Department of Juvenile Justice and Delinquency Preventions (DJJDP). If implemented now, a change in the juvenile age would come amidst a number of changes in the juvenile justice system including the creation of a separate department in 2001 and the introduction of a new therapeutic model for secure placements. On the other hand, the transfer would reduce the number of persons under the supervision of the Department of Correction.

## **Scope of GCC Review**

The specific scope of inquiry outlined in the legislation initiating the GCC review includes the following:

- (1) Identify the costs to the State court system and State and local law enforcement.
- (2) Review the relevant State laws that should be conformed or amended, including, but not limited to, the motor vehicle and criminal laws, the laws regarding expunction of criminal records, and other juvenile laws.
- (3) Review the experience of any other states that have expanded the juvenile justice jurisdiction to 16- and 17-year-olds in recent years.
- (4) Identify the practical issues for DJJDP to implement best practices for programs and facilities that would meet the unique needs of the older youth under the proposal without adversely affecting the existing departmental programming.
- (5) Review the relevant State laws on sharing of juvenile information with other State departments and agencies.
- (6) Create a specific plan of the actions that are necessary to implement the expansion of the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention.
- (7) Determine the total cost of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention.
- (8) Conduct a cost-benefit analysis of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention with specific information on possible future fiscal savings anywhere within State government as a result of expenditures necessary to implement the expansion.
- (9) Determine whether federal or other funds are available to aid in the transition and expansion, or both, of the age of juvenile jurisdiction to 16- and 17-year-olds.

GCC solicited proposals from qualified companies to perform the following scope of work:

- Analysis of Total Cost – The estimated cost (a) to the state court system, (b) state and local law enforcement and (c) the Department of Juvenile Justice and Delinquency Prevention to operate a juvenile justice system that would be expanded and revised to include juveniles aged 16 and 17. The analysis should include the estimated savings to these agencies and the Department of Correction in prisons, community corrections, and other services to these youthful offenders. The analysis should include an alternative cost analysis that assumes only juveniles aged 16 would be included in the juvenile justice system.
- Cost/Benefit Analysis – A comparison of long term cost and benefits of raising the juvenile age. This includes identifying the cost of serving these youth in the adult system compared to the juvenile system to determine a net current cost raising the juvenile age to 16 and 17. Interagency funding transfers should be noted. The analysis should include future benefits such as reduced recidivism for juveniles aged 16 and 17 if handled in the juvenile system, and any other benefits of evidence-based programs for juveniles. This analysis should clearly set out current studies on which such forecasts are based including the source and methodology.
- Issue and Service Analysis – Identification of the issues to be addressed to provide effective services and programs to 16 and 17 year olds in the juvenile system. This includes identifying the population to be served, analyzing current service quality and service gaps, and recommending changes in services and programs. Recommendations should focus on the use of evidence-based programs as evaluated in the national juvenile literature and by other states.
- Action and Implementation Plans – An outline of the short and long term plans for implementing changes needed to prepare the State for raising the juvenile age. This includes action plans, key steps, and schedules for the courts, law enforcement, juvenile justice and corrections and a recommended organization or committee responsible for refining these plans and overseeing implementation.
- Legal Analysis – Analysis will be provided to the consultant regarding relevant North Carolina state laws that should be conformed or amended to implement expanded juvenile jurisdiction, including motor vehicle and criminal laws. The consultant should incorporate these in the report with recommendations for the sequence and timing of implementation. The consultant shall review any federal legal compliance issues under federal law.

This report addresses the Analysis of Total Cost and Cost/Benefit Analysis portions of the scope of work. The report includes the costs to state courts and state and local law enforcement, a review of other states' experiences with changing the age of juvenile court jurisdiction, the estimated cost of the change, and the results of a cost-benefit analysis of changing the age of juvenile court jurisdiction. Additional reports, under separate covers, contain the Implementation and Action Plans and Legal Analysis portions of the scope of work.

It is important to note that the dollars and operational data presented in this report may differ from those presented in the Implementation and Action Plan report; they are not intended to be the same. The cost estimates included in this document are costs and benefits associated with a cohort of approximately 30,000 persons 16 and 17 years of age arrested in a given year. The

costs associated with this cohort occur primarily in the first year persons are served but also include costs incurred two to three years after arrest. The costs included in the Implementation and Action Plan Report are estimates of annual operating budgetary impacts. The budgetary estimates reflect the changes that must be made to the system to serve persons 16 and 17 years of age rather than the overall cost of serving them. In addition, the costs in the Implementation and Action Plan report are estimated using population projections for the juvenile population and show the impact of implementing the change incrementally for the following age groups: younger than 16 1/2, younger than age 17, younger than age 17 1/2, and younger than 18.

The report is organized as follows:

- **Background:** Provides an overview of juvenile jurisdiction in North Carolina and in other states. It also discusses the stakeholders that would be affected by a change to juvenile court jurisdiction and describes how persons are processed through the juvenile and adult systems.
- **Cost-Benefit Analysis Overview:** Summarizes the approach used for the analysis and the costs and benefits that it includes.
- **Cost-Benefit Analysis Calculations:** Includes a discussion of the costs and benefits of the current juvenile and adult systems, and the net benefit (cost) that would be incurred by a change to the age of juvenile court jurisdiction. Also quantifies the net benefit (cost) associated with serving persons 16 and 17 years of age in an enhanced juvenile system.
- **Explanation of Results:** Describes the key cost drivers in the State's juvenile and adult systems, as well as how incremental changes in recidivism affect the State's overall bottom line.

Several appendices to the report outline the methodology used to estimate costs incurred by the juvenile and adult systems. An additional appendix includes a detailed discussion of the enhanced system proposed in the report.

## **Background**

This study is one part of a larger policy discussion about the appropriate age for juvenile court jurisdiction in North Carolina. There have been several attempts to change the age of juvenile jurisdiction since the current age was established in 1919.<sup>3</sup> To place the issue in its proper context, this section provides a brief summary of the issue in North Carolina and other states, a description of the organizations at the state and local levels that would be affected by any change in the age of juvenile court jurisdiction, a discussion of the criminal justice process for adults and juveniles in North Carolina, and a profile of the offenders that would be affected by this change.

### **Juvenile Court Jurisdiction in North Carolina and Other States**

Currently, 10 states prosecute offenders 16 years of age in the juvenile system; 38 states prosecute offenders both 16 and 17 years of age in the juvenile system. North Carolina is one of three states that charge all offenders 16 and 17 years of age as adults. It should be noted that Connecticut recently passed legislation to move offenders 16 years of age to juvenile court jurisdiction, but implementation of the change is not expected to begin until fiscal year 2010. The other state that has adult jurisdiction over offenders 16 and 17 years of age, New York, has a system significantly different from that of North Carolina. New York treats offenders younger than 19 years of age differently than all other adult offenders. The New York Department of Correctional Services provides services to these offenders; however they do not receive adult convictions and retain a separate, “youthful offender,” status. As a result, the offenders do not have a criminal record, yet still receive services targeted to their age and needs.

North Carolina is one of many states that have re-evaluated the age of juvenile court jurisdiction in recent years. The experiences of other states may be helpful for North Carolina decision-makers to consider. Connecticut and other states have recently considered making or have made the following modifications to the age of juvenile court jurisdiction:

- Illinois- Increased the maximum age of jurisdiction from 16 to 17 for misdemeanants in 2007; the change will be effective in 2010. The previous statute regarding juvenile court jurisdiction had been in place since 1987. Local officials raised concerns about shifting the cost of services for persons 17 years of age from state to local units of government (probation and other services are provided and funded by counties) and the impact of housing persons 17 years of age with younger persons in secure facilities. Legislators were more willing to change the age for misdemeanors, so advocates initially suggested a compromise to include all misdemeanors and only some felonies. The final bill was a further compromise, limiting the change to misdemeanors and setting up a task force to study adding felonies.
- Connecticut- Raised the age of jurisdiction to 17 legislatively in 2007; criminal courts retain authority over offenders 16 and 17 years of age charged with committing serious felonies. The change was originally scheduled to be effective in 2010. However, in February 2009, Connecticut’s legislature projected an \$8.7 billion deficit for the next two fiscal years; as a result, decision makers are currently considering a delay in implementation for budgetary reasons.

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<sup>3</sup> The initial age of jurisdiction was 15. See Tamar R. Birkhead, North Carolina Juvenile Court Jurisdiction, and the Resistance to Reform, North Carolina Law Review, September 2008, Volume 86, Number 6.

- Rhode Island- Passed legislation that decreased the age of juvenile court jurisdiction from 17 to 16 in 2007 to accrue cost savings on secure bed expenditures. Implementation of the change did not have the same results as prior studies of cost had indicated. Instead of being placed in typical adult facilities, offenders 17 years of age were placed in "high security" adult facilities for protection, which were more expensive than juvenile facilities. As a result, the change was reversed in the same year.

Exhibit 4 provides the age of juvenile court jurisdiction for all 50 states and the District of Columbia.

**Exhibit 4: Age of Jurisdiction in 50 States and District of Columbia**

Age 15 N = 3	Age 16 N = 10	Age 17 N = 38	
New York*	Georgia	Alabama	Montana
North Carolina	Illinois	Alaska	Nebraska
Connecticut **	Louisiana	Arizona	Nevada
	Massachusetts	Arkansas	New Jersey
	Michigan	California	New Mexico
	Missouri	Colorado	North Dakota
	New Hampshire	Delaware	Ohio
	South Carolina	District of Columbia	Oklahoma
	Texas	Florida	Oregon
	Wisconsin	Hawaii	Pennsylvania
		Idaho	Rhode Island
		Indiana	South Dakota
		Iowa	Tennessee
		Kansas	Utah
		Kentucky	Vermont
		Maine	Virginia
		Maryland	Washington
		Minnesota	West Virginia
		Mississippi	Wyoming

\* 16, 17 do not receive conviction status or a public record

\*\* 17, but not yet implemented

Source: King, Melanie and Szymanski, Linda. 2006. "National Overviews." State Juvenile Justice Profiles. National Center for Juvenile Justice. <http://www.ncjj.org/stateprofiles/>

**Stakeholders Affected by the Policy Change**

If North Carolina were to make its age of juvenile court jurisdiction more in line with that of other states, there would be a significant impact to a diverse set of stakeholders, including State government agencies, local government entities, and private citizens. State and local government entities' budgets and operations would be directly affected if the age of juvenile court jurisdiction were raised. Citizens are potential offenders or victims of crime and pay taxes used

by government entities to maintain public safety and serve offenders. See Exhibit 5 for a more detailed list of stakeholders within these groups.

**Exhibit 5: Stakeholders**

State Government	Local Government	Private
<b>Department of Juvenile Justice and Delinquency Prevention</b>  <b>Department of Corrections</b>  <b>Administrative Office of the Courts</b> Prosecutors Public Defenders Judges Court Staff  <b>Department of Public Instruction</b> <b>Department of Crime Control and Public Safety</b> <b>Department of Health and Human Services</b>	<b>Counties</b> Juvenile Crime Prevention Councils Criminal Justice Partnership Programs Sheriffs  <b>Local Law Enforcement</b>  <b>School Districts</b>	Victims and Families Offenders and Families Service Providers Victim Advocacy Juvenile Advocacy Business

Of the State agencies in Exhibit 5, those that will be affected the most by a change to juvenile court jurisdiction include the Department of Juvenile Justice and Delinquency Prevention (DJJDP), the Department of Correction (DOC), and the Administrative Office of the Courts (AOC). These entities are described below.

*Department of Juvenile Justice and Delinquency Prevention*

In fiscal year 2008, DJJDP spent \$153.4 million to provide delinquency, protective, and prevention services to juveniles approximately 15,000 juveniles under its supervision. Services provided to delinquent youth include detention, diversion programs and commitment alternatives (e.g., residential programs, clinical treatment, and structured day programs), secure confinement in Youth Development Centers (YDC), and community supervision. DJJDP operates 9 YDCs (with a total of 425<sup>4</sup> beds) and 9 detention facilities (194 beds). County governments operate 3 detention facilities (78 beds), making a total of 272 detention beds. Education services (high school equivalent, GED, and limited vocational education) are provided in DJJDP facilities, as well as counseling and behavioral health services. Offenders may also receive substance abuse treatment or sex offender treatment. Community programming, such as family counseling and day treatment centers are also available to diverted youth and youth with a community supervision disposition.

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<sup>4</sup> DJJDP YDCs currently have the capacity to serve 537, but are not yet fully staffed. As a result, 425 beds are currently available for use.

### *Department of Correction*

DOC provides secure confinement services and community supervision services to persons convicted in Superior and District Courts, including persons committing crimes while 16 or 17 years of age. Secure confinement is primarily provided to offenders 16 and 17 years of age in the Western Youth Institution, which also serves offenders that were older than age 17 at the time of offense. The facility's annual budget of \$19.6 million is approximately 2 percent of DOC's annual budget. Full-time educational services in the form of GED courses and vocational courses are available to offenders at the Western Youth Institution. Offenders may also receive substance abuse treatment or sex offender treatment.

### *Administrative Office of the Courts*

AOC administers the budget for entities associated with court processing, such as Indigent Defense Services. Offenders 16 and 17 years of age that are prosecuted for criminal offenses are primarily served by District Courts, and a small proportion is served in Superior Courts (most often those who are charged with felonies). Juvenile cases are processed separately in District Court. In fiscal year 2007, the Superior Court expended \$37.1 million and the District Court expended \$78.7 million to serve adult and juvenile offenders. District Courts and Superior Courts were served by 256 and 109 judges, respectively. Cases in North Carolina are prosecuted by 42 District Attorneys and 571 Assistant District Attorneys. Indigent offenders are served by 14 public defenders, 200 assistant public defenders, one juvenile defender, one assistant juvenile defender, and private counsel via contracted services. Juvenile offenders are presumed indigent and many offenders 16 and 17 years of age are indigent according to the office of Indigent Defense Services.

### **Processing of Juvenile and Adult Offenders**

Persons suspected of committing criminal and delinquent acts go through several processes: arrest and apprehension, detention, case processing, and pre- and post-dispositional services. These processes involve several stakeholders, including local law enforcement agencies, the District and Superior Courts, DOC, and DJJDP. The processes associated with each system are described below and are summarized in Exhibit 6. See *Appendix A* for a glossary of terms used in this report.

### *Adult System*

First, persons suspected of committing a crime receive a citation or are arrested by a law enforcement officer. They are then taken to a magistrate, who may set a bond amount for the person's release or who may allow release without the payment of bond. Persons who are unable to pay the bond amount are then detained in jail prior to their trial for the offense that they are accused of committing. Some offenders may participate in pre-trial services, which are an alternative to housing persons in detention facilities prior to trial and which provide supervision and sometimes counseling to suspects.

Instead of prosecuting persons for a crime, a District Attorney (public prosecutor) that is assigned to the case may decide to defer prosecution in lieu of a defendant completing certain requirements (e.g., community service or rehabilitative programming) and avoiding further criminal activity. The period of supervision before all charges are dropped may last up to two years. If persons are prosecuted by the DA, their cases are decided by a trial court. Upon being



found guilty of committing a crime, persons receive a sentence from the court classified as active, intermediate, or community. Active sentences are served in prison or in jail, while intermediate and community sentences are served in the community. Intermediate sentences include supervision by a probation officer and an additional level of service such as that provided by electronic house arrest or day reporting centers. Community sentences may include supervision by a probation officer; they may also include completion of community service hours, payment of fines/restitution, or unsupervised probation (requirement to meet terms of probation, without the supervision of a probation officer). Some offenders (those who have committed Class B through E felonies) that receive prison sentences also receive post-release supervision.

### *Juvenile System*

Persons suspected of committing delinquent offenses are apprehended by law enforcement officers in the community and temporarily detained (for 12 hours typically, or up to 24 hours if on a weekend or a holiday). The law enforcement officer files a complaint with the District Court. In addition, school resource officers (sworn officers stationed at schools) and private citizens may also file complaints. A juvenile court counselor or judge may decide whether the person should be returned to their parent/guardian or receive a secure custody order, which typically is served in a juvenile detention facility.

Risk and needs assessments generally are completed for persons who are held in detention facilities. The assessments document information about delinquency history, family situation, school behavior, substance abuse, peer relationships, and individual characteristics. Data collected in the assessments are used to determine an appropriate level and type of supervision.

Juvenile court counselors then review the files of all persons for which complaints have been filed, and evaluate each case by conducting interviews with the juvenile, the juvenile's parent, guardian, or custodian, the complainant, the victim, and any other persons with relevant information. Court counselors can decide to:

- Close a case if they determine that the person is not in need of any referrals or follow-up,
- Divert a case if they think it should not be filed but that the person is in need of service referrals or follow-up services, or
- File a petition with the trial court and set a hearing date with the court.

Juvenile offenders receive either commitment or community supervision.<sup>5</sup> Committed juveniles primarily serve their dispositions in Youth Development Centers (YDCs). All committed offenders receive post-release supervision after they leave YDC confinement. Offenders receiving community supervision dispositions receive supervision by a court counselor and may receive additional rehabilitative services in the community.

Many of these community rehabilitative services are overseen through Juvenile Crime Prevention Councils (JCPCs), which are county-appointed councils that administer grants to community program providers. The State allocates funding to each county in the State

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<sup>5</sup> There are two levels of community supervision dispositions; one is more intensive than the other and requires services in addition to basic supervision be provided.

(approximately \$22.4 million in fiscal year 2008) and the county provides matching funds ranging from 10 to 30 percent of their State allocated dollars. The funds are used to administer grants for both preventive and rehabilitative programs; they serve youth that have not been involved with the juvenile justice system, as well as those who are diverted or serving dispositions. Grantees establish measurable objectives and provide data on their performance to the JCPC.

### Exhibit 6: Comparison of Juvenile Justice and Criminal Justice Systems

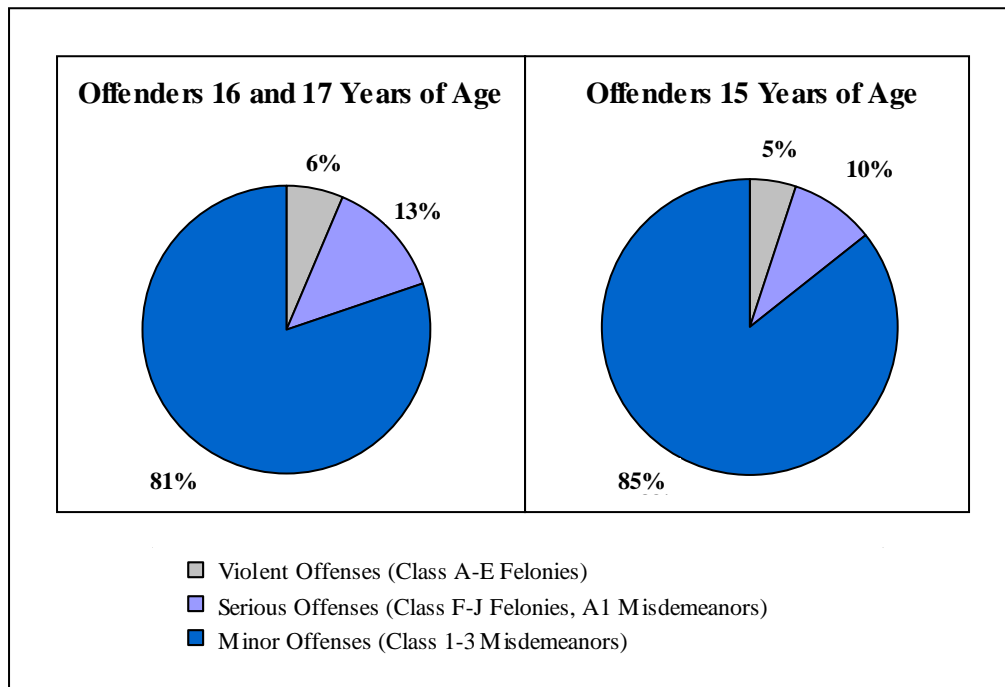
Process	Juvenile System	Adult System
<b>Arrest</b>	Juveniles are brought into a police station, where the officer completes paperwork to file a complaint with the court.	Adult either is issued a citation or is arrested.
<b>Detention</b>	Some juveniles are brought home by the local police department or their parents pick them up. Other juveniles receive secure detention through a secure custody order.	All adults arrested are booked and have bond set by a magistrate. Some do not have bond set and are released. Others pay bond and are released. Some do not pay bond and are held in jail prior to their trial. Some offenders also receive pre-trial services, which allow supervision in the community prior to trial.
<b>Court</b>	Juvenile Court within District Court	District Court and Superior Court
<b>Decision to Prosecute</b>	Juvenile Court Counselor reviews file and evaluates the case by conducting interviews with the juvenile, the juvenile’s parent, guardian, or custodian, the complainant, the victim, and any other persons with relevant information: <ul style="list-style-type: none"> <li>o Close case: Juvenile not in need of any referrals or follow-up.</li> <li>o Divert case: Case should not be filed, but juvenile in need of referrals or follow-up.</li> <li>o File petition for case: Case is prosecuted, hearing is set.</li> </ul>	District Attorney makes decision. Can decide to: <ul style="list-style-type: none"> <li>o Defer prosecution: Decision to dismiss a case if the defendant complies with certain conditions.</li> <li>o Prosecute the case: A hearing date is then set.</li> </ul>
<b>Pre-Adjudication Services</b>	A diversion contract can be signed; it has a six-month time frame and requires the juvenile to attend a specific program or service instead of being prosecuted.	A decision can be made to defer prosecution upon completion of set conditions (e.g., pay restitution, complete community service hours). A written agreement specifies the conditions; limited supervision is provided by DOC to ensure the conditions are met. The agreement can last up to 24 months.
<b>Placement Options for Adjudicated Persons</b>	Commitment: Generally receive secure confinement at a Youth Development Center. There are a limited number of commitment alternatives available as well. Community Supervision: Supervision at varying levels in the community. May include supervision alone or supervision plus additional services such as community service, counseling, day reporting, and electronic monitoring.	Active: Secure confinement in a prison or jail. Community Supervision (Probation): Supervision at varying levels in the community. May include supervision alone or supervision plus additional services. Unsupervised Probation: No supervision by a probation officer. Still subject to conditions of probation including remaining crime-free, being employed, not possessing firearms, etc. Other: community service, restitution, fine.

Source: North Carolina Sentencing and Policy Advisory Commission “Report of Study of Youthful Offenders Pursuant to Session Law 2006-248, Sections 34.1 and 34.2”

*Persons Affected*

The proposed change in juvenile court jurisdiction would involve approximately 30,000 persons. In Calendar Year 2007, 30,702 persons 16 and 17 years of age were reported to be arrested. These persons were arrested for a variety of offenses, though most (approximately 25,000) were arrested for misdemeanor offenses. As shown in Exhibit 7, the majority of persons 16 and 17 years of age (81 percent) were arrested for minor offenses (Classes 1 through 3 misdemeanors). Only 6 percent of the offenses were violent felonies (Classes A through E). The population of persons 16 and 17 years of age has a marginally larger proportion of more serious offenders than does the population of persons 15 years of age currently served by the juvenile system. Approximately 85 percent of offenders 15 years of age were arrested in 2007 for minor offenses, and 15 percent for violent and serious offenses.

**Exhibit 7: Calendar Year 2007 Arrests by Offense Type and Age**



Source: DJJDP data, 2009, Sentencing Policy and Advisory Commission Data, 2009

Although serious offenders 16 and 17 years of age would be eligible to be bound over (transferred) to adult court jurisdiction if the age of juvenile jurisdiction were changed, the juvenile system currently does not bind over many cases. In Calendar Year 2007, 40 juveniles had cases bound over. This represents only 1.5 percent of all offenses eligible to be bound over (2,732), and less than 1 percent of all juvenile complaints. Of the 30,702 arrests of persons 16 and 17 years of age, only 5,460 (18 percent) of these arrests are eligible to be bound over. As a result, most of these 30,702 persons will be served by the juvenile system rather than the adult system.

The following sections of the report provide a detailed account of the cost-benefit analysis and initial implementation considerations. Appendices are included with additional information on research, data collection, and calculations.

## **Cost-Benefit Analysis Overview**

This section describes the analysis of the costs and benefits of changing the age of juvenile court jurisdiction in North Carolina to include persons charged with committing offenses at ages 16 and 17. The section includes a discussion of the approach to the analysis and an overview of related costs and benefits. Exhibits detailing the cost per arrest in the juvenile system and adult system are included, along with summary exhibits that calculate the costs of raising the age of juvenile court jurisdiction to include just persons 16 years of age and persons 16 and 17 years of age.

### **Approach**

Although an identical study has not been conducted, the analysis methodology draws on similar cost-benefit analyses conducted in the fields of juvenile and criminal justice and guidelines for such analyses, including the following:

- “Comparative Costs and Benefits of Programs to Reduce Crime,” Washington State Institute for Public Policy
- “Cost-Benefit Analysis for Juvenile Justice Programs,” U.S. Office of Juvenile Justice and Delinquency Prevention
- “Victim Costs and Consequences: A New Look,” National Institute of Justice
- “The Economics of Juvenile Court Jurisdiction,” The Urban Institute
- “Cost-Benefit Analysis for Crime Prevention: Opportunity Costs Routine Savings and Crime Externalities,” Crime Prevention Studies

The analysis compares the societal costs and benefits of serving persons 16 and 17 years of age in the juvenile system and in the adult system. Costs and benefits are organized by and calculated for the groups that are affected by the change: state government, local government, victims, and offenders. The unit used to measure costs and benefits is arrests. All costs are measured at a rate per arrest; the rate accounts for the overall probability of persons 16 and 17 years of age receiving certain services, as all offenders do not receive the same services. Included is an explanation of the overall cost per arrest, processing costs, recidivism outcomes, and additional costs and benefits not quantified in this report.

The major points for comparison between the adult and juvenile systems are processing cost and recidivism outcomes. Benefits either represent costs avoided because of reduced recidivism (e.g., costs to potential victims of crime and budgetary costs of serving convicted/adjudicated offenders), or benefits incurred by the offender by being served by the juvenile system. This is a standard cost benefit analysis that measures the social cost of a policy. In this case, the costs and benefits of the policy are measured prospectively. When comparing total costs to society of serving persons 16 and 17 years of age in each of the two systems, the difference signifies the net present value to society of changing the age of jurisdiction for a single year cohort. This means the difference in total costs would be repeated each year with a new cohort, assuming that crime and population levels remain constant.

### **Overall Cost per Arrest**

As noted, the unit of cost used in this analysis is the cost per arrest. To determine costs or benefits of raising the age of juvenile court jurisdiction, total processing costs and total costs of recidivism outcomes (including re-processing) are estimated for a one-year entry cohort of

persons 16 and 17 years of age under the existing adult system and then under the existing juvenile system. Capital investments for detention and Youth Development Centers are not included in this cost assessment and are addressed in the Implementation and Action Plan Report under separate cover.

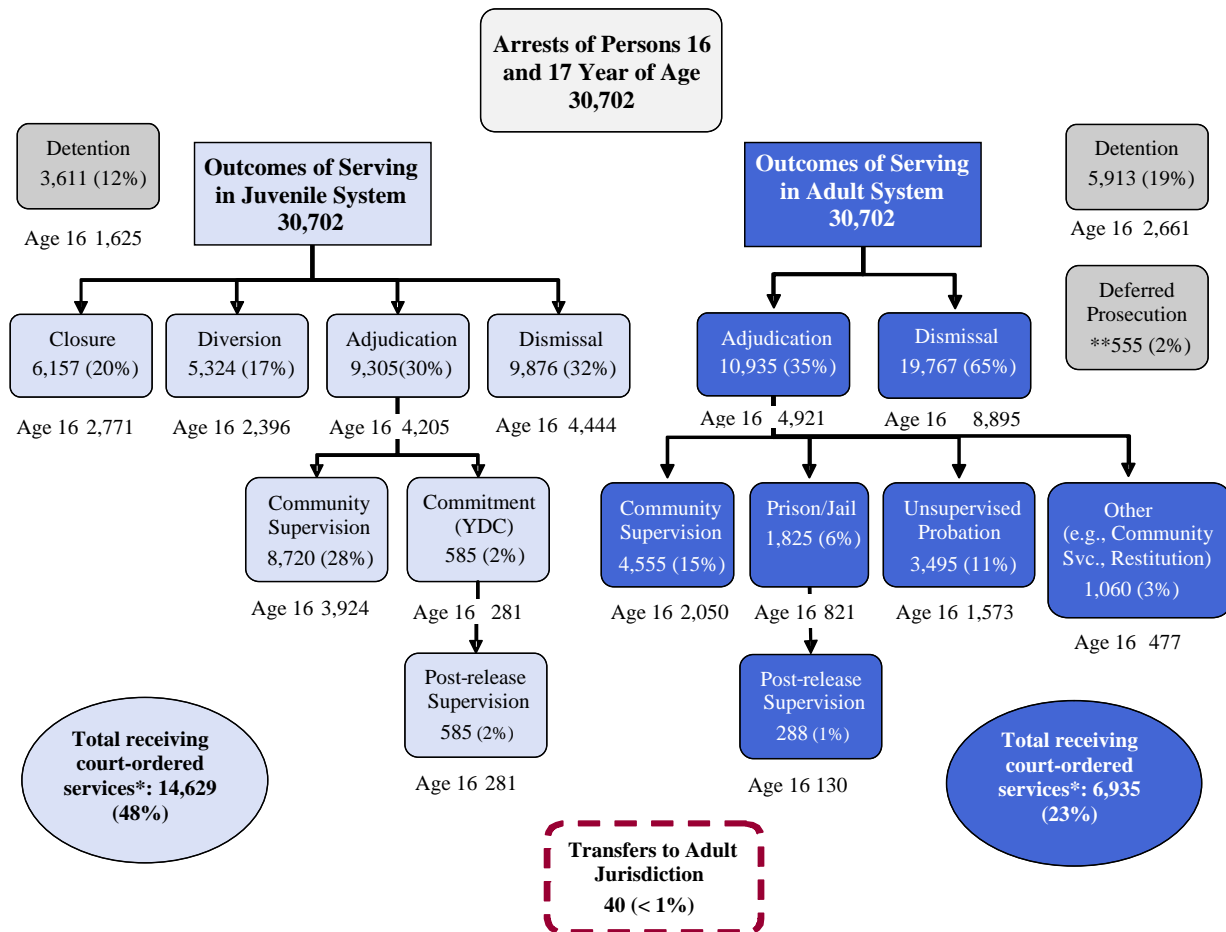
### **Processing Cost**

State government costs are included for the following agencies: Administrative Office of the Courts (AOC), the Department of Correction (DOC), and the Department of Juvenile Justice and Delinquency Prevention (DJJDP). As shown in Exhibit 8, the analysis includes costs and benefits associated with 30,702 arrests in Calendar Year 2007 of persons 16 and 17 years of age. Processing costs per arrest are calculated for the adult and juvenile systems; they include the budgetary costs incurred by stakeholders as an offender moves from contact with law enforcement, to courts, and to service-providing agencies such as DOC and DJJDP. Not every person that goes through the criminal or juvenile justice process uses the same services. Therefore, processing costs per arrest account for how often specific services are used by offenders. For example, it costs an estimated \$4,092 for a juvenile community supervision disposition, but the average cost per arrest for juvenile community supervision disposition is \$1,465.

Exhibit 8 shows the different paths that persons in the two processes can take and the proportion of the total arrests/complaints that result in use of a particular part of each process. Overall, costs incurred by DJJDP are associated with an additional 14,629 persons receiving court-ordered sanctions; cost reductions incurred by DOC are associated with serving fewer persons. In the juvenile system, offenders have a lower probability of being adjudicated (30 percent) than in the adult system (35 percent), but a higher probability of receiving a sanction (48 percent compared to 23 percent). Offenders also have a lower probability of being placed in secure confinement in the juvenile system (2 percent) compared to the adult system (6 percent).

The adult cost is based on observed outcomes for persons 16 and 17 years of age in 2007. The juvenile cost per complaint (arrest) is based on outcomes observed for juveniles 15 years of age. See *Appendix B* for details about the methodology.

## Exhibit 8: Population Pathways



\* Includes services prior to and after adjudication. Does not include unsupervised probation, as it is not a service; also does not include detention. Because it was not possible to separate out the proportion of offenders receiving community service or restitution, this category has not been counted. Does not include post-release services because this would double-count services. The juvenile calculation excludes persons transferred to the adult system.

\*\* It is unclear whether these persons ultimately were prosecuted; therefore, deferred prosecution is counted as an additional cost and not a population pathway. If these persons were prosecuted, they would be included in the adjudication population; if they were not, they would be included in the dismissal pathway.

Source: The ESTIS Group, 2009

## **Recidivism Outcomes**

Recidivism outcomes affect budgetary costs and costs to potential victims of crime. If crime is averted (meaning recidivism is reduced), then costs associated with crime incidence are reduced. The difference in recidivism outcomes in the juvenile and adult systems, therefore, has an effect on the total cost of each system. In addition to including the initial cost of serving persons 16 and 17 years of age in the juvenile and adult systems, the overall cost in this analysis includes the budgetary cost of serving persons from the initial cohort who recidivate, as well as the cost of being victimized by the persons who recidivate.

The budgetary cost is affected by following:

- The proportion of persons who re-offend (overall recidivism rate).
- The outcome of their re-offense. Cost varies significantly if they are: arrested and their case is closed/dismissed, adjudicated and receive a commitment disposition, adjudicated and receive a community supervision disposition, or if they received a diversion.
- The system through which persons who re-offend are processed (either the adult or juvenile system).

Budgetary recidivism costs represent the net present value of expenditures required to serve persons who re-offend within three-years of release. In the cost-benefit analysis, each incident of recidivism is multiplied by a factor of 1.6 to account for multiple future offenses per recidivating offender. The three-year period of release for community supervision begins at the date of disposition. For secure placement the three-year period begins upon the offender's release. Recidivism costs are estimated based on the projected number of re-arrests and re-convictions among the entry cohort. Re-arrests are multiplied by a time-discounted budgetary cost per arrest. Time discounting corrects for declining value of money over time so that budgetary calculations more appropriately reflect actual value. Revocations resulting in incarcerations are also calculated. See *Appendix C* for more details about the recidivism calculation methodology.

Victim costs are also affected by re-offense. The type of offense committed by persons who recidivate affects the victim costs, with more serious offenses costing victims more. To calculate total victim costs, the number of expected re-convictions is multiplied by a time discounted victim cost per conviction.

## **Additional Costs and Benefits**

This report focuses on quantifiable costs and benefits accruing to state and local governments, victims, and offenders, which are the primary costs and benefits that society experiences because of crime incidence or reduction. Some costs and benefits that would result from a change to the age of juvenile court jurisdiction cannot be quantified or are not related to a change in the rate of crime (or arrests) and therefore have not been included in the analysis. To maintain its objectivity, the cost-benefit analysis also excludes any perceived benefits and costs that could not be substantiated by validated data. See *Appendix D* for a detailed description of the costs that were considered and the rationale for their inclusion or exclusion in this analysis.



Qualitative benefits and costs related to incidence of crime would be affected by a change to the age of juvenile court jurisdiction. These costs, which could not be included in the cost-benefit analysis, include the following:

- **Precautionary behavior:** Citizens may alter their behavior to reduce the risk of being victims of crime. Such behavior may include taking a circuitous route to a destination to avoid unsafe parts of town or deciding not to leave the house at night to meet friends or go to dinner.
- **Fear of crime:** The fear of crime itself imposes a negative effect on a person. The quality of life of potential victims is diminished by the fear of crime. The fear of crime does not necessarily correlate with changes in arrests rates.
- **Community defense expenditures:** The residents in a neighborhood may organize themselves and hire security personnel to patrol their neighborhood. Although these are tangible costs, identifying the neighborhoods with private patrols and collecting financial information from them is an impractical exercise.
- **Government crime prevention activity:** Crime generates prevention responses at the local, state, and federal levels. Federal and state grants fund local programs aimed at preventing crime. Some of these programs could include Head Start and other early child development programs. These are secondary impacts from a change in crime rates and the connection between changes in crime rates and the prevalence of these programs is not established.
- **Miscarriages of justice:** With every crime committed there is a possibility that the wrong person may be accused and in some cases convicted of it. Any reduction in recidivism reduces this possibility and thereby generates a benefit to society, albeit one that is difficult to measure.

The preceding list includes costs and benefits that are difficult, if not impossible, to quantify. The impediment to quantifying these benefits and costs can come from inadequate data availability, the impracticality of collecting the data, or the absence of any general agreement among researchers as to what constitutes a reliable and sound approach to making such a calculation.

Weighing the importance of non-quantifiable costs and benefits is a task best left to elected officials. Many decisions of government are made without an appeal to quantifiable costs and benefits, but they are deemed good decisions nevertheless. The intangible benefits to society derived from the reduction in recidivism may be sufficient to make the additional investment in the criminal justice system worthwhile; however, making such a judgment is outside the scope of this report.

Additionally, there are perceived benefits and costs that would result from a change to juvenile court jurisdiction that are not included in the analysis. Some of these benefits and costs can be quantified but their occurrence cannot be attributed to the implementation of a change to juvenile jurisdiction.

There are other perceived benefits and costs, but stakeholders have diverging views of their effect. Examples of these perceived benefits and costs are discussed below:

- Juvenile advocates would consider a decrease in the number of persons 16 and 17 years of age placed in secure confinement to be a benefit; other persons concerned with public safety may consider it a cost to have offenders living amongst the citizenry with the potential to commit crimes.
- A perceived benefit to offenders is that they will attain higher levels of academic achievement because of the services they would receive in the juvenile system and the lack of a criminal record. The lifetime costs of dropping out of high school (in 2007 dollars) are estimated to range from \$692,500 to \$1.0 million (Cohen and Piquero 2007). Although research shows that persons without criminal records generally finish high school and attend college more often than those with criminal records, it is not clear that the absence of a record causes increased educational attainment. Studies show that the differential in attainment may be caused by pre-existing characteristics.
- A perceived cost to public safety is that the records of persons 16 and 17 years of age would become confidential upon a change to juvenile court jurisdiction, making the public less aware of offenders in their communities and therefore less prepared to deal with that perceived danger. Citizens who may change their lifestyle or business practices upon knowledge that an offender is living nearby or employed in the same workplace would not have the information necessary to make changes. This could increase the occurrence of otherwise preventable crimes and therefore increase victimization and related costs. However, the extent to which this would occur is unclear and the potential costs that would result cannot be quantified.

The omission of the preceding costs and benefits does not seriously undermine the significance of the results of this study because many of these effects counterbalance one another, are secondary, or have a relatively small impact.

### **Costs Associated with Raising the Age**

Described in this section are specific costs associated with changing the age of juvenile court jurisdiction, including those incurred by state and local government, victims, and offenders. The analysis calculates governmental, or budgetary, costs at a rate per arrest. These costs include the total expenditures required to process persons through the juvenile and adult systems, as well as the costs required to process persons through the same systems if they re-offend. Costs to victims relate to the rate of re-offense; for every crime averted, costs decrease. Costs to offenders relate to the loss of employment opportunity and earning potential resulting from a felony conviction because research has shown that criminal records result in reduced employment and salary opportunity.

#### *State and Local Government Costs*

Estimates of the initial cost to serve persons 16 and 17 years of age in the juvenile and adult systems include the following processes: arrest and apprehension, detention, pre-adjudication services (e.g., deferred prosecution and diversion), court case processing, and post-adjudication

services (e.g., secure confinement, community supervision). These processes and the entities that incur related costs are shown in Exhibit 9. As shown in Exhibit 8, DJJDP incurs most of the types of costs associated with providing juvenile justice services. Local governments provide funds for community programming, operate jails, juvenile detention facilities, and YDCs, and pay for law enforcement operation. Entities associated with AOC primarily incur costs related to the processing of court cases, while DOC bears the cost for the provision of pre and post-adjudication services.

**Exhibit 9: Types of Costs Incurred by State and Local Government Entities**

	Arrest and Apprehension	Detention	Court Case Processing	Pre-Adjudication Services	Probation	Secure Confinement (e.g., YDC, prison)
DJJDP		✓	✓	✓	✓	✓
DOC				✓	✓	✓
AOC			✓			
Local Gov.	✓	✓			✓	

Source: The ESTIS Group, 2009

In total, costs to serve persons 16 and 17 years of age in the juvenile system are \$7,348, a 50.1 percent increase from the \$4,882 currently used to serve these persons in the adult system. Of the additional dollars (nearly \$2,500) needed to serve an offender in the juvenile system, 86 percent would be incurred by the State. See Exhibits 10 and 11 for more detail on these expenditures.

**Exhibit 10: Initial Adult System Expenditures per Arrest**

Arrest and Processing	Detention	Pre-Disposition Placement	Adjudication/Disposition	Post-Disposition Placement
<b>Local Law Enforcement Expenditures</b> <b>\$3,108 per arrest</b> - Local Gov.	<b>Local Jail Expenditures</b> <b>\$349 per arrest</b> - Local Gov.  <b>Pre-Trial Services</b> <b>\$24 per arrest</b> - Local Gov.	<b>Deferred Prosecution</b> <b>\$8 per arrest</b> - DOC ( <i>cost of probation officer supervision of offenders to track compliance</i> )	<b>Case Processing Expenditures</b> <b>\$297 per arrest</b> - AOC	<b>Community Supervision Expenditures</b> <b>\$275 per arrest</b> - DOC and Local Gov.  <b>Prison/Jail Expenditures</b> <b>\$814 per arrest</b> - DOC: \$800 - Local Gov.: \$14  <b>Post-Release Supervision Expenditures</b> <b>\$6 per arrest</b> - DOC
<b>Total Cost: \$4,882* per arrest</b>				

\*Numbers in chart do not equal total due to rounding.

Source: The ESTIS Group, 2009

### Exhibit 11: Initial Juvenile System Expenditures per Complaint

Arrest and Processing	Detention	Pre-Disposition Placement	Adjudication/Disposition	Post-Disposition Placement
<b>Local Law Enforcement Expenditures</b> <b>\$3,170 per complaint</b> - Local Gov.	<b>Detention Center Expenditures</b> <b>\$259 per complaint</b> - DJJDP: \$215 - Local Gov.: \$44	<b>Diversion Program Expenditures</b> <b>\$242 per complaint</b> - DJJDP: \$134 - Local Gov.: \$108	<b>Case Processing Expenditures</b> <b>\$1033 per complaint</b> - AOC: \$528 - DJJDP: \$504	<b>Community Supervision Expenditures</b> <b>\$1,162 per complaint</b> - DJJDP: \$876 - Local Gov.: \$286  <b>Commitment Expenditures</b> <b>\$1,465 per complaint</b> - DJJDP  <b>Post Release Supervision Expenditures</b> <b>\$17 per complaint</b> - DJJDP
<div style="border: 1px dashed black; padding: 5px; display: inline-block;"> <b>Total Cost: \$7,348 per complaint</b> </div>				

Source: The ESTIS Group, 2009

#### Victim Costs

For many crimes committed, there is at least one victim. The costs of crime include property loss and damage, medical care, mental health care, loss of productivity, and decrease in quality of life. Costs vary based on the type of crime resulting in victimization. Victim benefits and costs are directly influenced by the rate of crime, and as such, any benefits are the result of crime aversion (measured by percentage of re-offenses avoided). This analysis uses victim costs cited in two studies<sup>6</sup> (see *Appendix E* for more information about these sources), and allocates costs based on the number of offenses for which a conviction or disposition resulted. It should be noted that some of these costs are tangible and were collected through primary research, and are therefore more reliable. Others, such as quality of life costs, are not easily quantifiable and are more subjective; as such, their reliability has been questioned by some studies. Because of this, quality of life cost (benefit) dollars are listed separately.<sup>7</sup>

Tangible costs to victims are estimated to range from an average of approximately \$480 per offense for minor offenses to approximately \$28,500 for violent offenses. Quality of life costs range from approximately \$1,800 for minor offenses to \$62,500 for violent offenses. See

<sup>6</sup> Miller 1994 and Cohen 2008

<sup>7</sup> These quality of life costs do not include pain and suffering.

*Appendix E* for the methodology of the victim cost per offense calculations and *Appendix F* for how this cost was incorporated into the cost-benefit scenarios.

### **Benefits Associated with Raising the Age**

Benefits associated with changing the age of juvenile court jurisdiction include those incurred by the state and local government, victims, and offenders. Benefits have been included to the degree that they are measurable, have validated and reliable estimates, and are supported by evidence of their occurrence. State and local government benefits are derived from crimes averted due to reduced recidivism. Victim benefits are also derived from the recidivism outcomes of the adult and juvenile systems. Offender benefits are calculated as an increase in lifetime earnings that would result from the lack of an adult criminal record, should persons committing offenses while 16 and 17 years of age be placed under juvenile jurisdiction.

#### *State and Local Government Benefits*

Benefits attributed to serving persons 16 and 17 years of age in the juvenile and adult systems result from crimes averted. Because the cost of initial offenses is a substantial cost in both systems, any benefits in the form of reduced recidivism do not result in an overall net positive benefit in the overall cost-benefit analysis. However, averted crime mitigates the budgetary burden of serving delinquent or criminal offenders in their respective systems.

#### *Victim Benefits*

Victims benefit from reduced crime, as they have a lower chance of being victimized and incurring costs associated with victimization. If the age of juvenile court jurisdiction is changed, victim costs total approximately \$62.7 million. If these persons continue to be served in the adult system, victim costs total approximately \$64.5 million. Overall, victims would benefit \$1.7 million under the baseline juvenile system.

#### *Offender Benefits*

The juvenile system produces benefits outside the scope of avoided budgetary and victim costs. Currently, first-time adult offenders 16 and 17 years of age who do not recidivate retain records of arrest and conviction. Studies show that records of arrest, and to a greater degree convictions and incarceration, reduce future earnings of offenders and decrease their overall likelihood of employment. These outcomes in turn increase the likelihood of recidivism. If North Carolina changes the age of juvenile court jurisdiction, these one-time offenders will enter adulthood with clean records.

The degree of an adult criminal record's effect on earnings varies among studies on the subject. Leading studies in the area of offender benefits suggest that offenders will avoid a loss in earnings anywhere from 2 to 11 percent depending upon whether their criminal records include an arrest, conviction, or incarceration. This analysis uses a lifetime earnings reduction factor in the middle of the range of estimates from leading studies of 6.5 percent. *See Appendix G* for more information about the studies.

**Exhibit 12: Offender Benefit Resulting from Lack of an Adult Criminal Record**

Age	Felony Convictions Under Adult System (#)	% Non-Reconviction Expected Under Juvenile System	Net Present Value (2007 \$) Earnings Differential (6.5%)	Total
16	774	66%	\$ 35,501	\$ 18,245,234
17	946	66%	\$ 35,501	\$ 22,299,731
<i>Total</i>	<i>1,720</i>			<i>\$ 40,544,965</i>

Source: The ESTIS Group, 2009; Toikka and Neveu (2004)

Under these parameters, the benefit— for felony offenders who do not re-offend— of entering adulthood with a clean record would result in additional lifetime earnings of approximately \$40.5 million. As shown in Exhibit 12, approximately 1,140 persons (66 percent of the 1,720 felony convictions) 16 and 17 years of age would receive this benefit if they were served in the juvenile system rather than the adult system. These estimates represent lifetime earnings inclusive of tax liabilities. In other words, approximately 25 percent the offender benefits of \$40.5 million in lifetime earnings is payable to federal, state, and local government as income taxes.

Increased earnings over the lifetime of these one-time offenders may lead to secondary effects such as reduced burden on State support services and an overall more attractive workforce. These secondary impacts have not been measured because they cannot be calculated with any level of certainty. Further, secondary impacts are customarily excluded from cost-benefit analyses. It is difficult to estimate any reduced impact on state-provided support services (e.g., services for the unemployed or persons of low income), because there is no generally accepted estimate of the number of persons from the cohort who would be eligible for those services in the future. In addition, any reduced impact of former offenders on State-provided support services may only be the result of a transfer of service use among residents of the State.

## **Cost-Benefit Calculations**

This section discusses the assumptions behind calculations of costs and benefits and summarizes the findings. Costs and benefits associated with the current juvenile and adult systems (baseline) are included, as are costs and benefits associated with the current adult system and an enhanced juvenile system. For the baseline and enhanced system cost summaries, results also include two separate net costs: the cost of serving offenders 16 and 17 years of age in the juvenile system and the cost of serving offenders 16 years of age only in the juvenile system. For each summary, a budgetary view is presented first, followed by a social cost-benefit view incorporating victim and offender costs and benefits.

### **Baseline Assumptions**

The cost-benefit analysis is based on the following assumptions:

- Judicial and prosecutorial decisions made regarding offenders 16 and 17 years of age in the juvenile system remain the same as decisions made regarding offenders 15 years of age. It is not possible to predict with accuracy whether there will or will not be any changes in decision making if a change to juvenile court jurisdiction is made.
- Class A felonies are transferred to the adult system automatically.
- All offenses currently eligible for transfer to the adult system remain eligible for transfer, and are projected to occur at the rate projected by the Sentencing Policy and Advisory Commission (SPAC).
- Traffic offenses do not move to juvenile court jurisdiction. Per SPAC, there would be significant resources involved in transferring a large volume of traffic offenses into the juvenile courts. It would also be administratively difficult to change.
- Recidivism rates for offenders 16 and 17 years of age are most closely related to those of offenders 15 years of age. Offense type and offense seriousness for offenders 15 years of age are more similar to those for persons 16 and 17 years of age than they are to those for persons ages 14 and younger.

In addition, the analysis incorporates the following parameters:

- All figures are presented in 2007 dollars and have been adjusted as needed using the Implicit Price Deflator for Personal Consumption expenditures published by the U.S. Bureau of Economic Analysis.
- Discount Rate of 3 percent used.
- The entry cohort is based on 30,702<sup>8</sup> persons 16 and 17 years of age arrested in Fiscal Year 2007.

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<sup>8</sup> The entry cohort of 30,702 consists of all arrests of persons 16 and 17 years of age except for runaways included in the North Carolina State Bureau of Investigation 2007 Uniform Crime Report.



### Baseline Cost Summary

The sections below summarize the net benefit of serving persons 16 and 17 years of age in the juvenile system and in the adult system. Two scenarios are discussed: serving persons 16 years of age only in the juvenile system and serving persons 16 and 17 years of age in the juvenile system. For each scenario, the budgetary impact on stakeholders is presented first, followed costs and benefits to government, victims, and offenders.

The total cost is affected most by the budgetary costs of both systems; it is greatly influenced by the costs of adjudicating juveniles and serving committed youth. Although the total cost also incorporates victimization costs, they are similar for both systems.

#### *Costs Associated with Serving Offenders 16 and 17 Years of Age*

If offenders 16 and 17 years of age were served in the current juvenile system, it would cost the State a total of \$79.6 million for a single year's cohort. As shown in Exhibit 13, DOC would reduce its costs by approximately \$44.5 million if the change were implemented. It should be noted, however, that this figure and the other stakeholder cost figures should not be interpreted as recommendations to change the annual budget for affected State agencies. These estimates should be used for comparison purposes. Additional considerations, such as the feasibility of transferring funding from one entity to another without interrupting service provision and the actual budget year during which the costs occur, are necessary before converting these estimates to an implementation plan.

#### **Exhibit 13: 16, 17 Baseline Summary: Budgetary Costs (Benefits)**

	<b>Adult minus Juvenile</b>	<b>Adult</b>	<b>Juvenile</b>	<b>% Difference</b>
<b>Budgetary Total</b>	\$ (79,558,396)	\$ 203,406,204	\$ 282,964,600	-39%
<b>State</b>	\$ (75,917,095)	\$ 63,576,263	\$ 139,493,358	-119%
DOC	\$ 44,468,440	\$ 51,711,464	\$ 7,243,023	-69%
AOC	\$ (8,207,860)	\$ 11,864,800	\$ 20,072,659	-69%
DJJDP	\$ (112,177,675)	\$ -	\$ 112,177,675	
<b>Local Government</b>	\$ (3,641,302)	\$ 139,829,941	\$ 143,471,242	-3%
Rearrests	147	9,662	9,516	2%
Reconvictions	198	6,770	6,571	3%

Source: The ESTIS Group, 2009

It is reasonable to assume, however, that some of the cost reductions accrued by DOC could be used to mitigate some of the additional expenses that would be incurred by DJJDP and AOC. If the change were implemented for offenders 16 and 17 years of age, DJJDP would incur an additional \$112.0 million in expenditures, and AOC would incur an additional \$8.2 million in expenditures. Local government would incur a \$3.6 million cost increase.

When offender and victim benefits and costs are incorporated into the model, the cost of the change is reduced significantly. As shown in Exhibit 14, overall costs would be \$37.5 million.

**Exhibit 14: 16, 17 Baseline Summary: Overall Costs (Benefits)**

	<b>Net Benefit (Cost)</b>	<b>Adult</b>	<b>Juvenile</b>
	\$ (37,511,171)		
<u>Budgetary</u>	\$ (79,558,396)	\$ 203,406,204	\$ 282,964,600
<u>Victim</u>	\$ 1,563,317	\$ 64,508,993	\$ 62,945,677
Tangible	\$ 608,437	\$ 25,106,651	\$ 24,498,214
Quality of Life	\$ 954,880	\$ 39,402,342	\$ 38,447,463
<u>Offender</u>	\$ 40,483,909	\$ 40,483,909	*

\*Offender benefits (forgone earnings) are treated as a cost of the adult system, but could also be considered a benefit of the juvenile system.

Source: The ESTIS Group, 2009

*Costs Associated with Serving Offenders 16 Years of Age Only*

An alternative to changing the age of juvenile court jurisdiction to include persons both 16 and 17 years of age is to include only persons 16 years of age. Cost increases and cost reductions to all entities would be about half of that expected if juvenile court jurisdiction is expanded to include persons 16 and 17 years of age.

This alternative would result in \$43.7 million less in budgetary expenditures than the previous scenario to include persons ages 16 and 17. As shown in Exhibit 15, it would cost state and local government approximately \$35.8 million more to serve offenders 16 years of age in the juvenile system than it would to serve them in the adult system.

**Exhibit 15: 16 Only, Baseline Summary: Budgetary Costs (Benefits)**

	<b>Adult minus Juvenile</b>	<b>Adult</b>	<b>Juvenile</b>	<b>% Difference</b>
<u>Budgetary Total</u>	\$ (35,801,278)	\$ 91,532,792	\$ 127,334,070	-39%
State	\$ (34,162,693)	\$ 28,609,318	\$ 62,772,011	-119%
DOC	\$ 20,010,798	\$ 23,270,159	\$ 3,259,360	
AOC	\$ (3,693,537)	\$ 5,339,160	\$ 9,032,697	-69%
DJJDP	\$ (50,479,954)	\$ -	\$ 50,479,954	
Local Government	\$ (1,638,586)	\$ 62,923,473	\$ 64,562,059	-3%
Rearrests	147	9,662	9,516	2%
Reconvictions	198	6,770	6,571	3%

Source: The ESTIS Group, 2009

Similarly, DOC would have lower cost reductions and other government stakeholders would incur lower costs. DOC's costs would reduce by \$20.0 million, while DJJDP would incur \$50.5

million in additional expenditures. Local government and AOC would incur additional expenditures of \$1.6 million and \$3.7 million, respectively.

As expected, overall costs would also be reduced if only offenders 16 years of age were included in a change to juvenile jurisdiction, as shown in Exhibit 16. Costs decrease to \$16.9 million when victim and offender costs and benefits are incorporated.

**Exhibit 16: 16 Only, Baseline Summary: Overall Costs (Benefits)**

	Net Benefit (Cost)	Adult	Juvenile
	\$ (16,880,027)		
<u>Budgetary</u>	\$ (35,801,278)	\$ 91,532,792	\$ 127,334,070
<u>Victim</u>	\$ 703,493	\$ 29,029,047	\$ 28,325,554
Tangible	\$ 273,797	\$ 11,297,993	\$ 11,024,196
Quality of Life	\$ 429,696	\$ 17,731,054	\$ 17,301,358
<u>Offender</u>	\$ 18,217,759	\$ 18,217,759	*

\*Offender benefits (forgone earnings) are treated as a cost of the adult system, but could also be considered a benefit of the juvenile system.

Source: The ESTIS Group, 2009

**Enhanced System Assumptions**

While the baseline scenario addresses what happens when persons 16 and 17 years of age are handled in North Carolina’s juvenile justice system as it currently exists, the enhanced scenario addresses what happens if those persons are served in a new juvenile system in which best practices and research-based approaches are implemented. An enhanced system is an upgrade to the current system, which means that there may be a change in resource allocation. Because the enhanced system is a modification to current operations, it also may result in changes to the way things are done or result in decreased use of costly programming such as secure placements.

As discussed below, this scenario assumes that DJJDP redirects its resources to implement evidence-based programming, that the programming is implemented appropriately, and that the programs result in recidivism outcomes that are similar to those seen in other states.

*Selected Requirements for an Enhanced System*

The enhanced system cost-benefit analysis includes all of the assumptions for the baseline analysis, as well as some additional assumptions. These assumptions are as follows:

- Use of integrated case management
- Use of a validated needs assessment that is linked to programs available in the State

- Placement of offenders in programs that match their needs according to a needs assessment
- Development and implementation of programs that have been shown to be effective (see *Appendix H* for a description of the features of effective juvenile programming). Examples of programs that have been shown to be effective at reducing re-offending at a low cost include multi-systemic therapy, functional family therapy, and aggression replacement therapy.

In addition, the enhanced system cost-benefit scenario assumes that the following areas are addressed in addition to program implementation to ensure successful outcomes are achieved:

- Organizational Development
  - Educate agency leaders; obtain commitment to evidence-based practices.
  - Identify appropriate assessment and treatment planning tools.
  - Bring agency policy in line with evidence-based practices.
- Software Development and Implementation
  - Identify areas in which automation could reduce paperwork and facilitate use of evidence-based practices.
  - Integrate assessment and service planning tools into management information systems.
- Staff Training
  - Develop onsite coaches.
  - Train line staff for implementation with online modules and in-person refreshers.
  - Develop and maintain a “Frequently Asked Questions” database.
- Quality Assurance
  - Develop competency and certification requirements for line staff and supervisors.
  - Incorporate line supervisors into the quality assurance process.
  - Monitor fidelity of evidence-based programs.
  - Create user-friendly report functions that regularly measure case processing outcomes.
  - Measure program outcomes periodically.

These changes are reflected in the analysis by a 25 percent reduction in all recidivism rates for persons 16 and 17 years of age processed through the juvenile system.

#### *Enhanced System Cost Summary*

Summarized below are the costs and benefits estimated to occur with the implementation of an enhanced system. Estimates are provided for two scenarios: raising the age of jurisdiction for persons 16 years of age only and raising the age of jurisdiction for persons both 16 and 17 years of age.

*Costs Associated with Serving Offenders 16 and 17 Years of Age*

Overall, budgetary costs are lower in the enhanced juvenile system than they are in the baseline juvenile system. In total, it would cost state and local government \$53.7 million to serve a single-year cohort of offenders 16 and 17 years of age.

Under an enhanced system, DOC would have reduced costs of \$45.9 million. This amount is slightly more than the cost reduction DOC would accrue under the baseline juvenile system because a portion of the recidivism reduction occurs from juveniles that would normally recidivate as adults. DJJDP, however, would have significantly fewer expenditures if it served offenders 16 and 17 years of age with an enhanced system than it would if it served the same offenders with its current system. The budgetary cost increase of \$103.6 million that DJJDP would incur if an enhanced system were to be used for offenders 16 and 17 years of age represents an 8 percent decrease over the baseline juvenile system that does not assume a reduction in recidivism. Local government would see a cost reduction of \$10.5 million and AOC would see an additional cost of \$6.4 million. See Exhibit 17 for more detail regarding costs for serving offenders 16 and 17 years of age in an enhanced system.

**Exhibit 17: 16, 17 Enhanced System Summary: Budgetary Costs**

	<b>Adult minus Juvenile</b>	<b>Adult</b>	<b>Juvenile</b>	<b>% Difference</b>
<b>Budgetary Total</b>	\$ (53,674,454)	\$ 203,406,204	\$ 257,080,658	-26%
<b>State</b>	\$ (64,124,722)	\$ 63,576,263	\$ 127,700,985	-101%
DOC	\$ 45,903,797	\$ 51,711,464	\$ 5,807,666	
AOC	\$ (6,427,848)	\$ 11,864,800	\$ 18,292,648	-54%
DJJDP	\$ (103,600,670)	\$ -	\$ 103,600,670	
<b>Local Government</b>	\$ 10,450,267	\$ 139,829,941	\$ 129,379,673	7%
Rearrests	2,954	9,662	6,708	31%
Reconvictions	2,152	6,770	4,617	32%

Source: The ESTIS Group, 2009

When victim and offender costs and benefits are included, the overall benefit of serving offenders 16 and 17 years of age in an enhanced juvenile system is 7.1 million. As shown in Exhibit 18, victims would accrue \$20.3 million in benefit and offenders would accrue \$40.5 million in benefit.

**Exhibit 18: 16, 17 Enhanced System Summary: Overall Costs**

	<b>Net Benefit (Cost)</b>	<b>Adult</b>	<b>Juvenile</b>
	<b>\$ 7,087,383</b>		
<u>Budgetary</u>	\$ (53,674,454)	\$ 203,406,204	\$ 257,080,658
<u>Victim</u>	\$ 20,277,929	\$ 64,508,993	\$ 44,231,064
Tangible	\$ 7,892,091	\$ 25,106,651	\$ 17,214,559
Quality of Life	\$ 12,385,837	\$ 39,402,342	\$ 27,016,505
<u>Offender</u>	\$ 40,483,909	\$ 40,483,909	*

\*Offender benefits (forgone earnings), are treated as a cost of the adult system, but could also be considered a benefit of the juvenile system.

Source: The ESTIS Group, 2009

*Costs Associated with Serving Offenders 16 Years of Age Only*

If the age of juvenile court jurisdiction was only changed to include offenders 16 years of age and if an enhanced system were implemented, it would result in lower costs incurred by state and local stakeholders. Cost increases and cost reductions to all entities would be about half of that expected if juvenile court jurisdiction were expanded to include persons both 16 and 17 years of age.

As shown in Exhibit 19, it would cost an additional \$24.1 million to serve offenders 16 years of age in an enhanced juvenile system instead of in the adult system. DOC’s costs would decrease \$20.7 million; DJJDP would incur additional expenditures of \$45.2 million. AOC would incur an additional \$2.9 million cost; local government would have reduced costs of \$4.7 million.

**Exhibit 19: 16 Only Enhanced System Summary: Budgetary Costs**

	<b>Adult minus Juvenile</b>	<b>Adult</b>	<b>Juvenile</b>	<b>% Difference</b>
<u>Budgetary</u>	<b>\$ (24,153,504)</b>	<b>\$ 91,532,792</b>	<b>\$ 115,686,296</b>	<b>-26%</b>
State	\$ (28,856,125)	\$ 28,609,318	\$ 57,465,443	-101%
DOC	\$ 20,656,709	\$ 23,270,159	\$ 2,613,450	
AOC	\$ (2,892,532)	\$ 5,339,160	\$ 8,231,692	-54%
DJJDP	\$ (46,620,302)	\$ -	\$ 46,620,302	
Local Government	\$ 4,702,620	\$ 62,923,473	\$ 58,220,853	7%
Rearrests	2,954	9,662	6,708	31%
Reconvictions	2,152	6,770	4,617	32%

Source: The ESTIS Group, 2009

When victim and offender costs and benefits are included, the net benefit of serving offenders 16 years of age in the juvenile system is \$3.2 million. As shown in Exhibit 20, victims would accrue \$9.1 million in benefit; offenders would accrue \$18.2 million in benefit. Costs and benefits of serving persons 16 years of age are roughly equivalent when enhanced juvenile services are implemented.

**Exhibit 20: 16 Only Enhanced System Summary: Overall Costs**

	Net Benefit (Cost)	Adult	Juvenile
	\$ <b>3,189,323</b>		
<u>Budgetary</u>	\$ (24,153,504)	\$ 91,532,792	\$ 115,686,296
<u>Victim</u>	\$ 9,125,068	\$ 29,029,047	\$ 19,903,979
Tangible	\$ 3,551,441	\$ 11,297,993	\$ 7,746,552
Quality of Life	\$ 5,573,627	\$ 17,731,054	\$ 12,157,427
<u>Offender</u>	\$ 18,217,759	\$ 18,217,759	*

\*Offender benefits (forgone earnings), are treated as a cost of the adult system, but could also be considered a benefit of the juvenile system.

Source: The ESTIS Group, 2009

*Enhanced System Cost Savings*

As noted, implementing a change to juvenile jurisdiction in conjunction with an enhanced juvenile service model significantly reduces the budgetary and victim costs associated with serving offenders 16 and 17 years of age in the juvenile system. Budgetary costs incurred by state and local government are reduced by more than \$25 million (from \$282.4 million to \$256.8 million). This decrease in costs is the result of reduced recidivism. DJJDP costs of serving offenders 16 and 17 years of age on their first offense remain the same, but the costs of serving recidivating offenders decrease significantly because fewer offenders are served. As shown in Exhibit 21, there are 2,802 fewer re-arrests in the enhanced system (6,688 compared to 9,490) re-arrests, and 1,949 fewer re-convictions (4,603 compared to 6,552). Costs incurred by local governments for arrest and apprehension, detention, court case processing, and pre- and post-dispositional services also decrease.

In addition, victim benefits increase with the implementation of an enhanced system for the same reason- the reduction in recidivism. Fewer costs are incurred by crime victims, who benefit \$18.7 million with the implementation of an enhanced system.

Offender benefits remain the same because they occur as a result of services not being provided in the adult system, and therefore a change in services provided in the juvenile system has no effect.

**Exhibit 21: Costs Reduced (in millions) by Implementing Change with Enhanced Juvenile System**

	<b>Amount Reduced</b>	<b>Cost of Baseline Juvenile System</b>	<b>Cost of Enhanced Juvenile System</b>
Budgetary Cost	\$25.59	\$282.41	\$256.82
<i>DJJDP</i>	8.57	111.99	103.42
<i>DOC</i>	1.43	7.23	5.80
<i>AOC</i>	1.77	20.06	18.29
<i>Local Government</i>	14.08	143.39	129.31
Victim Cost	\$18.67	\$62.77	\$44.10
<b>Re-arrests</b>	<b>2802</b>	<b>9,490</b>	<b>6,688</b>
<b>Re-convictions</b>	<b>1949</b>	<b>6,552</b>	<b>4,603</b>

Source: The ESTIS Group, 2009



## **Explanation of Results**

The results of the cost-benefit analysis reflect the fiscal realities of maintaining public safety while serving persons 16 and 17 years of age in the criminal justice system. Overall, the benefits and costs resulting from raising the age of juvenile jurisdiction and implementing an enhanced juvenile justice system are positive. Although the reduction in recidivism that comes with an enhanced system yields quantifiable benefits, the budgetary impact is still a cost. Possible reasons this analysis yields a net budgetary cost rather than a net budgetary benefit includes the following:

- More offenders are served in the juvenile system than are served in the adult system
- Services in the juvenile system are more costly
- The enhanced system yields substantial improvements in recidivism, but not enough to overcome the significant difference in costs between the adult and the juvenile system

Even the most successful juvenile programs cannot produce enough savings to overcome the significant difference in budgetary costs between the adult and juvenile systems. The following subsections address the factors driving the significant difference in costs between the two systems in North Carolina.

### **More Offenders Served in Juvenile System**

As shown in Exhibit 22, a greater number of persons arrested receive services and sanctions in the juvenile system (48 percent, or 14,594 persons) than they do in the adult system (23 percent or 6,935 persons). This means that by changing the system in which offenders are served, North Carolina will increase the total number of persons served by almost 85 percent (6,664). This includes approximately 5,300 additional persons served in the juvenile system through diversion services, which are provided to non-adjudicated offenders. There is no equivalent prosecution alternative of the same magnitude in the adult system; although District Attorneys can defer prosecution, the service is used for less than 2 percent of arrested offenders 16 and 17 years of age. A larger proportion of adjudicated offenders also receive sanctions in the juvenile system (100 percent) compared to the adult system (73 percent). The other offenders in the adult system either have an unsupervised probation sentence or have been required to complete community service hours, pay a fine, or pay restitution.

### **Exhibit 22: Offenders Served in Juvenile and Adult Systems**

<b>System</b>	<b>Total Arrests/Complaints</b>	<b>Percent of Arrests/Complaints Receiving Services/Sanctions</b>	<b>Persons Adjudicated</b>	<b>Percent of Adjudications Receiving Services/Sanctions</b>
<b>Adult</b>	30,702	23%	10,935	73%
<b>Juvenile</b>	30,702	48%	9,305	100%

Source: The ESTIS Group, 2009

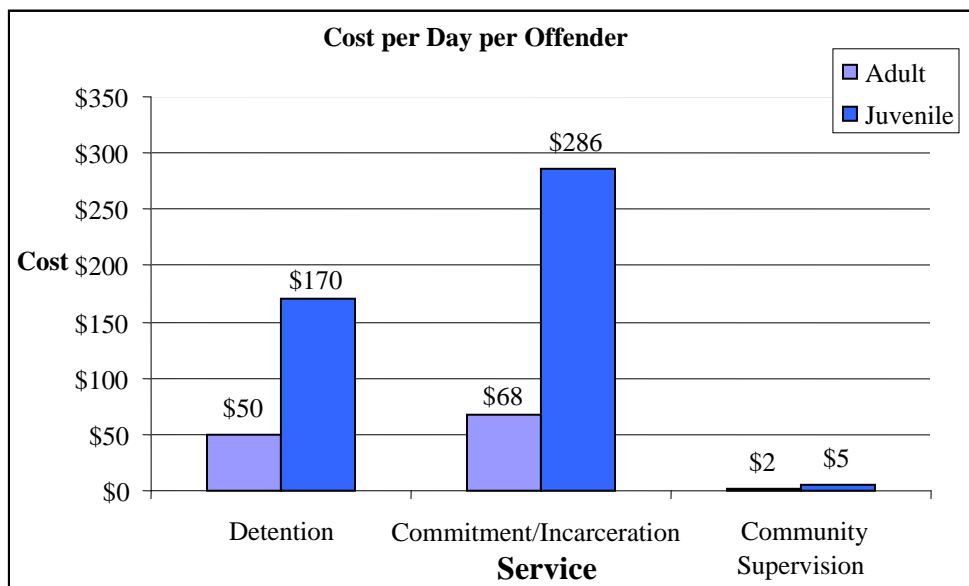
Therefore, even if costs for services provided were the same in both systems, the juvenile system would incur higher aggregate costs from serving the entering population of persons 16 and 17 years of age. As discussed below, however, the services currently provided to juvenile offenders are generally more costly than are services provided to offenders in the adult system.

**Juvenile Justice Services Are More Costly**

Juveniles generally receive more intensive, costly rehabilitative services than do adult offenders. Overall, the cost per arrest in the juvenile system for serving offenders 16 and 17 years of age (\$7,348) is approximately 50 percent higher than the cost per arrest in the adult system (\$4,882).

The difference in staffing standards between the adult and juvenile system accounts for a substantial portion of the cost differential. For example, probation caseloads per supervising officer are higher in the adult system than in the juvenile system. Juvenile court counselors have an approximate average caseload of 30 offenders, while adult probation officers have target caseloads of 60 for intensive supervision and 80 for general supervision (Note: Actual caseloads vary and can be higher or lower than the estimates and established targets). As a result, base supervision costs, as shown in Exhibit 23, are approximately \$2 per day in the adult system and are approximately \$5 per day in the juvenile system.

**Exhibit 23: Average Service Cost per Day per Offender**



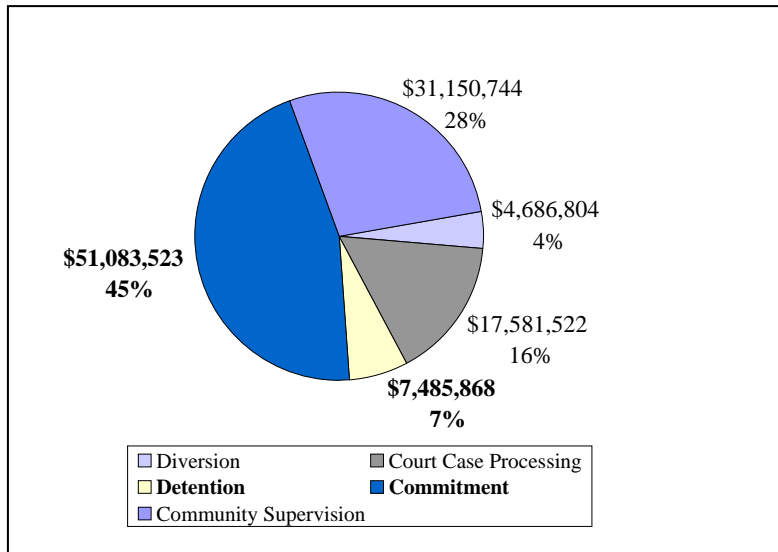
Source: The ESTIS Group, 2009

Costs per bed per day in residential facilities are greater in the juvenile system than they are in the adult system. As shown in Exhibit 23, YDCs cost an average of \$286 per day while prison costs approximately \$68 per day; detention in the juvenile system costs an average of \$170 per person per day while adult detention costs approximately \$50 per person per day.

### Secure Confinement a Significant Factor in Overall Costs

As noted, secure confinement (commitment and detention) is expensive to provide compared to community supervision. As a result, it is a significant determinant of overall DJJDP costs to implement a change to the age of juvenile jurisdiction. Of the approximate \$112.0 million in budgetary costs to implement the change in the current DJJDP system, 52 percent, or \$58.6 million, are costs resulting from secure confinement. See Exhibit 24 for additional information regarding costs incurred by DJJDP. If the use of secure confinement were reduced, the overall cost of implementation would decrease significantly.

**Exhibit 24: DJJDP Cost of Serving Offenders 16 and 17 Years of Age**



Source: The ESTIS Group, 2009

### Recidivism a Small Portion of Overall Costs

Initial budgetary costs of the entry cohort in the baseline scenario are \$150.0 million for the adult system and \$225.6 million for the juvenile system, corresponding to a gap of \$75.6 million. These initial budgetary costs are approximately 80 percent of the total budgetary cost (283.0 million) of serving persons 16 and 17 years of age in the juvenile system; the total budgetary cost of recidivism in the juvenile system is only \$57.4 million. Similarly, under the enhanced system, the total budgetary cost of recidivism for the juvenile system, \$42.2 million, is equivalent to 16 percent of the total system cost of \$257.1 million.

### Conclusion

This analysis is but one input to a complex decision-making process. Understanding quantifiable benefits are an important component of considering the implications of policy decisions, but they are not the only component. Given the small net benefit of raising the age of juvenile jurisdiction within an enhanced system – \$7.1 million (budget, victim, and offender impact), it is conceivable that once consideration of the non-quantifiable benefits are taken into account, the overall result would be a significantly larger net benefit to society. These kinds of judgments, which elected officials legislators make routinely, are well beyond the scope of this analysis. This report supports that decision-making process.

## APPENDIX A. GLOSSARY OF TERMS

- Adjudication** - The court process by which a juvenile is found to be delinquent, undisciplined, dependent, neglected, or abused based on the allegations in a juvenile petition.
- Arrest** - The act of taking an adult into custody in relation to the investigation of a crime.
- Commitment** - The placement of a youth in the care of DJJDP and its facilities.
- Commitment Alternative** - Services offered to a juvenile in lieu of commitment in a YDC.
- Community Supervision (juvenile)** - Services provided to youth under the supervision of juvenile court counselors. Includes services provided to youth with Level 1 and 2 dispositions.
- Community Supervision (adult)** - Services provided to offenders under the supervision of probation officers. Includes community and intermediate sentences.
- Conviction** - A legal finding of guilt in a court of law that results in a criminal receiving the appropriate sentence.
- Delinquent juvenile** - A juvenile who commits a crime or infraction under State law or ordinance of local government.
- Detention** - The holding of an offender after apprehension or arrest or while awaiting adjudication or sentencing.
- Disposition** - Court order in response to an adjudication that mandates sanctions for delinquent and undisciplined juveniles.
- Discount rate** - The interest rate used in determining the present value of future cash flows.
- Diversion** - Services delivered to a juvenile when a complaint is not approved for filing as a petition.
- Implicit Price Deflator** - An economic metric that accounts for inflation.
- Juvenile Court Counselor** - DJJDP employee that provides intake, probation, supervision.
- Minor Offender** - A juvenile adjudicated for a class 1-3 misdemeanor.
- Petition** - Document filed in juvenile court alleging that a juvenile is delinquent or is a status offender, requesting that the court assume jurisdiction over the juvenile or that the juvenile be transferred to criminal court.
- Pre- and Post-dispositional Services** - Services ordered by the court for delinquent juveniles in response to adjudication.
- Secure Confinement** - The restriction of the movement of a juvenile through placement in a youth facility.
- Serious Offender** - A juvenile adjudicated for a class F-I felony or a class A1 misdemeanor.
- Undisciplined juvenile** - A juvenile who is unlawfully absent from school, is beyond the disciplinary control of the parent/guardian/custodian, has run away, or is regularly found in unlawful places.
- Violent Offender** - A juvenile adjudicated for class A-E felony.
- Youth Development Center (YDC)** - A secure residential facility providing long-term treatment for committed juveniles.

## **APPENDIX B. COST-BENEFIT ANALYSIS METHODOLOGY: BUDGETARY COSTS**

Budgetary Costs include expenditures related to the following categories:

- Arrest and apprehension
- Detention in jail or a juvenile detention facility
- Pre-adjudication services such as diversion contracts, pre-trial services, and deferred prosecution
- Processing cases in court
- Providing services upon sentencing/disposition of a case, including post-release supervision

These costs are incurred by local government (local law enforcement, county government) and state agencies (AOC-administered entities, DOC, DJJDP). For each of these cost categories, the following information is included: the groups bearing the costs, a summary of the methodology, the detailed equation used to estimate costs, and data sources.

### ***Arrest and Apprehension***

#### *Groups Bearing Cost:*

CostA = Local Law Enforcement Cost

CostJ = Local Law Enforcement Cost

#### *Methodology Overview:*

Local law enforcement agencies incur a cost for apprehending, processing, and detaining (if necessary) a person who commits a crime. The primary expenditure for these activities is the cost of personnel. As a result, the analysis uses total expenditures for local law enforcement to estimate baseline costs and then focuses on the difference in personnel hours needed to serve adult and juvenile offenders.

To understand differences associated with processing juveniles and adults, at least one sheriff's office or police department from each of DJJDP's service areas was contacted. These interviews indicated that some departments will have to increase staff time devoted to processing arrests due to the increased paperwork for processing juvenile offenders and additional time spent working with families of offenders. Alternatively, some departments stated that they are not at all concerned with these issues. Because responses were so mixed, a moderate (2%) increase in cost per juvenile arrest over that of an adult arrest is included.

#### *Detail:*

CostA = Total FY06 Law Enforcement Expenditures/Number of Arrests

CostJ = CostA + Juvenile Processing Cost Differential

*Data Sources:*

Bureau of Justice Statistics Criminal Justice Expenditure and Employment Statistical Extracts, 2006; North Carolina 2007 Uniform Crime Report, State Bureau of Investigation

***Detention***

*Groups Bearing Cost:*

CostA = Local Government

CostJ = Local Government + DJJDP

*Methodology Overview:*

Both the juvenile and adult systems detain a portion of offenders during the judicial process. Juveniles are detained in Detention Centers operated by DJJDP or local governments, while adults are detained in local jails. This analysis estimates the cost that is incurred by DJJDP and local governments for housing offenders 16 and 17 years of age in jail and the cost they would incur if the offenders were housed in juvenile detention facilities. An average cost per bed per day and an average length of pre-trial detention is used to produce this estimate. [**Note:** Both the state and county governments run and bear the cost of juvenile detention centers. Some of the costs for county-operated facilities are borne by DJJDP and are accounted for separately.]

*Detail:*

CostA Detention =

Average cost per night \* Average length of stay \* Probability of pre-trial detention for adult offenders, weighted by type of offense committed by offenders 16 and 17 years of age<sup>9</sup>

CostJ Detention =

Average cost bed per night \* Average length of stay \* Probability of detention per juvenile arrest

*Data Sources:*

FY 2008 DJJDP Expenditures, DJJDP data request, UNC 2007 County and Municipal Government Report, 2000-2004 Pretrial Release of Felony Defendants in State Courts- Bureau of Justice Statistics, 2006 Census State and Local Government Expenditures.

***Adjudication/Disposition***

*Groups Bearing Cost:*

CostA Adjudication/Disposition = AOC

CostJ Adjudication/Disposition = AOC + DJJDP

*Methodology Overview:*

The costs of adjudication and disposition are primarily composed of personnel costs for the staff involved: judges, juvenile court counselors, District Attorneys, clerks, and defense attorneys. While the criminal cases of persons 16 and 17 years of age currently processed in Superior Court or District Court<sup>10</sup> will be processed as juvenile cases in District Court, case processing

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<sup>9</sup> “\*” Denotes multiplication

<sup>10</sup> Most criminal cases for persons 16 and 17 years of age are currently prosecuted in District Court.

associated with a change in jurisdiction involves more than just a transfer of personnel resources. Interviews with stakeholders indicate that juvenile cases take longer to process than do adult cases. The added time associated with processing cases of persons 16 and 17 years of age in the juvenile judicial system may result in additional personnel costs beyond the costs reduced in the adult system. Resources associated with AOC and with DJJDP are discussed in more detail below.

- AOC Resources: This analysis allocates court expenditures based on the proportion of personnel resources consumed by superior court criminal cases, district court criminal cases, and juvenile court delinquency cases. These proportions were estimated by the relative differences in judges' time to process cases in District Court and clerks' time to process juvenile and adult cases in both District Court and Superior Court. These dollars were divided by the number of estimated convictions of offenders 16 and 17 years of age. Generally, juvenile cases take approximately twice as long to process as do adult District Court cases.
- DJJDP Resources: Juvenile Court Counselors provide intake and case processing services during the adjudication process and offender supervision after case disposition. To account for the time spent conducting court-processing and supervision activities, an estimate of the average number of hours spent on each activity from the results of DJJDP's 2005 time study of court counselors' tasks is included. From this, a total cost per conviction was calculated based on the average salary of a court counselor.

*Details:*

CostA Adjudication/Disposition =

[(Total FY07 expenditures for Superior Court \* Proportion of estimated criminal case hours to all case hours in Superior Court)/ Number of convictions] \* Probability of conviction per arrest (for persons 16 and 17 years of age)

+

[(Total FY07 expenditure for District Court \* Proportion of criminal case hours to all case hours in District Court)/ Number of criminal case convictions] \* Probability of conviction per arrest (for persons 16 and 17 years of age)

CostJ Adjudication/Disposition =

Court Costs + DJJDP Costs

- Court Cost Equation:

[(Total FY07 expenditures for District Court \* Proportion of juvenile case hours to all case hours in District Court)/ Number of dispositions in FY08] \* Probability of disposition per juvenile arrest

- DJJDP Cost Equation:

[(Hourly wage per court counselor) \* (Total number of hours spent on intake and court services)] / Total number of dispositions

- Total number of dispositions per court counselor= Projected number of juvenile dispositions /Number of court counselors

- Total number of hours spent on intake and court services per counselor= [Index (from DJJDP time study) Proportion of total activity] \* 160 hours/month (total hours of counselors per the study)

*Data Sources:*

DJJDP 2005 Court Counselor Time Study, DJJDP FY2008 expenditure report, SPAC Youthful Offender Report Data Request (FY08 table update), NCSC report on Implications of Changing Juvenile Court Jurisdiction for Adjudication and Case-Processing Personnel Needs in Connecticut Superior Court, AOC FY2007 Budget, AOC FY2008 Court Caseload Report, DOC Data Request, AOC time study formulas calculated by NCSC, Charlotte Observer NC State Employee Database 2008.

***Pre and Post Adjudication Placement***

*Groups Bearing Cost:*

CostA Pre and Post Adjudication Placement = DOC + Local Government (Criminal Justice Partnership Program (CJPP) match funds)

CostJ Pre and Post Adjudication Placement = DJJDP + Local Government (JCPC match funds)

Offenders may receive services prior to and after the completion of the judicial process. The services are discussed below, divided by the system in which they are used: adult system and juvenile system. These services include diversion, pre-trial services, deferred prosecution, community supervision, commitment, and prison. Deferred prosecution has been included in the analysis to the extent that it is tracked by DOC data. The analysis uses a weighted average cost of current pre and post adjudication placement based on FY2008 data provided by DOC and DJJDP.

**Cost of Pre and Post Adjudication Placement - Adult System**

*Methodology Overview and Detail:*

CostA Pre-Adjudication Services:

Offenders in the adult system can receive deferred prosecution or pre-trial services. The number of offenders 16 and 17 years of age served by these programs was estimated based on the total number of adult offenders and the proportion of total offenders comprised of persons 16 and 17 years of age.

CostA = Average Daily Cost per Offender \* probability of receiving pre-trial services/deferred prosecution\* Average Length of Supervision

CostA Community Supervision:

The majority of persons 16 and 17 years of age who are convicted of criminal offenses have probation sentences. The analysis includes a weighted average cost of supervision per sentence, as there are a number of levels of supervision and programs provided in conjunction with supervision. It should be noted that a significant proportion (42%) of persons 16 and 17 years of age adjudicated in the adult system do not receive any supervision; they are sentenced to either unsupervised probation or are required to pay a fine, complete community service hours, or pay restitution. This analysis estimated the number of unsupervised probation entries based on the difference between DOC records of probation entries and court records of probation sentences



compiled by SPAC, and the proportion of adult probation sentences that were reported by SPAC to be unsupervised.

CostA = Average Daily Cost of supervision per Offender \* probability of receiving community supervision\* Average Length of Supervision

CostA Prison:

The majority of youthful offenders 16 and 17 years of age that receive active prison sentences serve their sentences in the Western Youth Institution. Stakeholders and DOC budget staff have voiced concern that the medical expenses of adult offenders as a whole may be higher than those of offenders that are only 16 or 17 years of age. As a result, the analysis uses expenditures of the Western Youth Institution only to estimate the cost of serving persons committing offenses at 16 and 17 years of age in FY2008. The analysis estimates a cost per offender per day and multiplies it by the number of persons 16 and 17 years of age (at time of offense) admitted in FY2008 and the average length of stay of these persons.

It should be noted that some offenders with an active sentence serve their time in a jail. This analysis estimated the number of jail entries based on the difference between the number of prison entries of persons committing offenses at ages 16 and 17 per DOC data, and the number of offenders reported in court records of active sentences compiled by SPAC.

CostA= Cost per offender-day at Western\* Probability of receiving a prison sentence per arrest (for persons 16 and 17 years of age)\* Average Sentence Length

CostA Post-Release Supervision: The cost per offender per day was multiplied by the projected number of offenders served by post-release supervision (i.e., persons who were convicted of a class B-E felony and received an active sentence) and the average number of days of supervision. The cost per offender per day was estimated to be the cost of the lowest level of community supervision to give a conservative estimate of costs.

CostA = Average supervision cost per person per day \* Probability of receiving an active disposition for a class B-E felony per arrest (for persons 16 and 17 years of age) \* Average length of post-release supervision

*Data Sources:*

DOC data request, DOC budget data request (FY2008 Western Youth Institution Budget), DOC Data Request, SPAC Data Request, DOC FY2008 cost per day per supervision level, GCC SAC Reporting and NC Criminal Justice Analysis Center- "Pretrial Service Programs in North Carolina: A Process and Impact Assessment," DOC ASQ Query Data, SPAC Structured Sentencing Report, FY2008.

**Cost of Pre and Post Adjudication Placement - Juvenile System**

*Methodology Overview and Detail:*

CostJ Diversion:

Court counselors may decide to divert a case prior to judicial hearings (for certain types of offenses) if they determine that the offender would benefit from community-based services.

Diverted youth are often served by JCPC programs, which are funded through a combination of state and local funds. Note: some diverted youth may be sent to private providers rather than a JCPC program. Because this is a cost that is typically borne by the offender's family, data are not available and are excluded from the analysis.

CostJ = Weighted Average Cost per Youth Served (DJJDP and County)\* Probability of receiving diversion services per juvenile arrest

CostJ Community Supervision:

Juvenile Court Counselors provide supervision to offenders that receive level 1 and 2 dispositions. Some of these youth also receive JCPC services. Both costs are included in the analysis.

- Similar to the calculations of Court Counselor Costs for Adjudication and Disposition, this calculation uses the time estimates from DJJDP's 2005 Court Counselor Time Study to determine the additional time required to conduct community supervision (probation) tasks for persons 16 and 17 years of age. The analysis estimates the rate per offender supervised and multiplies this by the total court counselor intake hours required per youth and the number of additional probation dispositions projected to be received.

CostJ Supervision = [(Hourly wage per court counselor \* Number of hours per year spent on probation supervision)/ Number of probation dispositions] \* Probability of receiving a probation disposition per juvenile arrest

- Offenders receiving community supervision also participate in programs that are funded through state and local dollars. In addition to the supervision costs discussed above, the analysis estimates the cost impact of JCPC use for both entities by using an average cost per offender and the projected number of offenders served.

CostJ JCPC Programs = Average Cost per Probation Entry (DJJDP and County)\* Probability of receiving probation per juvenile arrest

CostJ Commitment:

The cost per offender per day was multiplied by the projected number of persons 16 and 17 years of age receiving commitment dispositions and the average length of stay of persons 15 years of age. Because offenders have a length of stay that can last longer than one year, the cost borne by the state to house the offender in the future must be discounted year by year. The analysis also accounts for the varying daily costs per facility used for commitments by estimating a weighted average based on FY2008 usage.

CostJ = Average YDC cost per bed per day \* Probability of receiving a commitment disposition per arrest (for persons 16 and 17 years of age) \* Average length of YDC stay

CostJ Post-Release Supervision:

The cost per offender per day was multiplied by the projected number of offenders served by post-release supervision (i.e., all persons who are projected to receive a commitment disposition) and the average number of days of supervision. The cost per offender per day was estimated to

be the cost of the lowest level of community supervision in the juvenile system to give a conservative estimate of costs.

CostJ = Average supervision cost per person per day \* Probability of receiving a commitment disposition per arrest (for persons 16 and 17 years of age) \* Average length of post-release supervision

*Data Sources:*

JCPC Effectiveness Report 2008, DJJDP Data Request, DJJDP FY08 Expenditures, DJJDP 2005 Court Counselor Time Study, Charlotte Observer NC State Employee Database 2008.

## **APPENDIX C. COST-BENEFIT ANALYSIS METHODOLOGY: RECIDIVISM COSTS AND BENEFITS**

Recidivism is an indicator of re-involvement in criminal activity, and it can be measured in several ways. It can reflect arrest, conviction, revocation, or incarceration; it may measure a variety of periods (e.g., 1, 2, or 3-year rates), and it can track activity across different levels of jurisdiction (e.g., into adult, federal or other state systems). As such, comparison of rates published by other entities requires careful review to ensure a valid comparison.

The level of re-involvement that an offender has in the juvenile or adult system affects the budgetary cost incurred by serving that offender. This analysis calculates recidivism costs based on the probability of re-arrest, re-conviction, or revocation for distinct populations in both the adult and juvenile systems. This level of detail ensures that the analysis identifies differences in both systems for each outcome.

A separate rate for re-arrest and re-conviction is used for the following populations:

- Adult community supervision
- Adult prison (from release)
- Adult unsupervised/community service
- Juvenile adjudicated (community and YDC composite)
- Juvenile diversion
- Juvenile closed and dismissed composite

### **Calculation of Recidivism Rates**

Recidivism rates in this analysis are based on studies performed by the Sentencing and Policy Advisory Commission. All reported rates span a 3-year time frame. One and two year rates of return were imputed using reported rates of return for the entire adult population, but still end with the observed 3-year rate. Exhibits 28 and 29 show the estimated 1, 2, and 3-year recidivism rates in the juvenile and adult systems, as well as the number of offenders estimated to recidivate under the baseline scenario. Rates are grouped by sentence/disposition and by age (16 years of age only, 16 and 17 years of age).

For each population group, the analysis calculates a reentry cohort based on the year-to-year increments in recidivism for three years. Because the adult prison and juvenile YDC population are not at risk to recidivate during the time of their average length of stay, none are calculated to return in the Year 0 cohort. The incarcerated population begins to return in the Year 1 cohort, and continues for two more years, resulting in a Year 3 (fourth year from start) reentry cohort.

In the juvenile scenario, some offenders age into the adult system and recidivate as adults. The analysis specifies the proportion of recidivists in each reentry cohort that will be treated by the courts as a juvenile or adult to allocate budgetary costs to appropriate agencies. Each reentry cohort represents future costs and is discounted to a present value based on the year of occurrence. Because recidivistic events of a cohort span over an entire year, a discounted value based on a half-year into the current year of a return cohort is used to more accurately

approximate costs. For example, all events that occur in Year 1 are discounted based on 1.5 years.

### **Relevant Assumptions**

The juvenile system overall serves more youth than the adult system. To compare the potential for recidivism of both systems, the analysis constructs a population group in the adult system termed “Juvenile Differential.” This group equals in size the number of offenders served in the juvenile system, but not served in the adult system. This juvenile differential group is calculated to recidivate at a composite recidivism rate based on the observed return of juveniles 15 years of age with a closed or dismissed case.

Data were available for the recidivism rates of persons served outside of the adjudication process in the juvenile system (those with cases diverted, closed, or dismissed), but equivalent data were not available for persons receiving deferred prosecution through the adult system. These persons are estimated to recidivate at the same rate as offenders diverted at 15 years of age diverted in the juvenile system.

The analysis assumes the same severity of offense upon recidivating in both the adult and juvenile scenarios. Long-term rates have not been used because such studies have not been conducted in North Carolina. However, comparative recidivism benefits are based on the difference year-over-year in the return of offenders. Given similarity in the incremental increase from year to year in comparative recidivism rates, the long-term difference is already reflected in the first year rate of return. Further, the majority of a recidivating cohort of offenders return within the first three years at risk.

Reported rates in Exhibits 28 and 29 correspond to one future incident of recidivism. However, offenders that do recidivate often go on to commit multiple future offenses. Each incident of recidivism is multiplied by a factor of 1.6 when incorporated into the cost-benefit analysis to account for multiple future offenses per recidivating offender. This factor is based on known average prior arrests of offenders through 29 years of age in the adult system weighted based on observations that 50 percent of offenses are committed by 6 percent of offenders (Cohen 2008), and the assumption that recidivism reductions largely occur on the fewer offenses end of a distribution.

Some recidivism in the enhanced scenario occurs prior to juveniles aging into the adult system. Over time, as DJJDP reduces recidivism by 25 percent, there will be a small decrease in initial entrants, reducing initial processing costs and further reducing the population that could recidivate. The enhanced system assumes a time in the future when complaints and recidivism have stabilized at this new lower level.

## Exhibit 28: Adult Recidivism Rates and Outcomes, Baseline Example

<b>Adult System</b>							
<b>Age</b>	<b>Population</b>	<b>#</b>					
16	Community	2,050					
17	Community	2,505					
16	Prison	839					
17	Prison	1,026					
16	Unsupervised and Community Service	2,050					
17	Unsupervised and Community Service	2,505					
16	Deferred	250					
17	Deferred	305					
16	Juvenile Differential	1,378					
17	Juvenile Differential	1,685					
<b>Age</b>	<b>Rearrests</b>	<b>1 Year Rate</b>	<b>2 Year Rate</b>	<b>3 Year Rate</b>	<b>1 Year (#)</b>	<b>2 Year (#)</b>	<b>3 Year (#)</b>
16	Community	24.0%	35.5%	43.2%	493	235	158
17	Community	24.0%	35.5%	43.2%	602	287	193
16	Prison	37.7%	55.6%	67.7%	316	151	101
17	Prison	37.7%	55.6%	67.7%	386	184	124
16	Unsupervised and Community Service	20.1%	29.7%	36.1%	412	196	132
17	Unsupervised and Community Service	20.1%	29.7%	36.1%	503	240	161
16	Deferred	17.0%	25.0%	30.5%	42	20	14
17	Deferred	17.0%	25.0%	30.5%	52	25	17
16	Juvenile Differential	18.1%	26.7%	32.5%	249	119	80
17	Juvenile Differential	18.1%	26.7%	32.5%	305	145	98
<b>Age</b>	<b>Reconvictions</b>	<b>1 Year Rate</b>	<b>2 Year Rate</b>	<b>3 Year Rate</b>	<b>1 Year (#)</b>	<b>2 Year (#)</b>	<b>3 Year (#)</b>
16	Community	17.6%	26.0%	31.6%	360	172	115
17	Community	17.6%	26.0%	31.6%	440	210	141
16	Prison	28.6%	42.2%	51.4%	240	114	77
17	Prison	28.6%	42.2%	51.4%	293	140	94
16	Unsupervised and Community Service	14.0%	20.6%	25.1%	286	137	92
17	Unsupervised and Community Service	14.0%	20.6%	25.1%	350	167	112
16	Deferred	10.2%	15.0%	18.3%	25	12	8
17	Deferred	10.2%	15.0%	18.3%	31	15	10
16	Juvenile Differential	10.7%	15.8%	19.2%	147	70	47
17	Juvenile Differential	10.7%	15.8%	19.2%	180	86	58
<b>Age</b>	<b>Revocations Resulting in Prison</b>	<b>3 Year Rate</b>		<b>#</b>			
16		2889	7.5%	216			
17		3531	7.5%	263			

Source: The ESTIS Group, 2009

## Exhibit 29: Juvenile Recidivism Rates and Outcomes

Juvenile System							
Age	Entry	#'s					
	16 Supervision	3,924					
	17 Supervision	4,796					
	16 YDC	247					
	17 YDC	302					
	16 Diversion	2,396					
	17 Diversion	2,928					
Age	Rearrest Rate	1 Year	2 Year	3 Year	% Juvenile Year 1	% Juvenile Year 2	% Juvenile Year 3
	16 Supervision	25.9%	38.2%	46.5%	100.0%	50.0%	25.0%
	17 Supervision	25.9%	38.2%	46.5%	50.0%	25.0%	0.0%
	16 YDC	25.9%	38.2%	46.5%	100.0%	50.0%	25.0%
	17 YDC	25.9%	38.2%	46.5%	50.0%	25.0%	0.0%
	16 Diversion	17.0%	25.0%	30.5%	100.0%	50.0%	25.0%
	17 Diversion	17.0%	25.0%	30.5%	50.0%	25.0%	0.0%
Age	Rearrests	1 Year J	1 Year A	2 Year J	2 Year A	3 Year A	3 Year J
	16 Supervision	1015	0	242	242	244	81
	17 Supervision	620	620	148	444	397	0
	16 YDC	64	0	15	15	15	5
	17 YDC	39	39	9	28	25	0
	16 Diversion	406	0	97	97	98	33
	17 Diversion	248	248	59	178	159	0
Age	Reconvictions	1 Year Rate	2 Year Rate	3 Year Rate	1 Year (#'s)	2 Year (#'s)	3 Year (#'s)
	16 Supervision	18.7%	27.7%	33.7%	735	351	236
	17 Supervision	18.7%	27.7%	33.7%	899	429	288
	16 YDC	18.7%	27.7%	33.7%	46	22	15
	17 YDC	18.7%	27.7%	33.7%	57	27	18
	16 Diversion	10.2%	15.0%	18.3%	244	116	78
	17 Diversion	10.2%	15.0%	18.3%	298	142	95
Age	Revocations	#'s					
	16	8.70% 21					
	17	8.70% 26					

(Note: % Juvenile Year N is a factor used to distribute the return of offenders partially in the juvenile and adult systems. "1 Year J" and related columns is the number of offenders expected to return as a juvenile in one year.)  
 Source: The ESTIS Group, 2009

## APPENDIX D. METHODOLOGY CONSIDERATIONS

This appendix describes the major cost of crime categories according to Miller (1999) and Cohen (2000) and indicates their relevance to the cost benefit analysis for changing the age of juvenile court jurisdiction in North Carolina. The U.S. Office of Juvenile Justice and Delinquency Prevention cites Miller and Cohen’s work as a comprehensive assessment of victim costs. All of the costs identified by Cohen and Miller were considered for inclusion in the cost-benefit analysis. However, not all costs are included in the cost-benefit analysis for the lack of sound methodologies for calculating, the lack of data, or the lack of a documented relationship between the cost item and the factors being changed with a change in the juvenile age— recidivism.

The costs of crime can be organized into two broad categories. Cohen and Miller organize them into (1) the direct cost of victimization, (2) society's response to the victimization.

### Costs of Victimization

Cost of Crime Category		Included in CBA?	Comment
<b>Direct property losses</b>			
	Losses not reimbursed by insurance	✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)
	Losses reimbursed by insurance	✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)
	Administrative cost: insurance reimbursement	✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)
	Recovery by police		Separate data is not available to estimate this cost which is not included in the Miller (1994) estimates of victim costs. Some if not all of this cost overlaps with local law enforcement costs and are included in the Cost in Response to Crime section.
<b>Medical and mental health care</b>			
	Charges not reimbursed by insurance	✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)
	Charges reimbursed by insurance	✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)
	Administrative overhead of insurance coverage (item 2)	✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)
<b>Victim services</b>			
	Expenses charged to victim	✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)
	Expenses paid by service agency	✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)
	Temporary labor and training of replacements	✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)
<b>Lost workdays</b>			
	Lost wages for unpaid workdays	✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)
	Lost productivity for paid workdays	✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)



Cost of Crime Category		Included in CBA?	Comment
Lost school days			
	Forgone wages due to lack of education		A method for calculating this cost and linking it to arrests is not established in the literature. Miller and Cohen do not include this cost in their estimates.
	Forgone non-pecuniary benefits of education		A method for calculating this cost and linking it to arrests is not established in the literature. Miller and Cohen do not include this cost in their estimates.
	Forgone social benefits due to lack of education		A method for calculating this cost and linking it to arrests is not established in the literature. Miller and Cohen do not include this cost in their estimates.
Lost housework			A method for calculating this cost and linking it to arrests is not established in the literature. Miller and Cohen do not include this cost in their estimates.
Pain and suffering/quality of life		✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)
Loss of affection/enjoyment			A method for calculating this cost and linking it to arrests is not established in the literature. Miller and Cohen do not include this cost in their estimates.
Death			
	Value of life	✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)
	Funeral and burial expenses	✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)
	Loss of affection/enjoyment		A method for calculating this cost and linking it to arrests is not established in the literature. Miller and Cohen do not include this cost in their estimates.
	Psychological injury/treatment	✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)
Legal costs associated with tort claims			A method for calculating this cost and linking it to arrests is not established in the literature. Miller and Cohen do not include this cost in their estimates.
Long-term consequences of victimization			
	Future victims		A method for calculating this cost and linking it to arrests is not established in the literature. Miller and Cohen do not include this cost in their estimates.
	Future social costs		A method for calculating this cost and linking it to arrests is not established in the literature. Miller and Cohen do not include this cost in their estimates.

Source: The ESTIS Group, 2009

## Costs of Society's Response to Victimization

Cost of Crime Category		Included in CBA?	Comment
Fear of crime <sup>11</sup>			The relationship between the fear of crime and victimization is not settled in the research. <sup>12</sup> Consequently there is no agreed upon methodology for linking arrests and the fear of crime.
Potential victim's precautionary expenditures/effort			The relationship between the fear of crime and victimization is not settled in the research. <sup>13</sup> Consequently there is no agreed upon methodology for linking arrests (the unit of measure for the CBA) and expenditures in response to one's fear of crime.
Criminal justice system			
	Police and investigative costs	✓	Included as a part of local government costs
	Prosecutors	✓	Included as a part of AOC costs
	Courts	✓	Included as a part of AOC costs
	Legal fees		
	(a) Public defenders	✓	Included as a part of AOC costs
	(b) Private		Data to calculate this cost is not available
	Incarceration costs	✓	Included as a part of DOC and DJJDP costs
	Nonincarcerative sanctions	✓	Included as a part of DOC and DJJDP costs
	Victim time	✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)
	Jury and witness time		A method for calculating this cost and linking it to arrests is not established in the literature. Miller and Cohen do not include this cost in their estimates.
Victim services			
	Victim service organizations	✓	Although a method for calculating this cost and linking it to arrests has been suggested in the literature, Miller does not include this cost in his estimates owing to its wide variability.
	Victim compensation programs	✓	Although a method for calculating this cost and linking it to arrests has been suggested in the literature, Miller does not include this cost in his estimates owing to its wide variability.
	Victim time	✓	Although a method for calculating this cost and linking it to arrests has been suggested in the literature, Miller does not include this cost in his estimates owing to its wide variability.

<sup>11</sup> "The Home Office has an objective 'to reduce crime and the fear of crime'. However, there are currently no estimates of the costs of the fear of crime which can be used to judge the worth and effectiveness of interventions to reduce the fear of crime. ERA has been involved in and commissioned exploratory work to measure the economic costs of fear.<sup>27</sup> However, further work is required to confirm the economic basis for this work, as well as to ensure its compatibility with practical measures of fear." - *The Economic and Social Costs of Crime Against Individuals and Households 2003/04*, Home Office Online Report 30/05  
<http://www.homeoffice.gov.uk/rds/pdfs05/rdsolr3005.pdf>.

<sup>12</sup> Feyerhrm & Hindelang (1974) Gomme (1986) Kale & Kleinman (1985), Kleinman and David (1983) find a positive relationship between victimization and fear of crime while other such as Boggs (1971) Conklin (1971), DuBow (1979) Garafalo (1979), Gates and Rohe (1987) fail to find any relationship between victimization and fear.

<sup>13</sup> Ibid.

Cost of Crime Category		Included in CBA?	Comment
Other noncriminal programs			
	Hot lines and public service announcements		Data for calculating this cost is not available
	Community treatment programs		Data for calculating this cost is not available
	Private therapy/counseling	✓	Incorporated in victim costs through use of estimates in Miller (1996), Cohen (1998), and Cohen (2008)
Incarcerated offender costs			
	Lost wages	✓	Included in calculation of offender benefits
	Lost tax revenue and productivity	✓	Included in calculation of offender benefits
	Value of lost freedom		Although true economic costs, these cost are excluded because it is society's intent through incarceration to deprive the offender of his or her utility.
	Psychological cost to family		A method for calculating this cost and linking it to arrests is not established in the literature. Miller and Cohen do not include this cost in their estimates.
"Overdeterrence" costs			
	Innocent individuals accused of offense		A method for calculating this cost and linking it to arrests is not established in the literature. Cohen does not include this cost in his estimates.
	Restriction of legitimate activity		A method for calculating this cost and linking it to arrests is not established in the literature. Cohen does not include this cost in his estimates.
	Cost of additional detection avoidance by offenders		A method for calculating this cost and linking it to arrests is not established in the literature. Cohen does not include this cost in his estimates.
"Justice" costs			
	Constitutional protections to avoid false accusations		A method for calculating this cost and linking it to arrests is not established in the literature. Cohen does not include this cost in his estimates.
	Cost of increasing detection rate to avoid differential punishment		A method for calculating this cost and linking it to arrests is not established in the literature. Cohen does not include this cost in his estimates.

Source: The ESTIS Group, 2009

### Other Assessments of the Cost of Crime Literature

A 1999 literature review of cost of crime estimates conducted by the Minnesota House of Representatives Research Department found that in the previous 30 years cost of crime studies included the following categories of costs. How these cost categories are treated in this cost benefit analysis is included after the description of each cost category in italics:

- Tangible costs relating to property loss.** The tangible costs of crime relating to a victim's property loss fall into three categories. First, there are the direct costs associated with property or cash stolen from the victim. These costs are the easiest to quantify because usually they are known at the time the crime is committed. Second, victims may experience costs relating to property damage. These costs are, likewise, relatively fixed and easily quantified. Third, victims may suffer loss of wages or productivity and legal costs due to either the physical or mental injuries they suffer or their participation in the criminal justice process. These costs are more difficult to quantify because they may

arise, in part, after the primary data are collected about the criminal victimization event. In all cases, a victim's property loss may be wholly or partially reimbursed by insurance or government assistance. This transforms the crime cost from one borne by the victim to one borne by society in general.

*All of these costs are included in the analysis. These costs and additional victim related costs are included in the victim cost estimates as presented by Miller (1996) and Cohen (1998 and 2004), which are the basis for the victim cost estimates in the study.*

- **Medical costs.** Victims of crimes against the person and, to some degree, victims of property crimes often must bear medical and mental health treatment costs. Data concerning these costs come from a variety of sources, including victim self-reports, insurance data, hospital and emergency medical care data, and information supplied by medical and other treatment providers. Again, some of these costs may be shifted from victims to society by means of insurance coverage and government-sponsored reparations programs.

*All of these costs are included in the analysis. These costs and additional victim related costs are included in the victim cost estimates as presented by Miller (1996) and Cohen (1998 and 2004), which are the basis for the victim cost estimates in the study.*

- **Government costs.** There are a number of crime costs that are borne by society generally through government-sponsored public safety programs and institutions. These include the costs of providing police protection, emergency medical services, criminal court processes, prosecution and public defense services, victim services programs, and correctional institutions and programs. Many of these costs are an inherent and inevitable attribute of organized societies but, nevertheless, can be sensitive barometers of rising or falling crime rates.

*All of these costs are included in the analysis. These costs are included in the budgetary cost component of the study.*

- **Private security measures.** Various costs relate to the actual or perceived need of victims and communities to increase their level of personal security in response to crime. These costs include the purchase by homeowners of better locks, home security systems and firearms, as well as the increased use of armored vehicles and security guards by businesses. Some research studies go beyond these tangible security measures and attempt to quantify the cost of the increased fear that residents of high crime neighborhoods have of leaving their homes, particularly at night. This increased fear may, itself, contribute to a decrease in neighborhood safety to the extent that deserted streets and public areas invite additional criminal activity.

*These costs are not included in the analysis owing to the lack of consistent research showing a relationship between the general level of crime and the fear of crime. Expenditures for self security are closely related to ones perception of the risk of being a victim. These costs are not generally included cost benefits analyses.*

- **Other indirect or intangible costs.** Finally, several research studies seek to quantify other indirect or intangible costs of crime. One example is the negative effect that criminal victimization may have on children in the household. Most studies conclude that child victims are at increased risk of having school problems, psychological problems and delinquency problems as a result of their victimization. Another example is the intangible cost to victims of their continuing pain and suffering due to the criminal event and their actual or perceived lost “quality of life.” Even though “pain and suffering” costs are extremely difficult to measure, some research studies provide an aggregate dollar estimate of them, primarily based on data derived from jury awards in civil law suits.

*An estimate of the pain and suffering of crime victims is included in the analysis and is based on data derived from jury awards generally, rather than specifically in North Carolina. We have not included costs associated with the negative effect of victimization on children in a household. The estimates in the studies cited here are for the children of victims rather than the children of offenders. The data for calculating the effect on children is sparse and no standard methodology is established for its incorporation into a cost benefit analysis.*

### **Other potential costs considered**

Reviewers of early drafts of the study inquired about specific costs and whether or not they were included in the analysis. This section addresses questions raised about specific cost categories and how they are addressed in the study.

- **Reduced lifetime dependence on transfer payments.** One potential benefit is the reduced reliance on transfer payments that would come with decreased recidivism. Although this “benefit” would accrue to the state and federal governments in the form of reduced dependency payments, the actual societal effect is a transfer from the offender back to the taxpayer. It does not produce a net benefit to society and as such is excluded from the cost benefit analysis. Further, it is unclear who would be dependent on the social services given a change in age. No long-term impact evidence is available. The effects of a reduction in recidivism typically decay over time.
- **Lifetime annual taxpayer contributions.** These costs are included in the analysis. The tax liability for offenders is included in the offender benefits calculation. The calculation of offender benefits is an estimate of the differential in lifetime earnings for the offender. The methodology employed by the researchers cited in this analysis includes the offender’s tax liability as a part of the increased earnings.
- **Lifetime avoidance of future delinquency/crime.** This benefit which should accrue from the reduction in repeat offenders overlaps significantly with other benefits already in the analysis. Its inclusion could result in double counting of benefits. The fact that an offender does not commit another crime is reflected in there being fewer victims (this is accounted for when arrests go down, the victim cost goes down) lower costs to government to arrest, prosecute and sanction the offender (this is accounted for when arrest go down and the budgetary costs go down) and the increase in offender lifetime earnings.
- **Increase in lifetime earnings.** This benefit is included in the offender benefit calculation.

- **Reduced pain and suffering.** This benefit is included in the analysis. It is based on estimates by Cohen using jury awards.
- **Opportunity costs.** Opportunity costs are accounted for in the victim costs. Opportunity costs for offenders that do not recidivate under the enhanced system are not included. They do represent a legitimate cost (benefit) but the methodologies for calculating them are not widely used and they usually pertain to an older cohort. We do not believe the omission of these costs has a significant impact on the analysis.
- **Community cost/benefits.** This category of costs is most closely related to the cost of crime category called “fear of crime” and efforts in anticipation of victimization. As indicated above, researchers have not established a clear connection between arrests and the fear of crime. The costs are real, but we cannot say how they change with changes in arrest rates. When recidivism goes down, but a sensational murder occurs in a neighborhood, the fear of crime is likely to go up. To maintain the integrity of the analysis, this cost is excluded.
- **Cost to the Offender’s family and Offspring.** The actual impact on children and families of offenders is not known and it is not certain whether the impact of reduced arrests is positive or negative. Consider this quote from two leading cost of crime researchers:

“Perhaps more important is the cost to the family of offenders. On the one hand, growing up with an incarcerated parent might have a negative effect on a child’s upbringing. On the other hand, since many offenders are also alcohol or drug abusers it is possible that taking the parent out of the home has a positive effect. Unfortunately, we lack good data on this – and further studies are needed.” Cohen & Piquero (2008).

Despite our effort to include all of the costs associated with a cost benefit analysis of a change in criminal justice policy, certain costs have been omitted. These include costs for which there is insufficient data or for which there are no established methodologies for measuring them.

## **APPENDIX E. COST-BENEFIT ANALYSIS METHODOLOGY: VICTIM COSTS**

Victimization costs used in this analysis include the following five categories:

1. Property Loss and Damage
  - a. Non-recovered losses reimbursed and not reimbursed by insurance
  - b. Administrative cost of insurance
2. Medical Care
  - a. Lifetime expenses paid by victim, including legal expenses related to medical costs
3. Mental Health Care
  - a. Services by “psychiatrists, psychologists, social workers, and pastoral counselors”
  - b. Administrative cost of insurance
4. Loss of Productivity
  - a. Lost wages for unpaid workday, lost productivity, lost benefits
  - b. Lost school days and related outcomes
  - c. Lost housework
5. Quality of Life
  - a. Average of value of statistical life and adjustments based on compensated damages

The victimization costs used in this analysis are taken from Miller 1994 and supplemented with calculations by Cohen 2008. All costs are adjusted to 2007 dollars.

### **Calculation Methodology**

To quantify the cost of crime to victims, a cost per crime is added to total costs for each re-conviction of an offender in the entry cohort. The number of re-convictions is a conservative proxy for the actual number of crimes committed, as compared to the number of arrests, which may overestimate crime levels. The re-conviction rates shown in Exhibits 28 and 29 that were used to estimate budgetary costs were also used to estimate victim costs. It is important to note that each cost is based on a single unit of victimization; while one re-convicted offender may have multiple victims, that cost is not reflected in the analysis.

Miller defines crime categories based on the National Crime Victimization Survey, with some adjustments. These crime categories were linked to arrest data of persons 16, 17 and 18 years of age in 2007 in North Carolina. Some categories were linked directly, others averaged, and others dropped to determine victim costs for crimes committed in North Carolina. This method accounts for the fact that some crimes do not have a victim.

Arrest data was then categorized into violent (Class A-E felonies), serious (Class F-I felonies and Class A1 misdemeanors), and minor offenses (Class 1-3 misdemeanors). As shown in Exhibit 30, this analysis calculates an average victim cost for violent, serious, and minor crimes in North Carolina. From these, a single victim cost per crime was calculated via a weighted average of violent, serious, and minor victim costs, which is based on the distribution of offenses committed by persons 16 and 17 years of age.

### Exhibit 30: Construction of Victim Cost Per Offense Type

MINOR									
Arrest Description	Arrests	Total	Tangible Subtotal	Productivity	Medical Care	Mental Care	Property Loss	Quality of Life	
Larceny - Theft	7,080	\$ 381	\$ 381	\$ 11	\$ -	\$ 8	\$ 362	\$ -	
Other Assaults - Not Aggravated	6,607	\$ 12,431	\$ 1,979	\$ 1,273	\$ 570	\$ 102	\$ 35	\$ 10,452	
Stolen Property: Buy, Receiving, Poss.	957								
Vandalism	1,774	\$ 370	\$ 370						
Weapons: Possessing, etc.	1,479								
Prostitution/Commercialized Vice	21								
Gambling - Bookmaking	9								
Possession - Marijuana	4,213								
Possession - Opium or Cocaine	676								
Possession - Dangerous Drugs	209								
Possession - Synthetic Narcotics	86								
Gambling Numbers and Lottery	-								
Gambling All Other	2								
Offenses Against the Family/Child	158	\$ 11,843	\$ 1,257	\$ 34	\$ 4	\$ 1,219	\$ -	\$ 10,586	
Driving Under the Influence	1,712	\$ 3,688	\$ 1,812	\$ 228	\$ -	\$ 110	\$ 1,474	\$ 1,876	
Liquor Laws	2,517								
Disorderly Conduct	3,155								
Vagrancy	48								
All Other Offenses	10,758								
Curfew/Loitering	-								
Total Arrests in Category	41,461	\$ 93,668,041	\$ 19,727,377	\$ 8,881,895	\$ 3,763,322	\$ 1,110,560	\$ 5,315,220	\$ 73,940,664	
Average Cost		\$ 2,259	\$ 476	\$ 214	\$ 91	\$ 27	\$ 128	\$ 1,783	

SERIOUS									
Arrest Description	Arrests	Total	Tangible Subtotal	Productivity	Medical Care	Mental Care	Property Loss	Quality of Life	
Motor Vehicle Theft	309	\$ 4,891	\$ 4,489	\$ 60	\$ -	\$ 7	\$ 4,422	\$ 402	
Arson	78	\$ 20,269	\$ 19,599	\$ 11	\$ -	\$ 24	\$ 19,564	\$ 670	
Manslaughter by Negligence	4	\$ 4,258,252	\$ 1,584,952	\$ 1,541,000	\$ 24,522	\$ 6,432	\$ 12,998	\$ 2,673,300	
Forgery and Counterfeiting	112								
Fraud	735	\$ 1,100	\$ 1,100						
Embezzlement	242								
Sale/Mfg. Marijuana	435								
Sale/Mfg. Opium or Cocaine	343								
Sale/Mfg. Other Dangerous Drugs	16								
Sale/Mfg. Synthetic Narcotics	6								
Burglary - Breaking and Entering	1,715	\$ 1,725	\$ 1,323	\$ 16	\$ -	\$ 7	\$ 1,300	\$ 402	
Total Arrests in Category	3,995	\$ 23,891,451	\$ 12,332,343	\$ 6,211,046	\$ 98,088	\$ 41,170	\$ 5,173,539	\$ 11,559,108	
Average Cost		\$ 5,980	\$ 3,087	\$ 1,555	\$ 25	\$ 10	\$ 1,295	\$ 2,893	

VIOLENT									
Arrest Description	Arrests	Total	Tangible Subtotal	Productivity	Medical Care	Mental Care	Property Loss	Quality of Life	
Murder	85	\$ 3,927,835	\$ 1,368,435	\$ 1,340,000	\$ 21,842	\$ 6,432	\$ 161	\$ 2,559,400	
Forcible Rape	68	\$ 131,575	\$ 11,243	\$ 2,814	\$ 657	\$ 7,772	\$ -	\$ 120,332	
Robbery	1,216	\$ 25,145	\$ 6,653	\$ 3,350	\$ 1,340	\$ 87	\$ 1,876	\$ 18,492	
Assault - Aggravated	1,677	\$ 32,168	\$ 6,306	\$ 4,154	\$ 1,970	\$ 130	\$ 52	\$ 25,862	
Sex Offenses	118	\$ 115,776	\$ 6,700	\$ 2,948	\$ 670	\$ 2,948	\$ 134	\$ 109,076	
Burglary - Breaking and Entering	1,715	\$ 1,725	\$ 1,323	\$ 16	\$ -	\$ 7	\$ 1,300	\$ 402	
Total Arrests in Category	4,879	\$ 443,954,498	\$ 138,805,678	\$ 125,506,651	\$ 6,913,073	\$ 1,758,461	\$ 4,627,493	\$ 305,148,820	
Average Cost		\$ 90,993	\$ 28,450	\$ 25,724	\$ 1,417	\$ 360	\$ 948	\$ 62,543	

Source: The ESTIS Group, 2009



## APPENDIX F. DETAILED COST CALCULATIONS

The following exhibits show the detailed calculations used to produce the summary charts appearing in the body of the report. These five exhibits include the following:

- Adult Detail
- Juvenile Baseline 16 and 17 Detail
- Adult 16 Only
- Juvenile 16 Only
- Juvenile Enhanced 16 and 17
- Juvenile Enhanced 16

### Exhibit 31: 16, 17 Baseline Detail Adult

**Adult System** **\$ 267,915,197 Total**

Initial Costs	Arrests	Total	State	DOC	AOC	Local
Year 0	30,702					
\$ Per Arrest		\$ 4,882	\$ 1,386	\$ 1,089	\$ 297	\$ 3,496
<i>Subtotal</i>		\$ 149,886,550	\$ 42,545,604	\$ 33,437,548	\$ 9,108,055	\$ 107,340,946

Recidivating Budgetary Costs	Arrests	Total	State	DOC	AOC	Local
Year 0	4,252					
\$ Per Arrest		\$ 4,810	\$ 1,365	\$ 1,073	\$ 292	\$ 3,445
Year 1	3,152					
\$ Per Arrest		\$ 4,670	\$ 1,326	\$ 1,042	\$ 284	\$ 3,345
Year 2	1,898					
\$ Per Arrest		\$ 4,534	\$ 1,287	\$ 1,012	\$ 276	\$ 3,247
Year 3	360					
\$ Per Arrest		\$ 4,402	\$ 1,250	\$ 982	\$ 268	\$ 3,153
<i>Subtotal</i>	9,662	\$ 45,366,316	\$ 12,877,321	\$ 10,120,577	\$ 2,756,744	\$ 32,488,994

Revocation Budgetary Costs	#	ALOS	\$ Per Day*	Total (State)	DOC
Revocations resulting in prison stays	479	266	\$ 64	\$ 8,153,338	\$ 8,153,338

Recidivating Victimization Costs	Convictions	Total	Tangible	Quality of Life
Year 0	2,913			
\$ Per Conviction		\$ 9,768	\$ 3,802	\$ 5,966
Year 1	2,243			
\$ Per Conviction		\$ 9,484	\$ 3,691	\$ 5,793
Year 2	1,340			
\$ Per Conviction		\$ 9,207	\$ 3,583	\$ 5,624
Year 3	273			
\$ Per Conviction		\$ 8,939	\$ 3,479	\$ 5,460
<i>Subtotal</i>	6,770	\$ 64,508,993	\$ 25,106,651	\$ 39,402,342

\* Discounted cost per day  
 ALOS- Average Length of Stay  
 Source: The ESTIS Group, 2009



### Exhibit 33: 16 Only, Baseline Detail Adult

Adult System \$ 119,897,202 Total

Initial Costs	Arrests	Total	State	DOC	AOC	Local
Year 0	13,680					
\$ Per Arrest		\$ 4,882	\$ 1,386	\$ 1,089	\$ 297	\$ 3,496
<i>Subtotal</i>		\$ 66,785,486	\$ 18,957,197	\$ 14,898,888	\$ 4,058,309	\$ 47,828,290

Recidivating Budgetary Costs	Arrests	Total	State	DOC	AOC	Local
Year 0	1,913					
\$ Per Arrest		\$ 4,810	\$ 1,365	\$ 1,073	\$ 292	\$ 3,445
Year 1	1,418					
\$ Per Arrest		\$ 4,670	\$ 1,326	\$ 1,042	\$ 284	\$ 3,345
Year 2	854					
\$ Per Arrest		\$ 4,534	\$ 1,287	\$ 1,012	\$ 276	\$ 3,247
Year 3	162					
\$ Per Arrest		\$ 4,402	\$ 1,250	\$ 982	\$ 268	\$ 3,153
<i>Subtotal</i>	4,348	\$ 20,414,324	\$ 5,794,648	\$ 4,554,144	\$ 1,240,504	\$ 14,619,677

Revocation Budgetary Costs	#	ALOS	\$ Per Day*	Total (State)	DOC
Revocations resulting in prison stays	216	266	\$ 64	\$ 3,669,002	\$ 3,669,002

Recidivating Victimization Costs	Convictions	Total	Tangible	Quality of Life
Year 0	1,311			
\$ Per Conviction		\$ 9,768	\$ 3,802	\$ 5,966
Year 1	1,009			
\$ Per Conviction		\$ 9,484	\$ 3,691	\$ 5,793
Year 2	603			
\$ Per Conviction		\$ 9,207	\$ 3,583	\$ 5,624
Year 3	123			
\$ Per Conviction		\$ 8,939	\$ 3,479	\$ 5,460
<i>Subtotal</i>	3,046	\$ 29,028,389	\$ 11,297,737	\$ 17,730,652

\* Discounted cost per day  
 Source: The ESTIS Group, 2009





### Exhibit 36: 16 Only, Enhanced Juvenile Detail

**Juvenile System** \$ 135,742,358 **Total**

Initial Costs	Complaints	Total	State	DJJDP	DOC	AOC	Local
Year 0	13,348						
\$ Per Complaint		\$ 7,348	\$ 3,740	\$ 3,211		\$ 528	\$ 3,608
<i>Subtotal</i>		\$ 98,075,362	\$ 49,913,816	\$ 42,859,886		\$ 7,053,930	\$ 48,161,546

Bound Over Youth	#	ALOS	\$ Per Day*	Total (State)	DJJDP	DOC
Estimated Youth Bound Over	-18	399	\$ 278		\$ (1,996,596)	
	18	942	\$ 66			\$ 1,119,096
<i>Subtotal</i>				\$ (877,500)		

Recidivating Budgetary Costs	Complaints (Arrests)	Total	State	DJJDP	DOC	AOC	Local
Year 0							
\$ Per Complaint	822	\$ 7,240	\$ 3,685	\$ 3,164		\$ 521	\$ 3,555
\$ Per Arrest	822	\$ 4,810	\$ 1,365		\$ 1,073	\$ 292	\$ 3,445
Year 1							
\$ Per Complaint	233	\$ 7,029	\$ 3,577	\$ 3,072		\$ 506	\$ 3,452
\$ Per Arrest	625	\$ 4,670	\$ 1,326		\$ 1,042	\$ 284	\$ 3,345
Year 2							
\$ Per Complaint	9	\$ 6,824	\$ 3,473	\$ 2,982		\$ 491	\$ 3,351
\$ Per Arrest	553	\$ 4,534	\$ 1,287		\$ 1,012	\$ 276	\$ 3,247
Year 3							
\$ Per Complaint	0	\$ 6,626	\$ 3,372	\$ 2,895		\$ 477	\$ 3,254
\$ Per Arrest	24	\$ 4,402	\$ 1,250		\$ 982	\$ 268	\$ 3,153
<i>Subtotal</i>	3,087	\$ 17,131,838	\$ 6,584,315	\$ 3,342,224	\$ 2,115,722	\$ 1,126,369	\$ 10,547,523

Revocation Budgetary Costs	#	ALOS	\$ Per Day*	Total (State)	DJJDP
Estimated YDC stays due to revocation	21	184	\$ 270	\$ 1,030,581	\$ 1,030,581

Recidivating Victimization Costs	Adjudications/Convictions	Total	Tangible	Quality of Life
Year 0	1,130			
\$ Per Adjudication		\$ 9,768	\$ 3,802	\$ 5,966
Year 1	593			
\$ Per Adjudication		\$ 9,484	\$ 3,691	\$ 5,793
Year 2	388			
\$ Per Adjudication		\$ 9,207	\$ 3,583	\$ 5,624
Year 3	17			
\$ Per Adjudication		\$ 8,939	\$ 3,479	\$ 5,460
<i>Subtotal</i>	2,128	\$ 20,382,076	\$ 7,932,625	\$ 12,449,451

Source: The ESTIS Group, 2009

### Exhibit 37: Net Present Value (2007) of Key Costs

Value	Year Present Amount	Discounted >	0.5	1	1.5	2	2.5	3	3.5
Budgetary Cost Per Juvenile Arrest	\$ 7,348	\$ 7,240	\$ 7,134	\$ 7,029	\$ 6,926	\$ 6,824	\$ 6,724	\$ 6,626	
Budgetary Cost Per Juvenile Arrest - State	\$ 3,740	\$ 3,685	\$ 3,631	\$ 3,577	\$ 3,525	\$ 3,473	\$ 3,422	\$ 3,372	
Budgetary Cost Per Juvenile Arrest - DJJDP	\$ 3,211	\$ 3,164	\$ 3,118	\$ 3,072	\$ 3,027	\$ 2,982	\$ 2,939	\$ 2,895	
Budgetary Cost Per Juvenile Arrest - AOC	\$ 528	\$ 521	\$ 513	\$ 506	\$ 498	\$ 491	\$ 484	\$ 477	
Budgetary Cost Per Juvenile Arrest - Local	\$ 3,608	\$ 3,555	\$ 3,503	\$ 3,452	\$ 3,401	\$ 3,351	\$ 3,302	\$ 3,254	
Budgetary Cost Per Adult Arrest	\$ 4,882	\$ 4,810	\$ 4,740	\$ 4,670	\$ 4,602	\$ 4,534	\$ 4,468	\$ 4,402	
Budgetary Cost Per Adult Arrest - State	\$ 1,386	\$ 1,365	\$ 1,345	\$ 1,326	\$ 1,306	\$ 1,287	\$ 1,268	\$ 1,250	
Budgetary Cost Per Adult Arrest - DOC	\$ 1,089	\$ 1,073	\$ 1,057	\$ 1,042	\$ 1,027	\$ 1,012	\$ 997	\$ 982	
Budgetary Cost Per Adult Arrest - AOC	\$ 297	\$ 292	\$ 288	\$ 284	\$ 280	\$ 276	\$ 271	\$ 268	
Budgetary Cost Per Adult Arrest - Local	\$ 3,496	\$ 3,445	\$ 3,394	\$ 3,345	\$ 3,296	\$ 3,247	\$ 3,200	\$ 3,153	
Victimization Cost Per Conviction	\$ 9,914	\$ 9,768	\$ 9,625	\$ 9,484	\$ 9,344	\$ 9,207	\$ 9,072	\$ 8,939	
Victimization Cost Per Conviction - Tangible	\$ 3,858	\$ 3,802	\$ 3,746	\$ 3,691	\$ 3,637	\$ 3,583	\$ 3,531	\$ 3,479	
Victimization Cost Per Conviction - Quality of Life	\$ 6,055	\$ 5,966	\$ 5,879	\$ 5,793	\$ 5,708	\$ 5,624	\$ 5,541	\$ 5,460	
Cost per day Prison	\$ 68	\$ 67	\$ 66	\$ 65	\$ 64	\$ 63	\$ 63	\$ 62	
Cost per day YDC	\$ 286	\$ 282	\$ 278	\$ 274	\$ 270	\$ 266	\$ 262	\$ 258	

Source: The ESTIS Group, 2009

### Exhibit 38: Prior Year Cost Adjustment Factor

Implicit Price Deflator for Personal Consumption Expenditure ( US BEA)	
Dollar Year	Factor for 2007 Dollars
1990	1.462
1991	1.410
1992	1.371
1993	1.340
1994	1.312
1995	1.285
1996	1.258
1997	1.237
1998	1.226
1999	1.206
2000	1.177
2001	1.152
2002	1.136
2003	1.114
2004	1.086
2005	1.054
2006	1.026
2007	1.000
2008	0.968

Source: U.S. Bureau of Economic Analysis

## **APPENDIX G. COST-BENEFIT ANALYSIS METHODOLOGY: BENEFITS TO OFFENDERS**

In addition to benefits to taxpayers and potential victims, a reduction in criminal activity resulting from state programs can result in benefits to society and the offenders themselves. In particular, one benefit cited by proponents of the proposed change to the age of juvenile court jurisdiction is that, without an adult offense on their record, offenders will be more employable in the future and receive higher earnings. Research of other primary studies supports this idea and indicates that arrests, convictions, and incarceration reduce future earnings and the likelihood of being legally employed. Some studies even suggest that a lack of employment opportunities for persons with criminal records may increase those persons likelihood of recidivism.

However, the reasons behind these setbacks and the magnitude to which they occur are where the research diverges. For example:

- Harry Holzer's studies, along with others, discuss the "large costs on employment associated with current levels of incarceration" (Holzer 2007).
- Joel Waldfogel discusses how conviction records negatively impact employers' trust and willingness to hire those who have been convicted and translates this into an impact on earnings.
- Jeffrey Grogger finds that the effect of arrests on employment and earnings is "moderate in magnitude and rather short-lived" (Waldfogel 1994;Grogger 1995).

Researchers in this field also question whether the arrest, conviction, or incarceration itself negatively effects employment and earnings or if the perceived effects are caused by other characteristics of members of the offender population. These characteristics may include a lack of educational attainment, residence in environments that support undesirable behaviors, and poor professional networks among others.

This report cannot indicate what portion of lost earnings and lack of employment can be attributed to an adult arrest, conviction, or incarceration records solely. However, research appears to support the belief that persons without criminal records fare better in the labor market. Should persons 16 and 17 years of age be served in the juvenile justice system, research studies suggest that they will avoid a loss in earnings anywhere from 2-11 percent depending on whether the record includes an arrest, conviction, or incarceration. The analysis includes this avoided earnings loss as a benefit to raising the age of juvenile court jurisdiction by calculating greater lifetime earnings for persons 16 and 17 years of age charged as adults. This study uses a rate of 6.5 percent to estimate the cost differential to be used in the net cost (benefit) model. This earnings differential is then applied persons 16 and 17 years of age who receive a felony conviction and are not expected to have another felony conviction.

The lifetime earnings estimate used in this analysis was derived from the work of Richard S. Toikka and Andre R. Neveu, who calculated the expected lifetime earnings of children in the United States in 2000 U.S. Dollars with a two percent discount rate. This report converts their



estimate into 2007 U.S. Dollars, resulting in an expected lifetime earnings of \$546,169 for the youth included in the analysis.

## APPENDIX H. ENHANCED SYSTEM APPROACH

Research shows that a random application of “model programs” does not necessarily produce desired outcomes. Stand-alone evidence-based programs are not likely to be effective if these practices are not integrated throughout the juvenile system. Only then will the implementation of model programs show positive outcomes.

This appendix explains the concepts behind a comprehensive approach to serving youths through integrated assessment, service planning, and case management. It begins with an explanation of what is known about effective approaches to reducing delinquent behavior, followed by an overview of an integrated case management model developed from critical research findings. Finally, it discusses implications for implementing the model successfully.

### What Works to Reduce Juvenile Offending

Research has documented a clear association between certain criminogenic factors (factors that increase the risk of crime) and a range of delinquent behavior. These factors include characteristics such as: involvement with a delinquent peer group, school problems, substance abuse, and lack of adequate parental involvement and discipline. The more of these factors a youth displays, the higher his or her risk, and the greater the probability of committing future delinquent acts.

In addition, research has identified “protective factors” such as engagement in school and pro-social activities outside of school that appear to buffer the youth from risk, and decrease the probability of future offending. As described later, having an assessment tool that measures specific risk and protective factors systematically is essential to developing an integrated assessment and case management system. Further, for rehabilitation efforts with youthful offenders to be successful (i.e., to reduce re-offending), factors that are connected with the delinquent behavior first need to be identified. Interventions should then address these factors (Borum, 2003) while strengthening protective factors.

Over the last two decades, research that explores the specific types of interventions that are most effective with juvenile offenders in reducing recidivism and substance abuse has been developed. Often referred to as the “*What Works*” literature, this research has been instrumental in creating a base of knowledge for juvenile justice practitioners. Specifically, it has provided convincing evidence of the following:

- **Punishment alone is ineffective:** Most forms of punishment, including short-term and long-term incarceration, electronic monitoring, boot camps, intensive supervision and other forms of sanctions, are not effective in reducing recidivism (Dowden & Andrews, 1999; Hoge, 2001; Lipsey & Wilson, 1998, Howell, 1997). Punishment can actually increase recidivism.
- **Treatment interventions are generally much more effective than punishment:** Meta-analyses, based on analyses of literally hundreds of research studies and program evaluations, demonstrate that, overall, treatments for juvenile delinquents reduce

delinquency by about 10 percent. However, the most successful programs typically show reductions in the range of 20 percent to 30 percent; some interventions have yielded up to a 40 percent reduction in recidivism.

- **Treatment based on individual criminogenic needs (risk factors) increases effectiveness:** By targeting treatment interventions based on an individual's assessed risk factors, the effectiveness of the intervention is increased.
- **Successful programs typically have focused on changing the youth's behavior through structured interventions:** Interventions that have been proven effective include structured skills training and skills development (i.e., practicing and perfecting skills), cognitive-behavioral based treatment, and structured and focused counseling guided by behavioral learning goals. Unstructured "talk therapy" is less effective in changing behavior.
- **Family-based therapies that include a cognitive-behavioral component have shown particular promise:** Programs such as Functional Family Therapy, Multi-Systemic Therapy, and Multi-Dimensional Therapeutic Foster Care that address the family system have been found to be effective in reducing teen substance abuse, violence, and substance abuse.
- **Treatment programs need to be of a *sufficient intensity and duration* to be effective:** In addition, programs that adhere to the "Risk Principle" are likely to have greater success. Higher-risk youth should be matched appropriately to longer, more intensive services and lower-risk youth may need little or no intervention.

Implementing an integrated model of case management is an effective way to harvest the potential of the best practices in the industry. This approach recognizes the importance of traditional supervision, while embracing a broader role for the case manager. Further, effective supervision helps to control behavior, allowing the youth to remain in the community and work on addressing key criminogenic needs related to the risk of future re-offending.

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# **IMPLEMENTATION AND ACTION PLAN – RAISING THE AGE OF JUVENILE COURT JURISDICTION**

## **IMPLEMENTATION AND ACTION PLAN - TABLE OF CONTENTS**

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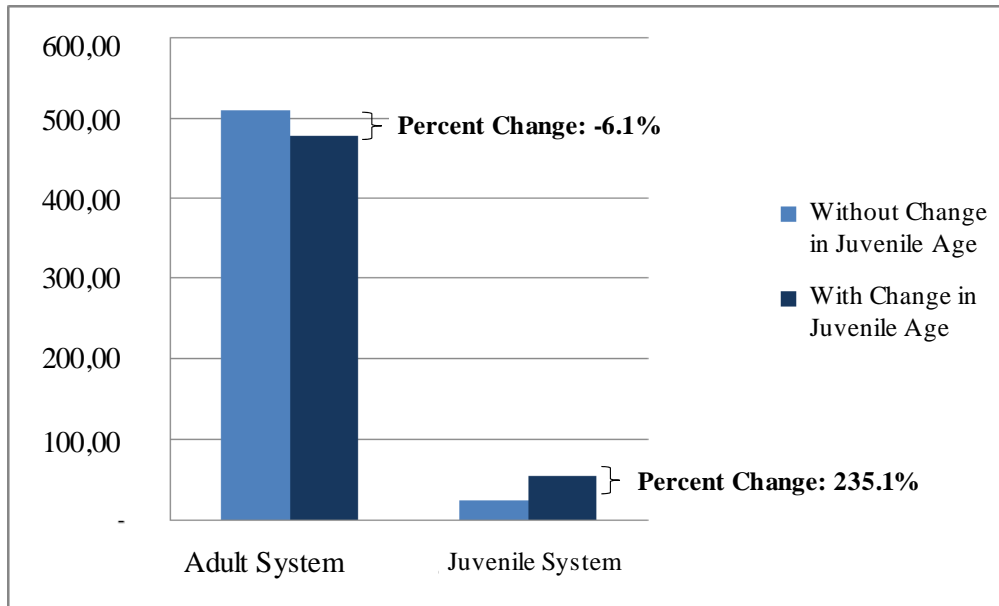
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## **Executive Summary**

Extending juvenile jurisdiction to persons 16 and 17 years of age would transfer approximately 30,000 arrests each year from the adult system to the juvenile system. Both systems incorporate a process that includes local law enforcement, adjudication, and sanction. As shown in Exhibit 1, the transfer has a significant impact on the juvenile system whose responsibilities nearly double while arrests processed through the adult system decrease by only 6.1 percent.

**Exhibit 1: Percent Change in Arrests by System with Change in Juvenile Age**



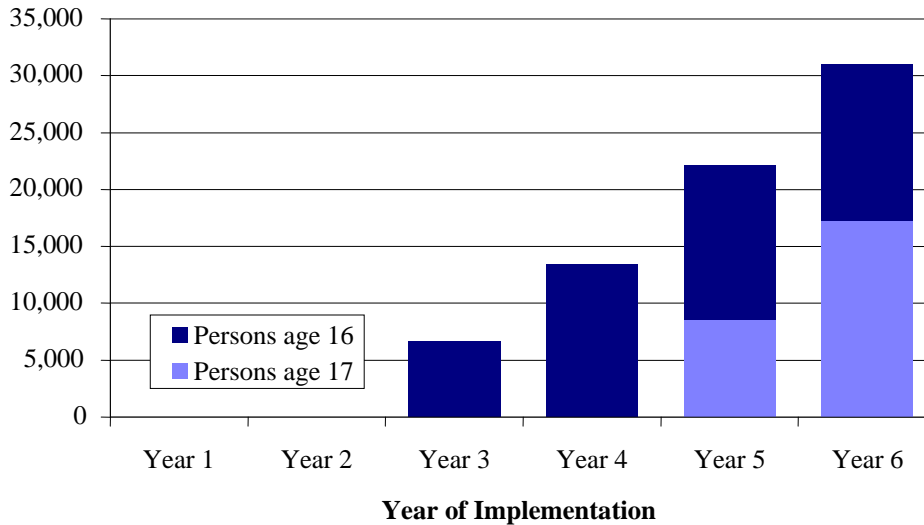
Source: The ESTIS Group, 2009

The entities that participate in the criminal justice process for juveniles and for adults would have to make adjustments to accommodate such a change. The change would affect capital expenditures and the annual operational costs for the Department of Juvenile Justice and Delinquency Prevention (DJJDP), the Department of Correction (DOC), the Administrative Office of the Courts (AOC), and local governments. The adjustments required to accommodate a change in age would be more significant for DJJDP and AOC than it would be for local law enforcement and DOC.

The organizational and operational changes need not occur all at once. According to House Bill 1441, which was introduced during the 2009 legislative session, the increase in the age of juvenile jurisdiction could be incremental, with discrete age groups entering the juvenile system each year over four years. The bill proposes that the change take place in half-year age increments starting two years after the passage of the law. The initial two years are for planning and preparation, while years three through six involve the actual transfer of persons 16 and 17 year of age from the adult to the juvenile system. Exhibit 2 offers an estimate of how many youth would be transferred each year.

## Exhibit 2: Entries into the Juvenile System

### Number of Persons



Source: The ESTIS Group, 2009

### Budgetary Impact of Raising the Age of Juvenile Jurisdiction

Because the cost of serving a person in the juvenile system is nearly 50 percent greater than it is in the adult system, raising the age of juvenile court jurisdiction would increase state budgetary expenditures.<sup>14</sup> If 30,000 persons were moved from the adult system to the juvenile system, the cost of serving each person would increase from approximately \$4,900 to approximately \$7,300, which from the perspective of a multi-year cost-benefit analysis translates to a net cost to state and local government of \$79.6 million. This includes costs incurred by local governments, AOC, DJJDP, and DOC, but does not include capital costs. Capital costs can range from \$5 million for a 30-bed detention facility to \$18 million for a 96-bed YDC.

### Cost Mitigation Strategies

To address the cost impact associated with transferring 30,000 arrests from the adult to the juvenile system, North Carolina should consider the following opportunities for reducing the budgetary impact of a change to the age of juvenile jurisdiction:

- **Implementation of evidence-based programming could help DJJDP achieve lower recidivism (reoffense) rates.** *If recidivism is reduced by 25 percent, by year 6 of implementation DJJDP could save an estimated \$20.4 million.*
- **Development of local incentives to reduce secure confinement use** could help DJJDP reduce its number-one cost driver— facility placement costs. *If initiatives are implemented, DJJDP could reduce its annual expenditures by approximately \$22.2 million by the end of Year 6.*

<sup>14</sup> Although State expenditures would increase, the Cost-Benefit Analysis, which is provided under separate cover, suggests that the overall societal benefit of raising the age could be positive if the Department of Juvenile Justice and Delinquency Prevention makes certain enhancements to its system to reduce costs and recidivism.

- **Limitation of secure detention use** would allow North Carolina to serve fewer persons in detention centers. *Thirty beds are currently needed to hold the 824 persons detained for undisciplined offenses annually. Operating costs for these beds is estimated at \$1.8 million per year. By limiting these types of detentions, North Carolina could eliminate a detention facility from its revised capital plan for a savings of about \$5 million.*

The implementation plan included in this report is built upon the assumption that these cost mitigation strategies are implemented.

### Operational and Capital Impacts

The increase in population served would affect DJJDP operations significantly. More persons would be processed through the juvenile court system and served by detention facilities, local Juvenile Crime Prevention Council-funded programs, court counselor supervision, and Youth Development Centers (YDC). Additional facility space would be needed, the availability of community programs and services must be expanded, and staff must be recruited and hired. DOC would have fewer persons to serve, but the reduction would be only a small percent of its total population. AOC court staff would have an increased workload, which would require additional staff to be hired.

#### DJJDP

DJJDP would be affected the most by a change to the age of juvenile court jurisdiction, as shown in Exhibit 3. It would need to build one YDC and three detention facilities, at a total cost of \$33 million. Its annual budget would increase by \$85.4 million by Year 6 to serve the additional persons under its supervision. To accommodate the additional youth, 557 court counselors are needed as well as 225 direct care staff at YDCs and detention facilities. In addition, DJJDP would need to hire eight trainers to provide initial training, at a cost of \$256,000 annually.

### Exhibit 3: DJJDP Capital, Staffing, and Operational Impact

Capital Impact and Facility Need		Staffing Impact	Operational Impact	
Type	Cost		Type	Cost
YDC	\$18M	557 court counselors	Personal Services	\$67.5M annually
Detention centers (3)	\$15M	225 direct care staff	Program Development	\$0.8M over 3 years
		8 staff trainers	Facility Operations	\$2.9M annually
Total	\$33M		Aid and Public Assistance	\$15.0M annually

To accommodate nearly 30,000 additional persons by Year 6, DJJDP would need 130 detention beds to accommodate 3,641 additional youth by Year 6 of implementation. The Department would also need 306 YDC beds to accommodate 444 persons 16 and 17 years of age by Year 6 of implementation. Some of these beds would need to be provided in a new facility; others could be provided in currently-operating facilities. In addition, court counselors would need 44,560 square feet of office space to accommodate an additional 557 court counselors by Year 6, assuming 80 square feet of space per person.

DJJDP must also develop programs in YDCs and in the community to serve older youth, expand current Juvenile Crime Prevention Councils (JCPC) programs, and develop new JCPC programs.

A tool linking these programs to the overall needs of individual youth (including criminogenic needs) would be also needed to ensure positive re-offense outcomes. In addition, community incentives for reducing secure confinement of committed youth must be developed and implemented.

#### *Department of Correction*

With 30,000 persons no longer being processed through the adult system, DOC would have reduced operating expenditures by approximately \$2.9 million annually. It would have an increase in prison and jail beds available, but would continue to use those for its adult population. The Department may be able to delay the building or expansion of a new prison as the result of gaining 457 vacant beds no longer occupied by persons who committed an offense at the age of 16 or 17. In addition, DOC would have a reduction in personal services expenditures for adult probation of \$2.4 million, as a result of decreased probation officer need.

#### *Administrative Office of the Courts*

AOC would need to hire an additional 138 staff, at an additional annual cost of \$9.2 million. An estimated 11 judges would be needed, along with 17 assistant district attorneys, 32 court support staff, 72 deputy and administrative clerks, and 6 assistant defenders. The additional staff could have an impact on facility needs in local communities (court rooms and office space). An analysis at the local level would be required to determine the specific facility needs for each location.

#### *Local Government*

Local government would need to provide 44,560 square feet of work space for additional court counselors at a cost of \$5.8 million. Local Government would also need to provide an additional \$3.4 million in JCPC match funds, based on current minimum matching rate requirements. Additional space may be needed to accommodate the court-related staff needed to address the transfer of persons 16 and 17 years of age from the adult to the juvenile system. A locally-based facility audit would be necessary to determine what local facility needs may result from changing the juvenile age.

#### **Summary**

Changing the age of juvenile jurisdiction would affect local governments in North Carolina, the AOC, DJJDP and DOC. A change would have its most significant impact on the capital and operating budgets for the DJJDP. Assuming the change is carried out over a 6 year period as suggested by House Bill 1441, DJJDP's operating budget would increase by \$85.4 million by year 6 of the implementation and would require the construction of one Youth Development Center (YDC) and three Detention Centers. This plan is based on the assumption that North Carolina implements the cost mitigation strategies recommended in this report. These strategies should have the effect of reducing recidivism, improving outcomes, and reducing the need for secure bed space in detention centers and YDCs. The state and local government budgetary impact of the proposed change in the age of juvenile jurisdiction is summarized in Exhibit 4.

**Exhibit 4: Incremental Budgetary Adjustments required to Accommodate Operational Budget, by Year**

Budget Category	Yearly Budget Adjustment (in Millions)						Total Budget Adjustment by Year 6
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	
DJJDP	\$1.0	\$1.3	\$20.9	\$20.6	\$23.6	\$22.5	\$85.4
Personal Services			14.3	16.6	18.7	17.5	67.5
<i>Court Counselors</i>			6.8	7.0	8.9	9.1	31.8
<i>YDC</i>			5.9	8.0	7.7	6.3	27.9
<i>Detention</i>			1.6	1.6	2.1	2.1	7.4
<i>Training Staff</i>		0.4					0.4
Facility Operations			0.8	0.7	0.7	0.7	2.9
<i>YDC</i>			0.6	0.6	0.6	0.5	2.3
<i>Detention</i>			0.1	0.1	0.2	0.2	0.6
Program Development	*0.2	*0.3	*0.3				*0.8
Aid and Public Assistance			3.2	3.3	4.2	4.3	15.0
<i>JCPC Allocations</i>			3.2	3.3	4.2	4.3	15.0
DOC			(\$1.2)	(\$1.2)	(\$1.5)	(\$1.5)	(\$5.3)
Personal Services			(0.5)	(0.5)	(0.7)	(0.7)	(2.4)
Facility Operations			(0.7)	(0.7)	(0.8)	(0.8)	(2.9) <sup>15</sup>
AOC			**	\$4.1	**	\$5.1	\$9.2
Personal Services				4.1		5.1	9.2
Local Government			\$0.9	\$0.9	\$0.9	\$0.9	\$3.4
JCPC Match Funds			0.8	0.8	0.9	0.9	3.4
* These would be one-time allocations and would not be recurring annual costs at Year 6 of implementation							
** This estimate is based on the assumption that current staff can accommodate Year 3 additions to the system							

Source: The ESTIS Group, 2009

<sup>15</sup> Annual cost reductions to DOC related to a decrease in needed prison beds could range from \$0 to \$19.5 million. This estimate reflects an assumption that persons currently served in jails would be served in the prison space made available by the transfer of persons ages 16 and 17 to the juvenile system. See *DOC Action Steps and Implementation Plan* section for more information.

## **Introduction**

During its 2008 legislative session, the North Carolina General Assembly requested a report addressing on-going discussions about the appropriate ages of juvenile court jurisdiction in North Carolina. The Sentencing and Policy Advisory Commission had previously presented the “Report on Study of Youthful Offenders Pursuant to Session Law 2006-248, Sections 34.1 and 34.2” to the General Assembly in March of 2007 and recommended that the maximum age of initial juvenile court jurisdiction be raised to 17. In Section 18.1.(a) of North Carolina Session Law 2008-107, the Governor’s Crime Commission (GCC) was charged with conducting a review of the “legal, systematic, and organizational impact of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention to include persons 16 and 17 years of age...”

Commentators on the issue of the juvenile age in North Carolina have noted several concerns with transferring person 16 and 17 years of age from the adult to the juvenile system. The transfer would double the number of persons under the supervision of the Department of Juvenile Justice and Delinquency Preventions (DJJDP). If implemented now, a change in the juvenile age would come amidst a number of changes in the juvenile justice system including the creation of a separate department in 2001 and the introduction of a new therapeutic model for secure placements. On the other hand, the transfer would reduce the number of persons under the supervision of the Department of Correction. The reduction would make prison bed space available that could delay the anticipated need for new prison construction as a result of population growth projections.

The specific scope of inquiry outlined in the legislation initiating the GCC review of the impact of a change to juvenile court jurisdiction includes the following:

- (1) Identify the costs to the State court system and State and local law enforcement.
- (2) Review the relevant State laws that should be conformed or amended, including, but not limited to, the motor vehicle and criminal laws, the laws regarding expunction of criminal records, and other juvenile laws.
- (3) Review the experience of any other states that have expanded the juvenile justice jurisdiction to 16- and 17-year-olds in recent years.
- (4) Identify the practical issues for DJJDP to implement best practices for programs and facilities that would meet the unique needs of the older youth under the proposal without adversely affecting the existing departmental programming.
- (5) Review the relevant State laws on sharing of juvenile information with other State departments and agencies.
- (6) Create a specific plan of the actions that are necessary to implement the expansion of the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention.
- (7) Determine the total cost of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention.
- (8) Conduct a cost benefit analysis of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention with specific information on possible future fiscal savings anywhere within State government as a result of expenditures necessary to implement the expansion.

- (9) Determine whether federal or other funds are available to aid in the transition and expansion, or both, of the age of juvenile jurisdiction to 16- and 17-year-olds.

GCC solicited proposals from qualified companies to perform the following scope of work:

- **Analysis of Total Cost** – The estimated cost (a) to the State court system, (b) state and local law enforcement and (c) the Department of Juvenile Justice and Delinquency Prevention to operate a juvenile justice system that would be expanded and revised to include juveniles aged 16 and 17. The analysis should include the estimated savings to these agencies and the Department of Correction in prisons, community corrections, and other services to these youthful offenders. The analysis should include an alternative cost analysis that assumes only juveniles aged 16 would be included in the juvenile justice system.
- **Cost/Benefit Analysis** – A comparison of long term cost and benefits of raising the juvenile age. This includes identifying the cost of serving these youth in the adult system compared to the juvenile system to determine a net current cost of raising the juvenile age to 16 and 17. Interagency funding transfers should be noted. The analysis should include future benefits such as reduced recidivism for juveniles aged 16 and 17 if handled in the juvenile system and any other benefits of evidence-based programs for juveniles. This analysis should clearly set out current studies on which such forecasts are based including the source and methodology.
- **Issue and Service Analysis** – Identification of the issues to be addressed to provide effective services and programs to 16 and 17 year olds in the juvenile system. This includes identifying the population to be served, analyzing current service quality and service gaps, and recommending changes in services and programs. Recommendations should focus on the use of evidence-based programs as evaluated in the national juvenile literature and by other states.
- **Action and Implementation Plans** – An outline of the short and long term plans for implementing changes needed to prepare the State for raising the juvenile age. This includes action plans, key steps, and schedules for the courts, law enforcement, juvenile justice and corrections and a recommended organization or committee responsible for refining these plans and overseeing implementation.
- **Legal Analysis** – Analysis will be provided to the consultant regarding relevant North Carolina state laws that should be conformed or amended to implement expanded juvenile jurisdiction, including motor vehicle and criminal laws. The consultant should incorporate these in the report with recommendations for the sequence and timing of implementation. The consultant shall review any federal legal compliance issues under federal law.

This report addresses the Analysis of Total Cost, Issue and Service Analysis and the Action and Implementation Plans noted in the scope of work. It provides an implementation plan necessary for transferring persons 16 and 17 years of age from the adult criminal justice system to the

juvenile system in North Carolina. The report includes a discussion of opportunities for reducing the cost of the juvenile justice system, operational and capital costs to State courts, State and local government, and State and local law enforcement, lessons learned from other states' experiences with changing the age of juvenile jurisdiction, the estimated operational impact of implementing the change, and key action items to implement the change. A section of this report addresses some of the legal issues of changing the age of juvenile jurisdiction. A formal Legal Analysis is included under separate cover.

It is important to note that the dollars and operational data presented in this report may differ from those presented in the Cost Benefit Analysis report; they are not intended to be the same. The cost estimates included in this document are estimates of annual operating budgetary impacts. The budgetary estimates reflect the changes that must be made to the system on an annual basis to serve persons 16 and 17 years of age rather than the overall cost of serving them. In addition, the costs in this report are estimated using population projections for the juvenile population and show the impact of implementing the change incrementally for the following age groups: younger than 16 1/2, younger than age 17, younger than age 17 1/2, and younger than 18. The costs included in the Cost Benefit Analysis report are costs and benefits associated with a cohort of approximately 30,000 persons 16 and 17 years of age arrested in a given year. The costs associated with this cohort occur primarily in the first year persons are served but also include costs incurred two and three years after arrest.

The report is organized as follows:

Background: Provides an overview of the transition requirements and the timeline as set in House Bill 1441. It also includes a description of the stakeholders that would experience capital and operational effects with a change in the juvenile age and provides an overview of the results of the cost-benefit analysis of the budgetary impact of raising the age of juvenile jurisdiction.

Cost Mitigation Strategies for Implementation: Provides descriptions of the cost mitigation strategies that North Carolina should consider as it moves forward with implementation of a change to juvenile court jurisdiction.

Action Steps and Implementation Schedule Overview: Explains the assumptions used for the implementation plan. It also provides a discussion of the operational costs and other resource adjustments of affected entities and applies them to the six-year implementation timeframe.

Action Steps and Implementation Schedule: Action steps related to facility needs, human resources impact, capital costs, and operational costs are listed separately for each agency and for local government. In addition, the section outlines the short- and long-term plans for implementing changes needed to prepare the State for raising the juvenile age.

Issues, Service Analysis, and Legal Considerations: Provides areas for consideration prior to changing the age of juvenile court jurisdiction and a legal analysis of federal compliance concerns associated with changing the age of juvenile jurisdiction.

Lessons from Connecticut and Illinois Implementation: Describes the policy and planning decisions made by other states that raised the age of juvenile jurisdiction.



Additional appendices include a description of financial incentives used in other states to reduce the use of secure confinement, annual and total budget costs of implementing a change for persons 16 years of age only, and implementation information from the Washington Institute for Public Policy.

## **Background**

This transition plan is one component of the information the General Assembly requested as a part of its deliberations over the proposal to change the age of juvenile court jurisdiction in North Carolina. House Bill 1441, which was introduced during the 2009 legislative session, proposes that a change in the age for juvenile court jurisdiction take place over a six-year period in half-year age increments. Two of the six years would be dedicated to planning and preparation, while years three through six would be dedicated to the transition of persons 16 and 17 years of age to the juvenile system. This planning document is based on the assumption that if a change to the age of juvenile jurisdiction is implemented, it would occur over six years in the same manner as outlined in House Bill 1441. The legislation implements the change in years 2010 through 2015; however, in case the time frame changes, this report refers to the years of implementation as “Year 1” through “Year 6” to ensure the continued utility of this report for decision-makers. If persons 16 and 17 years of age were to be served in the juvenile justice system instead of the adult system, the number of youth served by the juvenile system would approximately double. Such a significant transfer of service provision requires extensive planning. This report presents a framework for the transfer of service over a six-year period. In addition to summarizing the capital and operational changes needed, this report provides a summary of budgetary requirements, strategies for mitigating implementation costs, action steps for implementing a change, a timeline for action, and lessons learned from other states.

## **Stakeholders for Changing the Age of Juvenile Jurisdiction**

State government agencies and local governments would be affected by the implementation of an increase to the maximum age of initial juvenile court jurisdiction. State entities would have the greatest fiscal, capital, and operational responsibilities for implementing the change. State agencies affected include the Department of Juvenile Justice and Delinquency Prevention (DJJDP), the Department of Correction (DOC), and the Administrative Office of the Courts (AOC). Local governments would have additional expenditures if the change were implemented; local law enforcement officers’ daily operations would also be affected.

## **DJJDP**

In fiscal year 2008, DJJDP spent \$153.4 million to provide delinquency, protective, and prevention services to the approximately 15,000 juveniles under its supervision. Services provided to delinquent youth include detention, diversion programs and commitment alternatives (e.g., residential programs, clinical treatment, and structured day programs), secure confinement in Youth Development Centers (YDCs), and community supervision. DJJDP operates 9 YDCs and 9 detention facilities (counties operate 3 detention facilities). In fiscal year 2008, DJJDP had approximately 1950 full-time equivalent positions. The positions included approximately 500 direct care staff to supervise youth in YDCs and detention facilities and nearly 500 court counselors who processed court cases and provided court-ordered supervision.

## **Department of Correction**

DOC provides secure confinement services and community supervision services to persons convicted in Superior and District Courts, including persons committing crimes while 16 or 17 years of age. Secure confinement is primarily provided to these offenders in the Western Youth Institution, which also serves some offenders that were older than age 17 at the time of offense. The facility’s annual budget of \$19.6 million is approximately 2 percent of DOC’s annual

budget. DOC operates 79 prisons with approximately 38,000 inmates; the Western facility capacity (785) is only 2.0 percent of the total prison population.

### **Administrative Office of the Courts**

AOC administers the budget for entities associated with court operations. It also administers personal services expenditures related to court personnel such as judges, district attorneys, public defenders, clerks, and support staff. Offenders 16 and 17 years of age that are prosecuted for criminal offenses are primarily served by District Courts, and a small proportion is served in Superior Courts (most often those who are charged with felonies). Juvenile cases are processed separately in District Court. In fiscal year 2007, the Superior Court expended approximately \$37.1 million and the District Court expended \$78.7 million to serve adult and juvenile offenders.

District Courts and Superior Courts are served by 256 and 109 judges, respectively. Cases in North Carolina are prosecuted by 42 District Attorneys and 571 Assistant District Attorneys. Indigent offenders are served by 14 public defenders, 200 assistant public defenders, 1 juvenile defender, and contracted services from attorneys. Juvenile offenders are presumed indigent and many offenders 16 and 17 years of age are indigent.

### **Local Government**

In North Carolina, local governments are responsible for providing office space to DJJDP court counselors and match funds for locally operated community programming managed by Juvenile Crime Prevention Councils (JCPCs). In fiscal year 2008, local governments paid \$9.7 million in match funds to provide services to delinquent youth or to youth who were accused of a delinquent offense but whom were diverted away from court prosecution.

Local governments also bear the cost of local law enforcement. Law enforcement officers arrest persons accused of committing a crime or a delinquent offense, hold juveniles until their parents can pick them up, and transport some juvenile offenders to juvenile detention centers or to their homes.

### **Budgetary Impact of Raising the Age of Juvenile Jurisdiction**

Because the cost of serving a person in the juvenile system is 50 percent greater than it is in the adult system, changing the age of juvenile court jurisdiction would increase state budgetary expenditures. If approximately 30,000 persons were moved from the adult system to the juvenile system, the cost of serving each person would increase from approximately \$4,900 to approximately \$7,300, which, according to the results of a multi-year cost-benefit analysis, would result in an additional cost to State and local government of \$79.6 million. This includes costs incurred by DJJDP, DOC (for youth transferred to the adult system), AOC, and local governments, but does not include capital costs. This cost estimate assumes that a change in the juvenile age happens in a single year without any capital costs, investments in program development, or modifications to current services. Capital costs can range from \$5 million for a 30-bed detention facility to \$18 million for a 96-bed YDC.

To make implementation of a change to juvenile jurisdiction more feasible, several strategies aimed at reducing these costs are presented in the section that follows.

## **Cost Mitigation Strategies for Implementation**

This section describes opportunities for reducing the costs associated with changing the age of juvenile jurisdiction based on other states' experiences. North Carolina State agencies that would stand to benefit from these cost mitigation strategies include the Department of Juvenile Justice and Delinquency Prevention (DJJDP) and the Administrative Office of the Courts (AOC).

The implementation plan included in this report is based on the assumption that all of the cost mitigation strategies would be implemented. Changes include implementing evidence-based practices, employing a financial incentive system to reduce secure confinement use, and eliminating the use of secure detention for undisciplined youth. A discussion of an additional strategy that could be used to reduce the burden placed on local law enforcement by a change to juvenile court jurisdiction is also included.

### **Evidence-Based Practices**

The implementation of evidence-based practices that employ proven programs can help DJJDP achieve lower recidivism (re-offense) rates. Incorporating evidence-based practices throughout an organization is a combination of providing the programs that are proven to have positive outcomes and ensuring that youth receive only the services they need, as suggested by the results of needs assessments. Providing youth with services not tailored to their needs may have a negative effect on their future outcomes (including the potential to re-offend); providing services to youth who do not demonstrate sufficient need may be damaging as well.

If DJJDP is able to reduce recidivism rates, the system will pay less to detain, supervise, and confine persons. A number of evidence-based programs for juveniles have shown a significant reduction in recidivism, including multi-systemic therapy, functional family therapy, and aggression replacement therapy. A recent study by the Washington State Institute for Public Policy has shown reductions in recidivism from the use of these programs of up to 38.1 percent. If the State were to implement the programs along with integrated case management to ensure that youth only receive the most appropriate services, the overall re-arrest rate could be reduced from 41 to 31.5 percent.

*If DJJDP implements evidence-based programs and reduces recidivism by 25 percent, by year 6 of implementation the Department could save an estimated \$20.4 million. As shown in Exhibit 5, a 25 percent reduction in recidivism (which yields about a 5 percent reduction in total arrests per year among juveniles) reduces the number of YDC beds needed in Year 6 by 45.*

### **Local incentives to Reduce Secure Confinement**

Other states have used financial incentive structures to reduce the number of commitments served in secure confinement. Implementation of a similar structure could significantly reduce the costs incurred by DJJDP, as YDC confinement is one of the primary cost drivers of implementing a change to juvenile court jurisdiction. Despite only being used as a disposition for about 2 percent of the juveniles, YDC commitment costs DJJDP more than any other service annually (32 percent of total expenditures in fiscal year 2008). YDC placement costs nearly 25 times the amount to provide community-based services.

States that have had success in reducing use of secure commitment through financial incentive structures include Illinois, Ohio, Pennsylvania, and Wisconsin. Additional states, such as New York, are also in the process of doing so. In Pennsylvania, counties bear part of the fiscal burden of housing youth in State institutions and the State provides a set level of reimbursement. Illinois supplies funds to local governments to operate or pay program providers for local programs for delinquent youth. Ohio allows local governments to prioritize and manage the use of a funding allocation each year on either community or secure facility services. (See *Appendix A* for additional information on the incentive structures).

Illinois has achieved its goal of reducing confinement by 25 percent in eight pilot counties over the past two years through the Redeploy Illinois program. Illinois has decided to implement Redeploy Illinois statewide as of this year. If North Carolina achieved such a reduction, it could reduce the cost of serving committed youth by 4 percent—\$22.2 million annually by Year 6 at a savings of around \$100,000 per year per bed. Counties opt in to the program and agree to reduce the number of secure commitments by 25 percent of the average number sent in the prior 3 years. In turn, the State provides counties with funding to serve the population with alternative programs. In four pilot sites, 382 youth were diverted from secure commitment within three years, which saved \$18.7 million in avoided construction costs.

*If this initiative were implemented in North Carolina and a 25 percent reduction in secure commitments was achieved, DJJDP could reduce annual expenditures by approximately \$22.2 million by the end of Year 6. The number of beds needed would reduce by 219—equivalent to more than 2 96-bed YDCs, as shown in Exhibit 5.*

**Exhibit 5: Bedspace Impact of Cost Mitigation Strategies**

<b>Initial Estimate of Bedspace Need in Year 6</b>	<b>876</b>
Persons 10-15	469
Persons 16-17	407
<b>Impact of Cost Mitigation Strategies</b>	<b>(264)</b>
Evidence-based programs	(45)
Local incentives	(219)
<b>Updated Estimate of Bedspace Need in Year 6</b>	<b>612</b>

Source: The ESTIS Group, 2009

**Limitations on Use of Secure Detention**

North Carolina could revise its statute to eliminate the use of secure detention for undisciplined persons. Currently, North Carolina holds approximately 800 undisciplined youth in secure detention annually. Undisciplined offenses are those that would not be considered criminal if they were committed by an adult. Other states, such as California, Delaware, Iowa, and Massachusetts, do not permit secure detention of these types of offenders. If North Carolina eliminated use of detention for undisciplined persons, detention entries would decrease by 10 percent.

*Thirty beds would be needed to hold the 824 persons detained for undisciplined offenses. Operating costs for these beds is estimated at \$1.8 million per year. Implementation of this detention limitation would allow North Carolina to serve additional youth in its current facilities*

*rather than build an additional facility. At capital costs of about \$5 million to build a detention facility, this represents a significant savings.*

### **Modify Custody Requirements for Persons 16 and 17 Years of Age**

In North Carolina, juvenile offenders must be released after arrest either to the custody of a parent/guardian or to State custody in a juvenile detention center. Local law enforcement departments report that a significant amount of time is spent supervising juvenile offenders while they wait for parents to pick them up or for transportation to a detention center.

Law enforcement also reported concerns with supervising juvenile offenders when legislators in Connecticut were debating a change to the age of juvenile jurisdiction. Current legislation in Connecticut proposes a “non-custody order” to allow the release of juvenile offenders on their own recognizance, which minimizes the number of persons needing transportation or requiring supervision while waiting for a parent/guardian to arrive. To ensure that offenders released on non-custody make their court dates, Connecticut legislation proposes that an additional delinquent charge be created for persons released on non-custody that miss their court date. Although this policy option does not affect the State budget, North Carolina decision-makers should consider it because it reduces the workload of local law enforcement.

## **Overview of Action Steps and Implementation**

Proposed legislation (House Bill 1441) would implement a change to the age of juvenile jurisdiction over a period of four years, in half-year age increments after a two-year planning period. Both state and local government would be affected. During these six years, operational infrastructure and fund sources would need to be developed. Capital costs and expenditure requirements would also need to be defined and planned. This section describes assumptions, cost estimates, and resource adjustments that would be needed to implement a change to the age of juvenile jurisdiction.

The sections that follow include a discussion of the facility impacts and operation costs required for each entity implementing a change to the age of juvenile court jurisdiction. In addition, there are action steps and an implementation schedule for each entity.

### **Assumptions**

The implementation plan is based on the following assumptions:

- DJJDP implements evidence-based practices and all cost mitigation strategies.
- 6-year implementation in half-year age increments (less than 16 ½, 17, 17 ½, 18).
- The youth to direct care staff ratio at YDCs is 4 to 1, consistent with the therapeutic model.
- YDC facilities built would be the 96-bed model (used for Cabarrus YDC) where possible.
- Workspace required for court counselors is 80 square feet per counselor.
- Facility beds would be provided by building new facilities and not retrofitting old ones.
- Western Youth Institution remains under DOC operation.

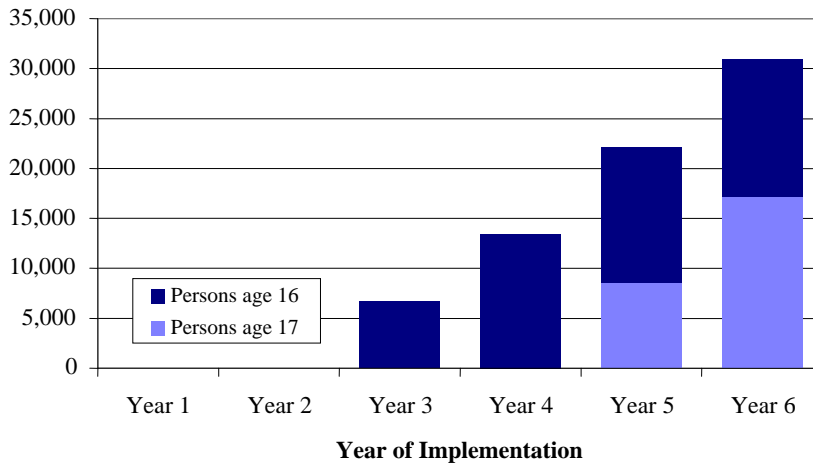
These assumptions have been used to calculate the operational cost and impact.

### **Impact of Implementation**

A change to the age of juvenile jurisdiction would affect the annual operational costs for DJJDP, DOC, AOC, and local governments, as it represents a transfer of approximately 30,000 persons from the adult system by Year 6. As shown in Exhibit 6, the transfer is incremental with discrete age groups entering the juvenile system each year over four fiscal years. The change would result in additional facility and human resources needs, and capital and operational cost increases.

## Exhibit 6: Entries into the Juvenile System by Fiscal Year

### Number of Persons



Source: The ESTIS Group, 2009

By Year 6 of implementation, DJJDP would require an additional \$85.4 million for personal services, facility operations, and aid and public assistance, as shown in Exhibit 7. DJJDP would also incur program development costs in Year 1 through Year 3 totaling \$0.8 million. These would be one-time costs. DOC would experience a reduction in costs totaling \$5.3 million by Year 6 of implementation owing to a reduction in its prison population and a reduction in need for probation officers. AOC would require an additional \$9.2 million for personal services by Year 6 of implementation. Local governments would require an additional \$3.4 million by Year 6 of implementation for JCPC matching funds. (See *Appendix B* for the annual and total budget costs of implementing the change for persons 16 years of age only).



**Exhibit 7: Incremental Budget Adjustments needed to Accommodate Operational Budget, by Year**

Budget Category	Yearly Budget Adjustment (in Millions)						Total Budget Adjustment by Year 6
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	
DJJDP	\$1.0	\$1.3	\$20.9	\$20.6	\$23.6	\$22.5	\$85.4
Personal Services			14.3	16.6	18.7	17.5	67.5
<i>Court Counselors</i>			6.8	7.0	8.9	9.1	31.8
<i>YDC</i>			5.9	8.0	7.7	6.3	27.9
<i>Detention</i>			1.6	1.6	2.1	2.1	7.4
<i>Training Staff</i>		0.4					0.4
Facility Operations			0.8	0.7	0.7	0.7	2.9
<i>YDC</i>			0.6	0.6	0.6	0.5	2.3
<i>Detention</i>			0.1	0.1	0.2	0.2	0.6
Program Development	*0.2	*0.3	*0.3				*0.8
Aid and Public Assistance			3.2	3.3	4.2	4.3	15.0
<i>JCPC Allocations</i>			3.2	3.3	4.2	4.3	15.0
DOC			(\$1.2)	(\$1.2)	(\$1.5)	(\$1.5)	(\$5.3)
Personal Services			(0.5)	(0.5)	(0.7)	(0.7)	(2.4)
Facility Operations			(0.7)	(0.7)	(0.8)	(0.8)	(2.9) <sup>16</sup>
AOC			**	\$4.1	**	\$5.1	\$9.2
Personal Services				4.1		5.1	9.2
Local Government			\$0.9	\$0.9	\$0.9	\$0.9	\$3.4
JCPC Match Funds			0.8	0.8	0.9	0.9	3.4
* These would be one-time allocations and would not be recurring annual costs at Year 6 of implementation							
** This estimate is based on the assumption that current staff can accommodate Year 3 additions to the system							

Source: The ESTIS Group, 2009

**Statewide Action Plan**

Statewide policy and oversight of a change to the age of juvenile court jurisdiction is ultimately the responsibility of the General Assembly. The General Assembly has two primary tasks related to raising the juvenile age:

- Creating an Implementation Council to oversee and coordinate the change
- Considering and voting on matters affecting long-term secure bed needs for the State

*Step 1: Create Implementation Council*

The proposed change requires the participation of the legislative, executive, and judicial branches. To oversee the implementation of the change, the General Assembly should create an Implementation Council composed of representatives from among the following:

<sup>16</sup> Annual cost reductions to DOC related to a decrease in needed prison beds could range from \$0 to \$19.5 million. This estimate reflects an assumption that persons currently served in jails would be served in the prison space made available by the transfer of persons ages 16 and 17 to the juvenile system. See DOC Action Steps and Implementation Plan section for more information.

- DJJDP
- DJJDP Court Services
- DJJDP Community Programs
- DJJDP Property and Construction
- Department of Health and Human Services
- DOC
- DOC Division of Prisons
- Administrative Office of the Courts
- Department of Crime Control and Public Safety
- District Court
- Superior Court
- District Attorneys
- Local law enforcement
- Department of Public Instruction
- Governor's Crime Commission
- Senate, House of Representatives
- Juvenile justice advocacy groups
- Juvenile program service providers
- Sentencing and Policy Advisory Committee
- Juvenile Defender's office (Indigent Defense Services)

The purpose of this group is to oversee and coordinate the implementation of the change across all three branches of government. The General Assembly should require that this group report to it on a regular basis to provide updates to legislators and the public on the status of the implementation plans for changing the age of juvenile court jurisdiction.

*Step 2: Launch state-wide collaborative effort to change the incentive structure*

Assuming that the State decides to consider giving local governments an incentive to serve youth in local community-based programs, the Implementation Council would need to launch a statewide effort to gather input and ideas. Because a change to the incentive structure for local governments would have a broad and lasting impact, the Council should create a formal process for gathering input from across the State. The process would provide input to the ultimate legislative proposal to create the incentives.

*Step 3: Launch first four pilot sites*

Working through DJJDP, the Implementation Council would solicit proposals from counties or judicial districts that want to participate in the pilot phase for the new incentives program. DJJDP would select the four sites and begin implementation on a limited basis. A pilot site could consist of one or more counties. At the end of the first year, the Council would receive a report from DJJDP on the performance of the pilot sites and would consider modifications to the program accordingly.

*Step 4: Launch second four pilot sites*

In Year 3 the Implementation Council would solicit another four sites. At the end of the second pilot period, DJJDP would prepare and present a report to the Council on the performance of the

second set of pilot sites and the results of any modifications made to the program after the first pilot.

*Step 5: Roll out new incentive structure across the State*

After two years of launching and evaluating two sets of four pilot sites, the Implementation Council would roll out the new incentive structure across the State.

*Step 6: Consider/vote on additional policies related to changing the age of juvenile jurisdiction*

Prior to developing a 6-10 year capital plan, the General Assembly should consider legislation that can reduce the number of secure beds needed for detention and commitment. Among the legislative changes that should be considered in the first year of implementation is one that encourages local governments to serve youthful offenders in their local communities rather than sending them to the State for secure confinement. This implementing legislation would also set up the pilots suggested in Steps 3 and 4 above.

The General Assembly may generate suggested changes on its own, but other suggestions can be prepared and submitted by DJJDP based on its ongoing efforts to reduce costs and improve service. One of the legislative proposals to be considered would come from the process outlined in Steps 2 through 5 above.

In addition to legislation that will have an impact on capital construction decisions, the General Assembly should address relevant North Carolina laws that should be conformed or amended to implement a change to the age of juvenile jurisdiction. These include the issues raised in the legal analysis provided by Professor Janet Mason of the University of North Carolina School of Government.

**Exhibit 8: Statewide Implementation Schedule**

Action Item	Fiscal Year of Implementation					
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
<b>1 Implementation Council</b>	[Yellow]					
<b>2 Collaborative Effort</b>	[Yellow]	[Grey]	[Grey]	[Grey]	[Grey]	[Grey]
<b>3 1st Pilot Sites</b>	[Grey]	[Yellow]	[Grey]	[Grey]	[Grey]	[Grey]
<b>4 2nd Pilot Sites</b>	[Grey]	[Grey]	[Yellow]	[Grey]	[Grey]	[Grey]
<b>5 Statewide Rollout</b>	[Grey]	[Grey]	[Grey]	[Yellow]	[Yellow]	[Yellow]
<b>6 Consider/Vote Policy</b>	[Grey]	[Yellow]	[Yellow]	[Grey]	[Grey]	[Grey]

## **DJJDP Action Steps and Implementation Plan**

With a change to the juvenile age, the most significant annual budget increase for DJJDP would be associated with staffing YDC and detention facilities. DJJDP would also incur capital costs to create additional bed space for YDC and detention placements. Court counselors would be needed in increasing numbers each year to process cases and supervise youth. Unlike other agencies, DJJDP would also have program development costs associated with implementing the change. Specifically, these program development costs would be needed to implement evidence-based practices and financial incentives for reducing the use of secure commitment.

### **Facility Impact**

DJJDP would need facility space for secure commitment in YDCs as well as detention placement to handle several hundred persons 16 and 17 years of age who are now supervised by the Department of Correction. The Department's expected needs for beds and new facilities are discussed below.

### **Youth Development Centers**

The implementation of cost mitigation strategies would result in a need for 612 beds total for the juvenile system by Year 6. DJJDP would need 306 YDC beds to accommodate the estimated 444 persons 16 and 17 years of age requiring secured placement by Year 6 of implementation. Only 80 of these beds, however, are new construction. The remaining 226 beds can be provided in existing facilities. As a result of fully staffing the new facilities that are currently operating under capacity<sup>17</sup> and implementing cost mitigation strategies, beds in current facilities could be made available to additional youth.

<b>Resource Needed</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>	<b>Year 6</b>	<b>Total by Year 6</b>
YDC beds	88	80	79	59	306
New Persons served	127	117	115	85	444
Detention Center beds	28	29	36	37	130
New Persons Served	781	799	1,019	1,043	3,641

Source: The ESTIS Group, 2009

To serve the new population in Year 3, 88 YDC beds would be needed. As shown in Exhibit 9, the number of beds needed in subsequent years would decrease owing to the implementation of initiatives to reduce the use of YDCs for committed youth. By Year 6, the transfer of persons 16 and 17 years of age to DJJDP would create a need for 306 beds, some of which would be provided in new facilities but most of which would be provided through existing facilities.

Assuming continued use of DJJDP's current therapeutic model, one new 96-bed facility would be needed to accommodate the increased population by Year 6. This facility would have 16 more beds than the State needs; however, the therapeutic model would allow for a wing of the facility to be closed and unstaffed until it is needed.<sup>18</sup> As shown in Exhibit 10, the facility would not be

<sup>17</sup> Cabarrus, Edgecombe, and Lenoir YDCs.

<sup>18</sup> The assumption is that, due to population growth, these beds would be needed.

needed until Year 4 of implementation, and it would not be fully occupied during the first three years that it is in operation. See Exhibit 10 for more details about the total number of beds needed to serve delinquent youth in Year 3 through Year 6.

**Exhibit 10: Total YDC Beds Needed, by Year**

Facility	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
C.A. Dillon	125	125	125	125	125	125
Cabarrus	24	24	80	96	96	96
Chatham	32	32	32	32	32	32
Dobbs	69	69	69	69	69	69
Edgecombe	16	16	32	32	32	32
Lenoir	16	16	32	32	32	32
Samarkand	32	32	32	32	32	32
Stonewall Jackson	71	71	71	71	71	71
Swannanoa	48	48	48	48	48	48
New Facility 1				16*	56*	80*
<b>Total Beds Needed</b>	<b>428</b>	<b>428</b>	<b>517</b>	<b>553</b>	<b>593</b>	<b>612</b>
<b>Current Beds</b>	<b>433</b>	<b>433</b>	<b>524</b>	<b>537</b>	<b>436</b>	<b>436</b>
<b>New Beds</b>				<b>16</b>	<b>56</b>	<b>176</b>

Source: The ESTIS Group, 2009

**Detention Centers**

DJJDP would also need to provide additional bed space for juvenile detention. DJJDP would need 130 detention beds to accommodate 3,641 additional youth detained by Year 6 of implementation. Three new facilities would be needed to accommodate 104 of the 130 beds: one 32-bed<sup>19</sup> and two 36-bed facilities. The remaining 26 beds can be accommodated in current DJJDP detention facilities, assuming implementation of the cost mitigation strategy to limit the use of secure detention. As shown in Exhibit 11, the new detention facilities would be needed in Years 4 through 6. A total of 376 (new and existing) detention beds would be required to serve the entire juvenile population by Year 6.

To fulfill the need for additional detention beds, North Carolina can either place persons 16 and 17 years of age in juvenile detention facilities, which would require building or retrofitting existing facilities, or continue to detain persons 16 and 17 years of age in local jails. The facility needs have been calculated with the assumption that persons 16 and 17 years of age would be served in juvenile detention facilities. Given the relatively high cost of retrofitting, new facilities would need to be created. If DJJDP builds the new facilities in areas that lack a detention facility, it may be able to reduce state and local costs of transporting youth to and from detention.

<sup>19</sup> DJJDP’s largest detention facility has 30 beds; however, it would have to build at least four facilities at this size.

**Exhibit 11: Total Juvenile Detention Beds Needed, by Year**

Facility	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Alexander	24	24	24	24	24	24
Buncombe	14	14	14	14	14	14
Cumberland	18	18	18	18	18	18
Durham	14	14	14	14	14	14
Forsyth	16	16	16	16	16	16
Gaston	24	24	24	24	24	24
Guilford	48	48	48	48	48	48
New Hanover	18	18	18	18	18	18
Perquimans	24	24	24	24	24	24
Pitt	18	18	18	18	18	18
Richmond	30	30	30	30	30	30
Wake	24	24	24	24	24	24
New Facility 1			*	32	32	32
New Facility 2					36	36
New Facility 3						36
<b>Total Beds</b>	<b>272</b>	<b>272</b>	<b>272</b>	<b>304</b>	<b>340</b>	<b>376</b>

\* No beds are needed in Year 3 because 30 current beds become free as a result of a policy change to exclude undisciplined persons from secure detention eligibility  
 Source: The ESTIS Group, 2009

**Capital Costs**

As shown in Exhibit 12, DJJDP would need to build one new YDC or detention center each year in Years 2 through 4. The facilities would cost a total of approximately \$33 million. Recent DJJDP facility construction reflects a time frame of one year and six months to one year and eight months to build and populate a facility. As a result, DJJDP should start building facilities approximately two years before it plans to use them.

DJJDP would need to build one 96-bed YDC to accommodate the additional youth and address bed needs. The Department should begin construction in Year 2, as the facility would be needed to accommodate youth in Year 4. As shown in Exhibit 12, the YDC is projected to cost approximately \$18 million. According to the North Carolina 2007-2012 capital improvement plan, \$22.2 million in general obligation bonds are available for new construction in fiscal year 2010. Although DJJDP has planned for this funding, it is not currently building any facilities

(though some are planned) and should re-evaluate its plans for funding based on implementation needs for the juvenile age change.

In addition, DJJDP would need three new detention facilities to be built in Years 2 through 4. The detention facilities would be needed to serve youth in Years 4 through 6 (one per year). Currently, the State’s capital improvement plan does not account for any funding for new detention facilities. The 32- or 36-bed facilities would cost approximately \$5 million each—a total of approximately \$15 million.

**Exhibit 12: Capital Costs by Construction Year, Facility Needs by Year Open**

Facility	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
New YDC 1		\$18M		Open		
New Detention 1		\$5M		Open		
New Detention 2			\$5M		Open	
New Detention 3				\$5M		Open
<b>Total Capital Cost</b>		\$23M	\$5M	\$5M		

Source: The ESTIS Group, 2009

**Operational Impact**

In Year 3, DJJDP would need an additional \$18.5 million to serve the new population added to the juvenile system. As shown in Exhibit 13, the Department would spend at least an additional \$20 million in each year thereafter. Ultimately in Year 6, the annual budget would require the expenditure of \$85.4 million additional dollars. These costs are described in further detail in the subsections that follow.

**Exhibit 13: DJJDP Budget Increases by Year of Implementation**

Budget Category	Budget Adjustment in Millions						Total Budget Adjustment by Year 6
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	
<b>Total</b>	<b>\$0.2</b>	<b>\$0.6</b>	<b>\$18.5</b>	<b>\$20.6</b>	<b>\$23.6</b>	<b>\$22.5</b>	<b>\$85.4</b>
Personal Services			14.3	16.6	18.7	17.5	67.5
<i>Court Counselors</i>			6.8	7.0	8.9	9.1	31.8
<i>YDC</i>			5.9	8.0	7.7	6.3	28.0
<i>Detention</i>			1.6	1.6	2.1	2.1	7.4
<i>Basic Training Staff</i>		0.3					0.3
Facility Operations			0.8	0.7	0.7	0.7	2.9
<i>YDC</i>			0.6	0.6	0.6	0.5	2.3
<i>Detention</i>			0.1	0.1	0.2	0.2	0.6
Program Development	*0.2	*0.3	*0.3				*
Aid and Public Assistance			3.2	3.3	4.2	4.3	15.0
<i>JCPC Allocations</i>			3.2	3.3	4.2	4.3	15.0

\* These would be one-time allocations and would not be recurring annual costs at Year 6 of implementation

Source: The ESTIS Group, 2009

**Personal Services**

Additional DJJDP staff needed to implement a change in juvenile court jurisdiction include court counselors, YDC and detention facility staff (primarily direct care staff), and training staff. This subsection explains DJJDP's staffing needs resulting from a change to the age of juvenile court jurisdiction as well as the related recruitment and training needs.

*Court Counselors*

To accommodate the transfer of approximately 30,000 arrested persons to the juvenile system by Year 6, DJJDP would need 557 court counselors, in addition to the 482 currently employed, to process cases through juvenile court and provide community supervision. Most court counselors handle intake and supervision; therefore, these staff duties have not been allocated separately. This estimate is based on the assumption that the current staffing rate remains constant. The staff would need to be hired over the course of implementation to accommodate the increasing number of persons served in the juvenile system. DJJDP would need to hire between 100 and 160 court counselors each year to reach the additional 557 staff required. As shown in Exhibit 14, DJJDP would need to hire 119 counselors in Year 3 and 160 in Year 6.

**Exhibit 14: Court Counselor New Hires**

	Year 3	Year 4	Year 5	Year 6	Total Year 6
Court Counselors Needed	119	122	156	160	557

Source: The ESTIS Group, 2009

*Facility Staffing*

DJJDP would need to hire 225 direct care staff for YDCs and detention facilities. Each detention facility would need to be staffed fully in the year that it is first used. Based on current detention facility staffing levels, 32-bed facilities would require 27 direct care staff and 36-bed facilities would require 30, totaling 87<sup>20</sup>. Each facility would also need to be fully staffed with administrative staff, nursing staff, and additional support staff upon opening.

Each 96-bed YDC requires 194 total staff. Some of these employees, such as administrators and cooks must be employed regardless of the number of youth housed at the facility. However, the new YDC model has separate wings that can be operated and staffed separately. Each 16-bed wing has two teachers, one treatment specialist (social worker), one mental health staff person, and four direct care staff. These staff can be hired incrementally over the implementation period based on the number of beds that would be needed. This incremental staffing is shown in detail in Exhibit 15 for the currently-operating YDCs that would need to increase staffing to accommodate additional youth as well as the new YDC that would need to be built.<sup>21</sup> By Year 6, 138 total YDC direct care staff would have been hired.

<sup>20</sup> This is based on the estimation that DJJDP would need to build two 36-bed and one 32-bed detention facilities.

<sup>21</sup> Some staff would be hired prior to Year 3 to serve the current juvenile population, due to bed needs resulting from population growth. These are excluded from our estimates, as they are not related to serving persons ages 16 and 17.



**Exhibit 15: YDC Staff Needed by Year- Direct Care, Treatment Staff, Educators**

Facility	Year 3*	Year 4	Year 5	Year 6
Cabarrus YDC	56	16		
Edgecombe	16			
Lenoir	16			
New Facility 1		16**	56**	80**
<b>Total New Beds/Newly Staffed Beds</b>	<b>88</b>	<b>32</b>	<b>40</b>	<b>40</b>
<b>Direct Care Staff New Hires</b>	<b>61</b>	<b>22</b>	<b>28</b>	<b>28</b>
<b>Teacher New Hires</b>	<b>11</b>	<b>8</b>	<b>9</b>	<b>9</b>
<b>Mental Health, Treatment Specialist New Hires</b>	<b>12</b>	<b>8</b>	<b>10</b>	<b>10</b>

\* Facility staff would need to be hired at least a month prior to facility bed space opening for youth to accommodate DJJDP’s training program.

\*\*This facility is not operating at full capacity of 96 beds.

Source: The ESTIS Group, 2009

*Recruiting*

Court counselors, court staff, and YDC/detention facility direct care staff can be hired over the course of the six years of the implementation. DJJDP should allow for at least 4 to 5 months to recruit staff and complete the hiring process. According to DJJDP guidelines, applicants should allow a three-month time frame for review of their qualifications. However, YDC facility staff report that it can take up to 6 months to fill a vacant position.

DJJDP reports it has a difficult time retaining juvenile court counselors due to low pay, high workloads, lack of training, and safety concerns. If recruiting continues to be a problem, it would become even more significant with an increased volume of staff needed. In addition, because some YDC staff report delays in the hiring process (up to 6 months) DJJDP may want to review its past hiring time frames, and if needed, look into streamlining its human resources processes prior to implementation.

*Training*

The training programs for the 557 new court counselors and 225 new direct care facility staff at YDCs and detention centers are intensive. Because these programs would have to serve a large group of new staff, the programs would need to be doubled, resulting in additional short-term staffing costs.

Both court counselors and direct care facility staff must complete a total of four (non-consecutive) weeks of basic training that allows them to become certified for their positions. All four weeks of training must be completed within the first year of employment. Training courses take place at the North Carolina Justice Academy and are provided by DJJDP trainers. Currently, DJJDP employs 8 full-time, certified general trainers who conduct the basic trainings. In addition, 96 adjunct trainers hold full-time positions at DJJDP and lead other training sessions as needed. DJJDP does not currently pay the Justice Academy to use its facilities.

DJJDP holds six four-week cycles of basic training for juvenile justice officers each year. Each of these training cycles can accommodate up to 25 direct care workers; approximately 150 direct care workers would be trained each year. Based on this information, 10 additional basic training courses would be needed in Year 3 through Year 6. See Exhibit 16 for the estimated number of staff to be trained and additional training courses needed over the course of the implementation.

**Exhibit 16: Direct Care Staff New Hires and Training Courses by Year**

Implementation Year	Number of New Direct Care Hires	Additional Basic Training Courses
Year 3	81	4
Year 4	42	2
Year 5	51	2*
Year 6	52	2*

\* DJJDP would accommodate the extra 1-2 persons requiring training in these years rather than open a new course for such a small number of persons

Source: The ESTIS Group, 2009

There are fewer court counselor training cycles because the position of court counselor experiences lower turnover than does the facility direct care position. DJJDP holds three four-week cycles of basic training for court counselors each year. Each of these training cycles can accommodate up to 25 court counselors. DJJDP trains approximately 75 court counselors each year. Based on this information, 24 additional basic training courses would be needed for court counselors in Year 3 through Year 6. See Exhibit 17 for the expected number of new court counselors in Year 3 through Year 6 and the estimated number of additional training courses that would be required each year.

DJJDP currently offers nine cycles of basic training each year-- six for direct care staff and three for court counselors. The number of needed training cycles would approximately double during Year 3 through Year 6. It is reasonable to assume that DJJDP would have to double the number of full-time trainers for these years as well, which means that DJJDP would need to hire an additional 8 trainers by the end of Year 2.

**Exhibit 17: Court Counselor New Hires and Training Courses by Year**

Implementation Year	Number of New Court Counselor Hires	Additional Basic Training Courses
Year 3	119	5
Year 4	122	5
Year 5	156	7
Year 6	160	7

Source: The ESTIS Group, 2009

*Summary of Personal Services Costs*

By Year 6, DJJDP would have an additional personal services budgetary need of \$67.5 million. The most significant annual budget item for DJJDP would be personal services costs associated

with staffing YDC and detention facilities, which would total approximately \$35.3 million by Year 6. Most of the cost to serve youth in YDCs relates to the cost of staffing the facilities; only seven percent of the cost is attributed to operational costs.

Other personal services costs include court counselors and staff who provide training to newly-hired direct care employees and court counselors. The additional 557 court counselors needed by Year 6 would result in an additional annual expenditure of \$57,000 in salary and benefits per counselor, totaling \$31.8 million. To train the additional court counselors and direct care staff, DJJDP would have to hire 8 additional trainers at a cost of approximately \$45,000 in salary and benefits per trainer. The total training staff cost of \$358,000 would be incurred during Year 2.

In addition, staff salaries for the first year of employment also include payments for time spent receiving training. These would be the majority of the costs incurred for training new staff, although additional materials and costs may be needed. The salary and benefits paid to new hires during training would be approximately \$6,143 per court counselor and \$3,802 per direct care staff. By the end of Year 6, this would cost DJJDP a total of approximately \$4.3 million- \$3.4 million for court counselors and \$900,000 for direct care staff.

### **Facility Operations**

The total anticipated facility operational costs for DJJDP by the end of Year 6 of implementation would be \$2.9 million. YDC operation accounts for \$2.3 million of the total costs and detention facility operation accounts for \$0.6 million. These costs are based on the current ratio of operational costs to total facility costs. Total facility costs also include personal services expenditures for direct care staff.

### **Program Development**

Implementation of evidence-based practices and cost mitigation strategies require additional planning and development expenditures. In Year 1, DJJDP would incur \$0.2 million and by Year 6 the Department would have spent a total of \$0.8 million. The development costs do not recur after Year 3. DJJDP should attempt to target grant funding to cover these costs. See the *Issues, Service Analysis, and Legal Considerations* section for more information about potential funding resources.

### **Aid and Public Assistance**

DJJDP would continue to be responsible for allocating dollars to Juvenile Crime Prevention Councils (JCPCs), which oversee and distribute funding to local organizations that provide community-based programs to court-ordered youth (they also provide prevention programming). DJJDP pays, on average, \$1050 per diverted or delinquent youth served in JCPC programs. In Year 3, DJJDP would spend an additional \$3.2 million to provide its State allocation to JCPCs for services provided to approximately 1,150 diverted youth and 1,900 delinquent youth, assuming current funding levels. By the end of Year 6, annual allocations would increase by \$15.0 million for services provided to approximately 5,400 diverted youth and 8,800 delinquent youth. It should be noted that, as a result of implementing financial incentives, the use of community supervision would increase by 25 percent, similar to the 25 percent reduction in use of secure confinement.

Additional dollars may need to be allocated to JCPCs to allow for provision of evidence-based services. However, this would not be a significant cost. Currently, the average cost of JCPC services per youth is \$2,437, compared to an estimated average cost of evidence-based services of \$2,615. Some evidence-based programs, such as multi-systemic therapy are more expensive per youth than the JCPC average (\$4,600 compared to \$2,400); other programs, such as Aggression Replacement Therapy, are less expensive (\$897). Functional Family Therapy, another evidence-based program, is similar in cost to the average cost of JCPC services (\$2,300 compared to \$2,400). Because it is unclear how frequently each of these programs would be used, an estimation of the additional cost that would be incurred is not included. However, if DJJDP projects the extent to which evidence-based programs would be used, it can determine if additional funding is needed.

**Exhibit 18: Evidence-based Program Cost per Youth**

Program	Cost per Youth
Multi-Systemic Therapy	\$4,624
<b>Average JCPC Cost</b>	<b>\$2,437</b>
Functional Family Therapy	\$2,325
Aggression Replacement Therapy	\$897

Source: The ESTIS Group, 2009

**Implementation Schedule**

Changing the age of juvenile court jurisdiction would have the greatest impact on DJJDP. Once fully implemented, the change would result in twice as many persons requiring Department supervision as there are now. DJJDP would have to make changes to its capital plans, to its operational plans, and to its programming. To set the context for these changes, DJJDP would need to develop and implement administrative policies and prepare proposals for legislative policy changes. The key steps for DJJDP include the following:

*Step 1: Develop new policies and procedures*

The first two years of the implementation schedule offer an opportunity to make changes to administrative and legislative policy that would affect the facility needs resulting from a change to the age of juvenile court jurisdiction. DJJDP should concentrate its initial efforts on developing proposed legislative changes in preparation for the 2010 legislative session. The Department should also develop and begin preparing administrative policies in preparation for the change.

The cost mitigation strategies described in this report are among the legislative policy changes that need to be developed and submitted to the legislature. Policy changes that should require legislation include the following:

- Incentives to reduce secure commitment: implementation of financial incentives to serve juveniles in local community-based programs, rather than in State-operated secure beds.
- Eligibility for detention: definition of types of offenders who may not be placed in secure detention.

- Eligibility for juvenile jurisdiction: creation of additional offenses (such as violent offenses or serious felony offenses) for mandatory transfer to adult jurisdiction and/or limitation of types of offenses that could be referred by school resource officers in a petition (such as limiting petitions for low-level misdemeanors).

In addition, DJJDP may want to revisit and modify the process and procedures for selecting and evaluating JCPC-funded service providers to ensure that the providers are qualified to provide evidence-based programs and to ensure that the fidelity of the programs is maintained.

*Step 2: Develop a new long-term capital plan*

DJJDP should develop a new capital plan that reflects the anticipated number of secure beds for placement and detention that would be needed upon implementation of the change in the age of juvenile court jurisdiction. This revised capital plan should reflect any new policy initiatives that affect the number of secure beds required for commitment or detention of juveniles.

*Step 3: Develop operational plan*

The Department should prepare a detailed operational plan based on the timing for new facilities coming online and old facilities being closed. The plan would address the organizational structure for the new facilities, the number of personnel needed, and any additional supporting technology, training, or administrative infrastructure needed. Personnel, supplies, materials, equipment, and contract vehicles that would be needed for each of the facilities to be operational should also be included.

*Step 4: Construct facilities*

Beginning in Year 2, DJJDP would construct the facilities according to the capital plan and available budgetary resources.

*Step 5: Execute operational plan*

DJJDP would need to recruit, hire, and train staff to provide court intake, community supervision, and service delivery at the new YDCs and detention facilities. Human resources staff would need to increase in Year 2 to handle the increased hiring workload.

*Step 6: Develop new evidence-based programming for all persons under DJJDP supervision*

Many evidence-based programs and providers are available. DJJDP should begin soliciting evidence-based programs for the youth in its care. The Department should also work with local Juvenile Crime Prevention Councils (JCPCs) to find program providers and solicit their participation.

*Step 7: Establish quality assurance processes*

DJJDP should develop processes to ensure that program fidelity is maintained for evidence-based programs. According to guidance provided by the Washington Institute of Public Policy (WSIPP) in a report on “Recommended Quality Control Standards,” the following are standards that should be adhered to when implementing evidence-based programs:

- Involvement of statewide and regional program specialists who ensure adherence to program principles and competence of service delivery by visiting program sites,

consulting with staff, developing a quality control manual, conducting annual site reviews, and assessing provider staff.

- Holding workshops to review and clarify program best practices with service providers.
- Annual assessments of service providers and program environments. Classifying service providers as (a) highly competent, (b) competent, or (c) not competent, notifying service providers of their status, and reviewing classification results with management. Classifying program environments as (a) highly adequate, (b) adequate, or (c) not adequate. Biennial validation of the assessments via an oversight committee.
- Corrective action should be taken by program specialists when delivery is not competent.

WSIPP also notes the importance of discontinuing funding when corrective actions do not result in compliance with quality assurance standards. See *Appendix C* for additional information about WSIPP's recommended standards.

*Step 8: Deploy evidence-based programs*

DJJDP should begin to deploy evidence-based programming in locations across the State where providers are available. The process should begin in Year 2 but should continue throughout Years 2 through 6, as evidence-based program implementation is a continuous process that involves implementation, evaluation, and modification to ensure program fidelity and achievement of expected outcomes. In addition, the deployment should occur incrementally, with different types of evidence-based programs being implemented each year rather than all at one time. This would allow DJJDP to focus on each program's implementation, which would better ensure the program's success. WSIPP also has set standards for measuring the outcomes of new programs, which are further described in *Appendix D*.

*Step 9: Develop new programming for persons 16 and 17 years of age*

With the introduction of persons 16 and 17 years of age to DJJDP, the Department would have to make changes to its programming. DJJDP would need to convene key people in its organization and the provider community to develop the guidelines for specific programs in the areas of GED attainment, vocational education, life skills, and parenting skills. The process of developing these programs should include a method for measuring program effectiveness once the programs are deployed, so that DJJDP can use the results to make future modifications.

*Step 10: Deploy new programs for persons 16 and 17 years of age*

The new programs should be deployed for the new entrants to the system.

**Exhibit 19: DJJDP Implementation Schedule**

Action Item	Fiscal Year of Implementation											
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6						
1 Policies and Procedures	█											
2 Long-Term Capital Plan		█										
3 Operational Plan			█									
4 Construct Facilities				█								
5 Execute Operational Plan					█							
6 Dev. Evidence-Based Prog.						█						
7 Quality Assurance							█					
8 Deploy Evidence-Based Prog.								█				
9 Dev. Programs for Ages 16/17									█			
10 Deploy Programs for Ages 16/17										█		

Source: The ESTIS Group, 2009

## **Department of Correction Action Steps and Implementation Plan**

A change in juvenile court jurisdiction would reduce the size of the population served by the Department of Correction (DOC) and would reduce its budgetary costs. The cost reduction is, for the most part, due to the decrease in the Department's prison population.

### **Facility Impact**

Implementation of a change in juvenile court jurisdiction would affect the need for jail and prison space. DOC may gain additional bed space; it would not incur any additional capital costs.

### **Jails**

If the age of juvenile jurisdiction were changed, additional beds would become available in local jails. As a result, jails that are currently overcrowded could find themselves with an adequate number of cells after the change; counties with current plans to build new jail space may also be able to postpone or cancel those plans. The increase in available bed space would not significantly reduce the costs incurred by local governments for operating jails, however. Most of the facility operating costs are not related to the number of beds occupied; therefore, the costs would remain nearly the same. Jails would accrue minimal cost savings due to a reduction in need for food and supplies.

### **Prison Beds**

A change in juvenile court jurisdiction would result in a reduction of an estimated 457 beds used in DOC prisons.<sup>22</sup> Because these beds compose only 2.0 percent of DOC's total prison space, this would have a small impact on overall DOC expenditures and facility planning. No facilities would be closed as a result of the change.

DOC could continue to operate the Western Youth Institution (which houses most of the young persons in DOC custody), close the facility, or sell the facility to DJJDP. DOC staff report that the State does not plan to close Western; the facility design is also poorly suited for providing DJJDP's therapeutic model. As a result, this plan was created with the assumption that Western would continue to be operated by DOC.

### **Operational Impact**

DOC facility staffing would not change because none of the prisons would close as a result of changing the age of juvenile jurisdiction. However, DOC would have 4,555 fewer persons to supervise on probation if the change is implemented. If DOC keeps its current caseloads<sup>23</sup>, it would need approximately 54 fewer probation officers by Year 6, for a reduction of \$2.4 million in salary and benefits payments. Probation officer staff reductions could be achieved through attrition and should not need to be scheduled.

If 457 beds become available, DOC would have a new resource to either house persons in other prisons or house persons currently serving sentences in local jails. DOC would reduce its costs

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<sup>22</sup> According to DOC prison placement data from 5/6/09 for persons ages 16 and 17 at the date of conviction.

<sup>23</sup> Median ratio of 85 persons to 1 probation officer; 60:1 for intermediate supervision and 110:1 for general supervision.



by up to \$2.9 million<sup>24</sup> annually by Year 6 if it uses the 457 beds to house offenders that are currently serving their sentences in local jails; this assumes that DOC continues to implement its plans to handle anticipated growth in the prison population by “double bunking” inmates in certain prisons. However, if DOC uses the beds to eliminate double bunking, it would not accrue any savings but may delay its need to build additional prisons. As a result of these operational changes, DOC would reduce its annual expenditures by an estimated \$5.3 in Year 6.

**Implementation Schedule**

Because persons 16 and 17 years of age constitute only a small percentage of the entire population in DOC’s prisons, the change in the age of juvenile jurisdiction would not have a significant impact on the Department. DOC has only two major steps for its action plan – revise its capital plan to reflect new population estimates and deploy new adult inmates to the Western Youth Institution as persons 16 and 17 years of age currently incarcerated there leave the facility upon completion of their sentences.

*Step 1: Revise capital plan*

DOC would need to revise its capital plan to reflect changes in its population projections that would result from moving persons 16 and 17 years of age from the adult to the juvenile system.

*Step 2: Redeploy inmates*

DOC should redeploy inmates, as cells in Western would no longer be used for persons who committed crimes at the age of 16 or 17.

**Exhibit 20: DOC Implementation Schedule**

Action Item	Fiscal Year of Implementation					
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
1 Long-Term Capital Plan						
2 Redeploy Inmates						

Source: The ESTIS Group, 2009

<sup>24</sup> Annual cost reductions to DOC related to a decrease in needed prison beds could range from \$0 to \$19.5 million. If Western Youth Institution were closed, DOC would reduce expenditures by the annual operating budget of the facility, which is estimated at \$19.5 million. However, if Western were closed, the State would have to find space for approximately 300 additional inmates at the institution that would not be served by the juvenile system under a change in juvenile court jurisdiction. These persons would need to be transferred to new prisons or the current prisons would need to be used more effectively (i.e., the prisons would need to accommodate more inmates than they currently do). On the other hand, if the state were to use the excess beds in Western to decrease the population served in other facilities, no cost reductions would be accrued. This estimate reflects the implementation of an alternative strategy to serve persons currently serving their sentences in jails within the prison space made available by the transfer of persons ages 16 and 17 to the juvenile system.

## **Administrative Office of the Courts Action Steps and Implementation Plan**

AOC's budget would increase as a result of needing more court staff to process cases of persons committing offenses while 16 and 17 years of age. It takes longer to process juvenile cases than it does adult cases;<sup>25</sup> therefore, AOC would need to make more than simply a transfer of resources from one type of case to another. Court staff should be able accommodate the new population in Year 3 and would not need to increase its budget for Year 2 of the implementation.

### **Facility Impact**

It is unclear whether there would be additional facility space needs for AOC as a result of a change in juvenile court jurisdiction. Additional research into the facility space impact of the change should be conducted. A change to the age of juvenile court jurisdiction could potentially result in additional facility needs in some court districts; however, this is a decision that would be made by those districts and an expense that would be incurred by counties.

### **Operational Impact**

In Year 6, AOC's annual budget would require the expenditure of an additional \$9.2 million in personal services. Juvenile cases take longer to process, on average, than adult cases. Based on current staffing rates and the differential in juvenile case processing time (as compared to adult cases), 138 additional staff would be needed by Year 6. AOC would need to hire 11 judges, some of whom may have to support multiple districts or be allocated by need to the courts with the highest workload. An additional 62 court staff should be hired by Year 4 to process juvenile cases, including judges, assistant district attorneys, assistant defenders, clerical staff, and support staff, as shown in Exhibit 21.

Courts should be able to accommodate the additional cases in Year 3 with current staff and hire new staff in Year 4. Similarly, court staff should be able to accommodate the additional juvenile cases in Year 5 with staff levels from Year 4 and hire the remaining staff in Year 6. The fiscal impact is based on personal services expenditures.

### **Exhibit 21: AOC Staffing Needs and Cost (in millions) by Year**

<b>Position</b>	<b>Total New Hires</b>	<b>Total Budget Adjustment by Year 6</b>	<b>Staff Hired Year 3</b>	<b>Staff Hired Year 4</b>	<b>Cost Year 4</b>	<b>Staff Hired Year 5</b>	<b>Staff Hired Year 6</b>	<b>Cost Year 6</b>
Judges	11	\$1.6	*	5	\$0.7	*	6	\$0.9
Assistant district attorneys	17	\$1.6	*	8	\$0.7	*	9	\$0.9
Court support staff	32	\$1.7	*	14	\$0.7	*	18	\$0.9
Staff clerks	72	\$3.8	*	32	\$1.7	*	40	\$2.1
Assistant defenders	6	\$0.6	*	3	\$0.3	*	3	\$0.3
<b>Total</b>	<b>138</b>	<b>\$9.2</b>	<b>*</b>	<b>62</b>	<b>\$4.1</b>	<b>*</b>	<b>76</b>	<b>\$5.1</b>

\* Current court staff should be able to accommodate the new juvenile population in Year 3, and therefore the first year that additional resources would be needed is in Year 4. Similarly, additional court staff should not be needed in Year 5; instead, staff would be increased in Year 6.

Source: The ESTIS Group, 2009

<sup>25</sup> National Center for State Courts study of North Carolina Staff time

AOC would have a fiscal impact related to the increase in staff. Ultimately in Year 6, AOC’s annual budget would require the expenditure of an additional \$9.2 million for salaries of the 138 additional staff hired. In Year 3, AOC would not increase its personal services expenditures because it could accommodate the additional youth with current resources. However, in the subsequent year (Year 4) an additional \$3.0 million would be needed to serve the new population added to the juvenile system. Similarly, AOC would not have an increase in expenses between Year 4 and Year 5, but would need an additional \$3.6 million in Year 6. See Exhibit 21 for more details about annual budget increases needed for implementation.

**Implementation Schedule**

District courts would have a moderate increase in workload if 30,000 criminal cases became juvenile cases, because juvenile cases take longer to process than adult cases. AOC would have to modify its operational plans for district courts to accommodate the increase in workload and determine whether capital planning would be affected. AOC’s action plan involves providing local governments with information they need to assess local facility space requirements that may result from a change to the age of juvenile jurisdiction.

*Step 1: Prepare Workload and Impact Estimates*

AOC would need to prepare workload and impact estimates for each district. Each district should develop an operational and capital plan around the AOC estimates.

*Step 2: Develop operational plans*

Based on the current utilization of courtroom space, AOC should develop guidelines for creating detailed operational plans for each district. The presiding District Court judge for each district and Superior Court judge for counties in each district should oversee the development of a specific plan for the utilization of courtroom space and the allocation of judges. The local District Attorney (DA) should adjust staffing assignments in areas that have ADA’s assigned full-time to the juvenile court (Note: This only appears to be the case in select districts). AOC should assist the courts and the DAs in developing these estimates and operational plans. The Juvenile Defender and the Office of Indigent Defense Services should also assess the training needs required to accommodate additional juvenile cases.

*Step 3: Execute operational plan*

Based on the results of the operational planning process, the local courts should redeploy resources to coincide with the increased number of cases heard in juvenile court and the decreased number of cases heard in adult court.

**Exhibit 22: AOC Implementation Schedule**

Action Item	Fiscal Year of Implementation					
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
1 Prepare Workload and Impact Estimates						
2 Develop Operational Plan						
3 Execute Operational Plan						

Source: The ESTIS Group, 2009

## **Local Governments Action Steps and Implementation Plan**

Local governments are involved in the juvenile justice system through local Juvenile Crime Prevention Councils (JCPC) and the provision of courtrooms and workspace for court employees and DJJDP-employed court counselors. JCPCs provide oversight for service provision to juveniles in their communities and are funded locally and through DJJDP. Needs for workspace would increase due to additional staff being hired. In addition current JCPC programs must be expanded and new JCPC programs must be developed to treat older youth. Community incentives for reducing secure confinement of committed youth must also be developed and implemented.

### **Facility Impact**

Local governments would be responsible for providing workspace for 557 additional court counselors, which would cost approximately \$5.8 million statewide. Court counselors provide supervision services to adjudicated youth and process cases of juveniles who are accused of committing a delinquent offense; they are employed in multiple locations across the State. Each court counselor would require approximately 80 square feet of workspace, totaling 45,000 square feet statewide. Because the number of additional court counselors needed (557) is close to the number that are currently employed (481), it is reasonable to assume that current space being used would not be able to accommodate all of them.

If the cost of new court counselor office facilities were split evenly among North Carolina's 100 counties, court counselor office space would cost about \$58,000 per county. It should be noted that this cost would vary based on county size and population. Some counties may also have unused office space that could be used for the newly-hired court counselors, which would reduce the fiscal impact.

Local governments would also have to consider whether available court facilities were sufficient for the anticipated increase in juvenile cases and employees that would result from a change to the age of juvenile court jurisdiction. Local governments should work closely with AOC to determine any additional court space needs before and during implementation.

### **Operational Impact**

Because the number of persons 16 years of age and older served by the juvenile system would increase with the change, there are additional services that should be provided through JCPC programming to address their needs (e.g., job skills training). Currently, the provision of such services is limited and therefore would need to be expanded. It may require some additional research to find local providers of appropriate services. Services that are currently provided by JCPC program would also need to be provided to persons 16 years of age and older, therefore either additional service providers must be located or current service providers would have to expand their capacities. See the *Issues, Service Analysis, and Legal Considerations* section for further information. In addition, local governments would need to be involved in the efforts to implement a financial incentive system to reduce use of secure confinement.

Additional human resources adjustment requirements for local governments are not estimated; however, local government would be affected by additional youth being served by JCPC programs. As noted, the implementation of financial incentives to reduce the use of secure

confinement would reduce use by up to 25 percent; similarly, the use of community supervision would increase by 25 percent. By Year 6, JCPC services would be provided to approximately 5,400 diverted youth and 8,800 delinquent youth, totaling more than 14,000 youth.

Local government currently pays matching funds for State allocations to serve youth in community JCPC programs. Assuming local governments pay the minimum required match funds for the additional \$15.0 million in State allocations for JCPC programming, local governments will need to pay an additional \$3.4 million by the end of Year 6. However, it should be noted that local governments currently match State allocations at a rate higher than the minimum required. If local government match dollars were to remain at the current levels, they would need to total \$11.9 million in additional funds by Year 6. To decrease the impact on local government, the State could elect to bear this cost instead. It should be noted that with a change in the incentive structure for local governments to encourage the use of more locally based community alternatives, this funding structure may change.

### **Implementation Schedule**

Local governments' action plans should address the need to provide workspace to an increased number of court counselors and district court employees. The plans should also address the training of law enforcement officers regarding the new statutes.

#### *Step 1: Inventory available workspace*

Local government is responsible for providing workspace for court counselors and courtroom space to accommodate court caseloads. To determine how much workspace and courtroom space is needed in each county, local government administrators should collaborate with DJJDP Court Services staff to inventory the current space used, identify any vacant space available, and determine the total amount of space needed to accommodate the total number of expected court counselors and court staff serving the local District Court.

#### *Step 2: Revise capital plan*

Based on the results of the inventory of court counselor workspace and courtroom space, local governments should revise their capital plans to reflect any changes required to provide additional workspace and/or courtroom space. The capital plan should reflect the projected number of court counselors and court staff needed to accommodate the increase in persons served by the juvenile system.

#### *Step 3: Provide training*

Local law enforcement officials would require some orientation and training on the new law. This training should occur during the 6 months prior to the date of the change (July 1 of Year 3).

**Exhibit 23: Local Government Implementation Schedule**

Action Item	Fiscal Year of Implementation												
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6							
1 Inventory Workspace													
2 Revise Capital Plan													
3 Provide Training													

Source: The ESTIS Group, 2009

## **Issues, Service Analysis, and Legal Considerations**

Programming would need to be developed in YDCs and in the community to serve older youth, current JCPC programs expanded, and new JCPC programs developed. A tool linking these programs to the needs of individual youth is also needed to ensure positive re-offense outcomes. DJJDP would be responsible for implementing changes in these action areas. Included below is an overview of these action areas. This section also includes information on organizations that have funded juvenile justice reforms. DJJDP should review the work of these organizations and consider the possibility of partnering with one of them during the implementation of new programming.

### **Programming for Older Youth**

DJJDP is responsible for developing programs that address the needs of the older youth who would be coming into its system. However, collaboration with DOC, local service providers, and JCPC representatives may be helpful in accomplishing the activities suggested here to address service gaps. To accommodate persons 16 and 17 years of age, DJJDP should revisit its programming and develop new programs to serve the unique needs of older youth, specifically those related to vocational education, job skills training, community living, and teen pregnancy and parenting. In addition, the Department should revisit its procedures for placing persons in YDC housing units to ensure that there is adequate separation of older and/or more serious offenders from younger and/or less serious offenders.

#### *Vocational and Job-Skills Programming*

DJJDP should develop vocational and job-skills programming to be used in YDCs and in the community. In both YDC and community placements, older youth require services in addition to those currently provided by DJJDP. The services primarily relate to the need to find gainful employment after exiting delinquency programming, as older youth are often of age to obtain full-time employment upon completion of their delinquency disposition. Therefore, vocational education and job skills programs would be increasingly important.

Currently, vocational education and GED programs are provided to a limited extent in the current juvenile system. However, they appear to be provided to a greater extent by DOC to persons served in the Western Youth Institution, as this age group and its needs is the focus of the facility.<sup>26</sup> There may be some benefit for DJJDP and DOC staff to collaborate on efforts to develop vocational and job-skills training programs, and potentially implement some of the education programs used at Western. These types of services are not currently provided in JCPC programming. None of the 288 JCPC programs available to court-ordered youth in fiscal year 2008 provided employment related services.

It is unclear whether appropriate vocational or job-skills coursework could be provided in YDCs built to accommodate the new therapeutic model, as youth receive education services with the set of eight persons with whom they live in a facility wing. Some of these services may require equipment or material that is more efficiently used in a group setting. As a result, some of this programming may need to be provided either in a separate location at YDCs or at an off-site location.

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<sup>26</sup> Services provided at Western are significantly different from services provided at other prisons. Because it is a younger population, education and job skills programming are more extensive.

### *Community Living Skills Programming*

By increasing the number of older youth served in the juvenile system, an additional number of juvenile offenders will be released at an age of legal adulthood. As a result, these persons will need to develop skills to live independently in the community. Community living skills programs should assess youths' needs and providing appropriate instruction and practice in areas such as money management, eating, household care and maintenance, transportation arrangements, socializing, and personal hygiene.

### *Parenting Programming*

Because older youth would be served by DJJDP, there may be a need for more extensive parenting programming for girls who are pregnant and for juveniles that have children. There is a higher occurrence of pregnancy and/or motherhood among older teenage girls. If DJJDP sees an increase in the number of females or young mothers served after the change is implemented, it should revisit its current programming to see whether it is sufficient. One type of program that could be employed is the Nurse-Family Partnership, which is recommended as a "model program" by the Colorado Center for the Study and Prevention of Violence. The program involves visits by nurses during pregnancy and in the first two years after birth.

### **Staff Training**

DJJDP should consider providing training to educators at YDCs to address the wide range of educational needs of youth in YDCs. If YDCs serve an older population in addition to the current population, they may experience a wider range in educational ability of residents. The structure of new YDCs built to accommodate DJJDP's new therapeutic model requires a unique approach to education, as all persons are educated in the same room. As a result, facilities would need to ensure that they hire persons who are equipped to accommodate this need.

### **Age Separation**

DJJDP should refine procedures for housing unit placement of committed persons at YDCs to ensure that the oldest and most serious offenders are kept separate from the youngest and least serious offenders. Currently, DJJDP has policies in place that govern decisions to place youth in a particular room in a YDC. The policies are based on size, offense type, and age. These policies may need to be revised. The new therapeutic model could be used to place older and younger youth in housing units that never mix with each other, which could be an effective means of alleviating concerns about very young and very old youth potentially influencing each other.

### **Development of a risk and needs assessment tool**

One of the key components of implementing evidence-based practices is the use of a tool to ensure that youth are linked to specific services and programming based on their assessed needs. North Carolina should develop and implement an integrated assessment system that identifies a youth's criminogenic needs and links them to evidence-based programs. The State currently uses an assessment system designed to measure the likelihood of re-offending, based on a child's risk and protective factors. Many of the risk assessment instruments used in juvenile justice settings measure concepts that research has identified as being related to or predisposing children towards delinquent behavior. These areas include academic performance, criminal peers, anger management, and parental supervision.



However, North Carolina has not yet realigned treatment planning, treatment interventions, or client management with its needs assessment approach. An integrated assessment system (also sometimes called an integrated case management system) refers to a relatively new concept in the classification and management of juvenile offender cases. In an integrated model like that used in Connecticut, Georgia, and Maryland, systematic assessment of a youth's criminogenic needs is linked to research-based programs. To do so, these models include the following steps:

- Determine the level of risk and supervision needed
- Develop a treatment plan and treatment interventions
- Measure the youth's progress
- Encourage and reinforce positive behavioral change
- Adjust the plan over time to reflect changes in, or a lack of improvement of, youth behavior

A risk classification system should be used to govern entrance into residential or home-based care, and a needs-based classification system should be used to inform development of individual treatment plans. When using these systems, the timing of screening and assessment is important. Screening and assessments should be conducted at critical decision points, which include court intake, pre-trial detention, entry into secure residential facilities, release to the community, and prior to revocation decisions.

The types of assessment that should occur at each stage are discussed below:

- Court intake: screening and assessment
- Pre-trial detention: screening and assessment
- Entry into private residential facilities or secure confinement: assessment and individual treatment planning upon entrance, reassessment every six months, and reassessment prior to return to the community
- Revocation decisions: reassessment prior to making a decision

Conducting the appropriate assessments at the right times throughout a youth's involvement in the juvenile justice system allows for the most efficient and effective delivery of services to youth. By incorporating these assessments with the delivery of evidence-based treatments, North Carolina could expect improved outcomes for its youth.

### **Researching potential partnerships for implementation funding**

Many organizations provide funding to juvenile justice organizations for program development. These organizations may conduct research relevant to the juvenile justice field or partner with departments to help improve outcomes. DJJDP may consider reviewing the work that organizations like the Annie E. Casey and John D. and Catherine T. MacArthur foundations have funded in the juvenile justice field in order to identify potential future partnering and funding opportunities. Furthermore, Medicaid funding can be helpful in supporting Medicaid-eligible youth that participate in evidence-based programs in the community.

*Annie E. Casey Foundation- [www.aecf.org](http://www.aecf.org)*

Annie E. Casey Foundation's primary mission is to "foster public policies, human services, and community supports that more effectively meet the needs of vulnerable children and families." The Foundation has been promoting the well-being of children for 60 years, and currently

provides about \$190 million each year to organizations supporting its mission. The Foundation's work in juvenile justice is focused on improving the outcomes for youth in the juvenile justice system by incarcerating fewer youth and focusing on evidenced-based family focused interventions.

*John D. and Catherine T. MacArthur Foundation- [www.macfound.org](http://www.macfound.org)*

The John D. and Catherine T. MacArthur Foundation is "committed to building a more just, verdant, and peaceful world." The Foundation's Human and Community Development grant-making program provides funding to organizations supporting its mission, which includes juvenile justice program grants. The Foundation supports work that promotes a "fair, rational, and effective juvenile justice system" with a belief that juvenile offenders are not the same as adult offenders. The Models for Change initiative supports reforms of juvenile justice systems focusing on evidenced based practices and improvements to aftercare. The Foundation's 2009 budget for juvenile justice grants is \$23.4 million.

Models for Change is currently active in 16 states, including North Carolina, and is currently expanding to other states. Union County, North Carolina, is currently participating in the Disproportionate Minority Contact (DMC) Action Network to reduce the disproportionate number of minority youth in the juvenile justice system. The Union County JCPC received a three-year grant of up to \$100,000. The MacArthur foundation has awarded planning grants totaling up to \$1.5 million over five years to states implementing new juvenile justice programming. The grants have been awarded to state and local government.

#### *Medicaid Reimbursements*

Approximately 7,900 youth who received DJJDP community services in 2008 were enrolled in Medicaid.<sup>27</sup> Service providers receive Medicaid reimbursement for eligible services provided to Medicaid-eligible delinquent youth, and would be able to receive reimbursements for eligible services provided to persons 16 and 17 years of age if they were transferred to the juvenile system. Services provided to youth 16 and 17 years of age would be subject to the same rules as those provided to younger persons.

Medicaid funds would reduce the total cost of juvenile justice service provision. However, the reimbursements would not translate into direct cost savings for DJJDP because the service providers receive Medicaid reimbursements. Service providers receive the State reimbursement rate for eligible through North Carolina's Department of Health and Human Service's Division of Medicaid Assistance. The federal government is responsible for 64 percent of all Medicaid expenses in North Carolina, and the State is responsible for the remaining 36 percent.

Juvenile justice departments in some other states have received Medicaid reimbursements for service provision. However, administrative changes would be required for North Carolina to qualify for reimbursement.

The costs DJJDP would have to incur to become a Medicaid agency include:

- Changing DJJDP's service delivery time tracking to comply with Medicaid standards,

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<sup>27</sup> This number was obtained from current DJJDP records of Medicaid eligibility, which exist for 50 percent of youth in DJJDP's database.

- Updating DJJDP data collection to ensure compliance with youth eligibility requirements,
- Training court counselors for appropriate service delivery, and
- Training court counselors on necessary medical terminology.

In addition, in 2006, the federal Deficit Reduction Act (DRA) stated that Medicaid reimbursements cannot be claimed for services provided by juvenile justice and child welfare agencies when they are integrated into the regular work performed by child welfare and probation workers.<sup>28</sup> DRA would prevent DJJDP from collecting Medicaid funds for case management services provided by court counselors. Case management services, specifically Targeted Case Management, are the services for which other juvenile justice departments have become Medicaid eligible.

Service providers receive Medicaid reimbursements for services provided to youth who are Medicaid eligible and have received a diagnosis. Medicaid covers medical care including mental health needs. Diagnoses made in a juvenile justice setting are generally related to mental health, and providers receive Medicaid reimbursements for such services as Multi-systemic Therapy, Functional Family Therapy, and substance abuse treatment.

### **Legal Considerations**

The legal analysis provided by Professor Janet Mason of the University of North Carolina School of Government and presented under separate cover addresses relevant North Carolina laws that should be conformed or amended to implement a change to the age of juvenile court jurisdiction, including motor vehicle and criminal laws. Year 1 of the implementation plan in this report is the first year after passage of a law that expands juvenile court jurisdiction. Included in the implementation plan is a provision for the consideration of legislation to bring other sections of North Carolina law into conformity with the newly-expanded juvenile court jurisdiction. The purpose of the legal analysis included below is to review any federal legal compliance issues under federal law.

Changing the age of juvenile jurisdiction does not present any compliance issues with federal law, but it may affect the way North Carolina solicits and receives grant funding from the Federal Government. As an initial matter, funding from the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) is an important supplemental source for all State and local juvenile programs. The grants and block grants appear to be premised upon two age related criteria: (1) age of juveniles as determined by the State in which they are adjudicated, and (2), the generally accepted definition of a juvenile as a person younger than 18. Each grant opportunity is drafted with its own specific criteria for the applicants that should be considered, such as age appropriateness or limitations for the populations sought to be served. There does not appear to be a wholesale funding limitation tied directly to a maximum age other than 18.

The introduction of older offenders (16 or 17) to juvenile facilities carries with it the probability of new challenges for facility residents, staff and the system as a whole. A carefully crafted housing matrix system must account for the introduction of older, larger and possibly more

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<sup>28</sup> Coalition for Juvenile Justice presentation, "Creative Approaches for Using Medicaid and Other Funding Sources," April 2008.

sophisticated offenders to a system that also houses youth who are significantly younger. Any system, regardless of the ages served, should strive to separate violent and non-violent offenders, sex offenders from victim populations and large disparities in age. Larger and older offenders may present a need for retraining of supervisory staff and perhaps revamping of the housing matrix to ensure predator and victim populations within new age groups to be served are not housed together. The best way to ensure high quality service is through training, education and prevention.

## **Raising the Age – Lessons from Connecticut and Illinois Implementation**

The age of juvenile court jurisdiction has recently been raised in the states of Connecticut and Illinois. Both states are in different stages of implementing the legislation, and some of the challenges that they have overcome are of value for North Carolina to understand.

Connecticut raised the age of jurisdiction to 17 legislatively in 2007; criminal courts retain authority over offenders 16 and 17 years of age with serious felonies. This change was originally scheduled to be effective in 2010 and it has not yet been implemented. In February 2009, Connecticut's legislature projected an \$8.7 billion deficit for the next two fiscal years. Decision makers are currently considering a delay in implementation for budgetary reasons. Prior to the "raise the age" legislation, Connecticut had a Youthful Offender status that was used for persons accused of all types offenses but Class A (e.g., murder). This status permitted the offenders to retain confidentiality of records, similar to juveniles, provided for maximum sentencing limits, and allowed the chance for expunging the offenders' records.

Illinois increased the maximum age of jurisdiction from 16 to 17 for misdemeanants in 2007; the change would be effective in 2010. The previous statute regarding jurisdiction had been in place since 1987. Local officials raised concerns about shifting the cost of services for persons 17 years of age from state to local units of government (probation and other services were provided and funded by counties) and the impact of housing persons 17 years of age in confinement with younger persons. Legislators were more willing to change the age for misdemeanors, so advocates initially suggested a compromise to include all misdemeanors and only some felonies. The final bill was a further compromise, limiting the change to misdemeanors and setting up a task force to study adding felonies.

Some conditions of the age change in these states differ from those that have been proposed in North Carolina. Two key areas observed in a review of the two states' implementation processes include staggered implementation of the policy and use of transfer (to adult court) mechanisms. These areas and resultant recommendations are discussed.

### **Incremental implementation**

Legislators in North Carolina have proposed implementing a change to juvenile jurisdiction via four discrete age groups. This approach is in line with what other states have planned and could be an effective means of bringing about change. Both Connecticut and Illinois incorporate multiple stages of implementation. Similar to the proposed legislation in North Carolina, Connecticut implemented the change for discrete age groups over separate years. North Carolina's legislation implements the change over four years in half-year age increments (less than 16 ½, 17, 17 ½, 18). Connecticut planned its implementation over two years in one-year age increments (less than 17, 18).

Illinois also planned an incremental implementation, but grouped the implementation by offense type. Misdemeanors were included in the initial legislation enacting the change; felonies were excluded but legislation instructed their inclusion to be studied and they may be included in expansion legislation.

### Exclusions from Juvenile Jurisdiction

North Carolina decision-makers may consider making additional changes to statute regarding offenses that are excluded from juvenile court jurisdiction if a change to juvenile court jurisdiction is implemented. Most states have some way of excluding certain types of offenders from juvenile jurisdiction. They include statutory exclusions to juvenile jurisdiction, which exclude certain types of offenses from prosecution as juvenile cases, or mandatory exclusions, which require that certain offenses be prosecuted as criminal offenses through court hearings. Both exclusions provide a benefit of relatively consistent use across state courts. However, mandatory exclusions require more paperwork and staff time than do statutory exclusions because they do not occur automatically. In addition, some states have discretionary exclusions, which give judges or prosecutors discretion to decide whether certain cases should be tried in the adult system. Because of the subjectivity inherent in these types of exclusions, they may or may not be used in the same way across a state.

### Comparison of Exclusions Used

North Carolina primarily uses discretionary exclusions and has one mandatory exclusion. As shown in Exhibit 24, the State has fewer statutory and/or mandatory exclusions than do Connecticut and Illinois. By employing more statutory or mandatory exclusions, the State could better ensure that the intended types of offenders have their cases prosecuted in juvenile delinquency court or in criminal court. For example, the State could ensure that certain serious or repeat offenders receive criminal charges and sanctions. In addition, North Carolina could reduce its paperwork and staff time spent on efforts to transfer youth to adult criminal court jurisdiction if it implements statutory exclusions.

**Exhibit 24: Comparison of Exclusions Used in Connecticut, Illinois, and North Carolina**

Connecticut	North Carolina	Illinois
<b>Statutory (16+)</b> Class A and some Class B excluded from new raising of the age		<b>Statutory (age 13+)</b> first-degree murder (age 15+) murder w/ sexual assault/kidnapping certain person offenses (e.g., armed robbery w/ a firearm) weapons on school grounds
<b>Mandatory (age 14+)</b> arson murder capital felonies class A, B, C, and D felonies	<b>Mandatory (age 13+)</b> Class A (capital crimes)	<b>Mandatory (age 14+)</b> felonies committed as part of gang (and meets other criteria- e.g., repeat offender)
	<b>Discretionary (age 13+)</b> All felonies	<b>Discretionary (age 13+)</b> All offenses (and meets other criteria related to offense seriousness, history)

Source: National Center for Juvenile Justice State Profiles, 2008

#### *Statutory*

Currently, North Carolina does not statutorily exclude any type of offenses in statute from juvenile jurisdiction. Connecticut set statutory limitations on its new legislation to raise the age:

offenders 16 and 17 years of age will not be considered juvenile offenders if they are accused of committing a class A or B felony. Illinois has certain offenses that are statutorily excluded from juvenile court jurisdiction for persons 13 years of age and older. They include murder committed during a sexual assault or kidnapping, certain offenses on the person (e.g., armed robbery with a firearm), and use of weapons on school grounds. Persons 15 years of age who commit first-degree murder are also statutorily excluded from juvenile court jurisdiction.

#### *Mandatory*

North Carolina requires that Class A felonies (typically the offense is murder) be prosecuted as criminal cases by district attorneys if there is probable cause. Similarly, Connecticut mandates the transfer (to adult charges) of persons ages 14 and older who are charged with murder, capital felonies, and class A, B, C, and D felonies. Illinois has a mandatory transfer to adult jurisdiction of felony offenses committed as part of gang activity if the person is a repeat offender and the previous crime committed meets set criteria.

#### *Discretionary*

Currently, North Carolina permits any felony committed by persons 13 years of age to be transferred to adult court jurisdiction. In Illinois, any criminal offense committed by a person 13 years of age or older may be transferred to adult jurisdiction based on factors including, but not limited to seriousness of the offense and prior offense history. Connecticut does not have discretionary exclusions.

## **APPENDIX A. FINANCIAL INCENTIVES TO REDUCE SECURE CONFINEMENT**

### **State: Ohio**

#### **Program: Reclaim Ohio**

The State of Ohio allocates money to counties to be used for providing community programs. Allocation is based on population size and delinquency levels and is reduced based on the number of persons who are committed to the State. The formula does not reduce funding for commitment dispositions of persons adjudicated for serious and violent crimes because the State has decided that there is a need to confine these types of offenders. Because community programs are cheaper, counties were willing to invest in developing them and were less likely to send youth to state commitment. Over the 18 years since legislation was enacted in 1992, the State has seen a 42 percent reduction in recidivism. Between May 1992 and June 2004, the number of committed persons decreased from 2,600 to 1,800.

### **State: Illinois**

#### **Program: Redeploy Illinois**

Illinois implemented the program in 2004. Counties opt in to the program and agree to reduce the number of secure commitments. They commit to decreasing the number of youth sent to secure facilities by 25 percent of the average number sent in the prior 3 years. In turn, the State provides counties with funds to serve the targeted. In four pilot sites, 382 youth were diverted from secure commitment within three years, which saved \$18.7 million. The number of commitments reduced by 51 percent; however, an evaluation of the program states that the results are not all attributable to the program, as other juvenile justice programs have also been implemented at the same time.

### **State: Pennsylvania**

#### **Program: Act 148**

The State reimburses counties for 80 percent of the cost of community-based programming, whereas the lowest reimbursement rates are for secure detention in local facilities (50 percent) and secure residential or institutional commitments (60 percent). The Act was enacted in the late 1970s; within three years, state reimbursement for community programs increased by 75 percent (from \$65 million to \$114 million). Secure placements for youth decreased by 24 percent by the early 1980s. In 2006, the proportion of committed youth placed in State facilities was as low as 14 percent.

### **State: California**

#### **Program: SB 81**

SB 81 was signed in 2007, and banned the commitment of youth adjudicated for non-violent offenses from being committed to State residential facilities. It also established block grants to provide \$130,000 per youth for placement in community alternatives to commitment. Initial projections for program impact included a reduction of the number of youth in residential facilities by about 1,000 in two years (from 2,500 to 1,500). Prior to SB 81, the State required counties to pay a monthly rate per youth in secure confinement based on a sliding scale by offense type, ranging from \$150 for murder to \$2,600 for technical violations.



**State: Wisconsin**

**Program: Youth Aids**

The program, enacted in 1980, involves State allocation of money to each county for secure confinement beds. Counties can then use the money to send persons to secure confinement or to community alternatives. Over 10 years (1997-2006) State commitments decreased by 43 percent.

Source: Tyler, Jasmine L.; Ziedenberg, Jason and Lotke, Eric. "Cost Effective Corrections: The Fiscal Architecture of Rational Juvenile Justice Systems." The Justice Policy Institute, 2006.

**APPENDIX B. ANNUAL AND TOTAL BUDGET ADJUSTMENT,  
PERSONS 16 YEARS OF AGE ONLY**

Budget Category	Yearly Budget Adjustment (in Millions)				Total Budget Adjustment by Year 4
	Year 1	Year 2	Year 3	Year 4	
DJJDP	\$0.2	\$0.7	\$18.5	\$20.6	\$39.3
Personal Services			14.3	16.6	31.3
<i>Court Counselors</i>			6.8	7.0	13.8
<i>YDC</i>			5.9	8.0	13.9
<i>Detention</i>			1.6	1.6	3.2
<i>Training Staff</i>		0.4			0.4
Facility Operations			0.8	0.7	1.5
<i>YDC</i>			0.6	0.6	1.2
<i>Detention</i>			0.1	0.1	0.2
Program Development	0.2*	*0.3	*0.3		*
Aid and Public Assistance			3.2	3.3	6.5
<i>JCPC Allocations</i>			3.2	3.3	6.5
DOC			(\$1.2)	(\$1.2)	(\$2.4)
Personal Services			(0.5)	(0.5)	(2.4)
Facility Operations			(0.7)	(0.7)	(1.3)
AOC			**	\$4.1	\$4.1
Personal Services				4.1	4.1
Local Government			\$0.8	\$0.8	\$1.6
Match Funds- JCPC Allocations			0.8	0.8	1.6
<p>* These are one-time allocations and will not be recurring annual costs at Year 6 of implementation  **The estimate is based on the assumption that current staff can accommodate Year 3 additions to the system</p>					

Source: The ESTIS Group, 2009

## **APPENDIX C. WASHINGTON INSTITUTE FOR PUBLIC POLICY QUALITY ASSURANCE STANDARDS FOR TREATMENT SERVICES**

An oversight committee is the primary vehicle for ensuring competent service delivery. The committee is to include experts for each program under the committee's management, as well as representatives of the organizations responsible for funding and management decisions. Since these quality control standards affect programs run by the courts and Juvenile Rehabilitation Administration (JRA), it is the responsibility of the juvenile courts and the JRA to determine if one oversight committee is needed or whether two separate committees are advisable.

- A. Managing and Overseeing Program Delivery:** The following practices are necessary for delivering research-based programs:
- The management of each program includes the involvement of a statewide program specialist and, as needed, program trainers and regional program specialists. These individuals are responsible for ensuring that each program's principles are followed and the service is competently delivered. Specialists visit program sites to consult with staff and assist with program delivery problems.
  - The program specialist is responsible for developing a quality control manual that describes the specific standards for the hiring, training, and retention of qualified providers, and the management and oversight of delivery of treatment services. The oversight committee reviews and approves the manual.
  - A representative of each service provider organization attends regularly held workshops, scheduled by the program specialist, to review and clarify program best practices. For programs operating in locations across the State, regional workshops may be necessary.
  - Each person providing a program is assessed at least annually by a program specialist. The reviews include direct observation, or video/audio recording of service delivery, and a review of the program environment. The specialist uses the structured assessment instrument specifically designed for each program. These instruments, developed under the guidance of the oversight committee, measure detailed aspects of competent program delivery. The instruments would inform the providers about their performance and provide specific areas for improvement, if needed. The responses to each assessment item are recorded in a database by the program specialist conducting the review. Each person's service delivery is assessed as (a) highly competent, (b) competent, or (c) not competent. The specialist reviews the results with the service providers and court management.
  - The program specialist conducts site reviews at least annually to assess the environment supporting the research-based programs. An instrument, developed

under the guidance of the oversight committee, is used to assess the environmental support for the research-based programs. The instrument includes information concerning staff training, the assessment process, program participant assignment, engagement and motivation of youth and their families, staff reinforcement of the program principles, and support of these efforts by court management. Each program environment is assessed as (a) highly adequate, (b) adequate, or (c) not adequate. The specialist reviews the results with the court management.

- Every two years, the validity of the program provider and environmental assessments are empirically verified under the guidance of the oversight committee.
- The statewide specialist takes corrective action when a site is not competently delivering the program. The statewide specialist notifies the oversight committee of all corrective actions.
- The oversight committee discontinues funding of any program when the corrective actions of the statewide specialist have failed to bring the program into compliance with these standards.
- The oversight committee sponsors an annual refresher training workshop for providers.

**B. Selecting, Training, and Retaining Qualified Providers:** following are personnel practices necessary to facilitate the selection and retention of qualified individuals capable of competently delivering treatment services.

- Each program position has a written job description that includes duties, responsibilities, minimum qualifications, and any special requirements.
- A job announcement is used to advertise and recruit candidates for an open position.
- All applicants are screened to ensure they meet the minimum position qualifications.
- The applicant's interview team includes a program specialist who assesses the candidate's qualifications.
- Explicit selection criteria are used to determine the best person for the position.
- The candidate is selected for the position on a six-month probationary basis with the understanding that the probationary period would determine if the applicant has the necessary knowledge and skills.
- Initial training and feedback are provided so the applicant can acquire necessary experience and demonstrate acceptable knowledge and skills during the

probationary period. The initial training includes a written test or interview that assesses the applicant's knowledge.

- At the end of the probationary period, the applicant's skills are reviewed using the assessment instrument designed to measure competent program delivery.
- Only persons demonstrating competent delivery of the treatment service are retained after the probation period ends.
- The program specialist maintains a database of persons who have been selected and trained. The database includes written test scores and an initial assessment of the person's skills in delivering the program. This initial assessment is identical to the ongoing adherence assessments described above.
- This initial assessment forms the baseline for monitoring the provider's skill development.
- Each statewide program specialist maintains a quality assurance manual that documents the process for meeting these standards.

Source: Aos, Steve, and Lieb, Roxanne. "Recommended Quality Control Standards: Washington State Research-Based Juvenile Offender Programs." Washington State Institute for Public Policy. 2003.

## APPENDIX D. WASHINGTON INSTITUTE FOR PUBLIC POLICY – STANDARDS FOR MEASURING OUTCOMES

**A. Recidivism:** The ultimate outcome measure for juvenile offender programs is recidivism. A minimum of 18 months of follow-up time is necessary to reasonably measure recidivism.

- An additional 12 months are necessary to allow the justice system to process the events.
- Juvenile offenders prosecuted in adult criminal court and juvenile offenders who turn 18 years old before the end of the follow-up period are tracked into the adult criminal justice system.
- Each research-based program has undergone a rigorous outcome evaluation. These studies provide benchmarks, or expectations, of what the recidivism rate should be if a program is working. However, it is essential to know if the program outcomes continue to meet expectations, and this knowledge must be available on a yearly basis.
- The expected outcomes are compared with the actual outcomes each year. An actual outcome that is equal to or better than the expected outcome indicates the program is continuing to work. If the actual outcome is below expectation, the program would appear not to be working. This technique avoids the necessity of forming comparison groups each year. The accuracy of the outcome estimation calculations are reviewed annually by the oversight committee.

**B. Program Completion:** High completion rates indicate that the courts and JRA are able to motivate and keep the youth engaged in the treatment process. Low completion rates indicate wasted resources. A 75 percent completion rate for each program is the standard.

- The completion rate is the percentage of youth assigned to the program that completed it.
- The juvenile court maintains the assessment database that identifies youth eligible for the research-based programs.
- The program providers maintain a database of youth in their program, which includes the date the youth was assigned to the provider, the date service delivery started, a record of service contacts, the date the youth completed or was terminated from the program, and, if terminated, the reason for noncompletion.

**C. Interim Outcomes:** Improvement of specific risk and protective factors. (e.g., Functional Family Therapy aims to reduce family risk factors and increase family protective factors; therefore, its ability to change these factors would make it successful).

- The juvenile courts and JRA developed similar assessments that are specifically designed to measure changes in the dynamic risk and protective factors.
- The risk and protective factors are assessed before the youth is placed in the program and again when the youth either completes or terminates the program.
- The Institute has identified the dynamic risk and protective factors associated with the current research-based programs that are to be measured. Monitoring these interim outcomes provides immediate information on program performance.

Programs that positively influence the identified factors of interest should have better outcomes than those not able to do so. Showing an association between positive changes in those factors targeted by a program and, subsequently, successful program outcomes is a necessary condition to show that the program is working.

Source: Aos, Steve, and Lieb, Roxanne. "Recommended Quality Control Standards: Washington State Research-Based Juvenile Offender Programs." Washington State Institute for Public Policy. 2003.

# STATUTORY IMPLICATIONS OF RAISING THE MAXIMUM AGE OF JUVENILE COURT JURISDICTION IN NORTH CAROLINA

This report describes changes that would be needed in the North Carolina General Statutes in order to increase from sixteen to eighteen the age at which an individual's violation of criminal laws is addressed in the adult criminal system rather than the juvenile justice system. Many of these changes are in the Juvenile Code (G.S. Chapter 7B), but related or conforming changes in a number of other statutes would be required or should be considered. Drafts of many of these changes are included in the *Appendices*.

## Juvenile Code Changes

Juvenile court jurisdiction falls into four categories:

1. Initial jurisdiction is defined in terms of the age of an offender, at the time of his or her offense, whose case can be initiated only in juvenile court.
2. Limited initial jurisdiction over juveniles who "age out" defines the juvenile court's authority over adults who are alleged to have committed offenses when they were juveniles.
3. Continuing or dispositional jurisdiction refers to the period of time after the age of initial jurisdiction during which the juvenile court may exercise jurisdiction over a juvenile who is alleged to be or has been adjudicated delinquent.
4. Extended jurisdiction refers to the longer period of time the juvenile court may exercise jurisdiction over juveniles who are adjudicated delinquent for the most serious offenses.

For each of these, current law and likely changes related to increasing the jurisdictional age are outlined below. Most conversations about raising the age of juvenile court jurisdiction are centered on initial jurisdiction – the age of offenders whose conduct is considered delinquent rather than criminal. Policies and intentions regarding changes in dispositional and extended jurisdiction will require further discussion.

### **Types of Age-Related Jurisdiction in Juvenile Delinquency Proceedings**

- **Initial Jurisdiction** (the case can be initiated only by the filing of a juvenile petition)

**Now:** For any offense committed while at least 6 and not yet 16

**Proposed:** For any offense committed while at least 6 and not yet 18

Initial jurisdiction exists regardless of the offender's age when the petition is filed; it is based solely on the person's age at the time of the offense.

- **Limited Initial Jurisdiction over Juvenile Who "Ages Out"**

**Now:** For a felony offense allegedly committed on or after the juvenile's 13<sup>th</sup> birthday and prior to the juvenile's 16<sup>th</sup> birthday, if the juvenile reaches age 18 before a petition is filed or before the delinquency proceeding is completed,



the court has jurisdiction only (i) to conduct a probable cause hearing and (ii) if the court finds probable cause for a felony, to either transfer the case to superior court or dismiss it.

**Proposed:** For a felony offense allegedly committed on or after the juvenile's 13<sup>th</sup> birthday and prior to the juvenile's 18<sup>th</sup> birthday, if the juvenile reaches age 20 before a petition is filed or before the delinquency proceeding is completed, the court has jurisdiction only (i) to conduct a probable cause hearing and (ii) if the court finds probable cause for a felony, to either transfer the case to superior court or dismiss it.

- **Continuing or Dispositional Jurisdiction**

**Now:** In every case, for an offense committed before age 16, the juvenile court may exercise jurisdiction over the juvenile until the juvenile reaches age 18. The court may choose to terminate its jurisdiction earlier. For adjudications based on any offense less serious than a Class E felony, the court's jurisdiction ends automatically when the juvenile reaches age 18 and cannot be extended past age 18.

**Proposed:** In every case, for an offense committed before age **18**, the juvenile court may exercise jurisdiction over the juvenile until the juvenile reaches age **20**. The court may choose to terminate its jurisdiction earlier. For adjudications based on any offense less serious than a Class E felony, the court's jurisdiction ends automatically when the juvenile reaches age **20** and cannot be extended past age **20**.

- **Extended Jurisdiction**

**Now:** When a juvenile is adjudicated delinquent for an offense that is more serious than a Class F felony, the court's dispositional jurisdiction may extend past the juvenile's 18<sup>th</sup> birthday, for an absolute maximum period that ends when the juvenile reaches

- age 21, if the juvenile was adjudicated delinquent and committed to a youth development center for first-degree murder, first-degree rape, or first-degree sexual offense;
- age 19, if the juvenile was adjudicated delinquent and committed to a youth development center for a Class A through E felony (other than first-degree murder, first-degree rape, or first degree-sexual offense).

**Proposed:** When a juvenile is adjudicated delinquent for an offense that is more serious than a Class F felony, the court's dispositional jurisdiction may extend past the juvenile's **20<sup>th</sup>** birthday, for an absolute maximum period that ends when the juvenile reaches

- **age \_\_\_\_\_**, if the juvenile was adjudicated delinquent and committed to a youth development center for first-degree murder, first-degree rape, or first-degree sexual offense;

- **age \_\_\_\_\_**, if the juvenile was adjudicated delinquent and committed to a youth development center for a Class A through E felony (other than first-degree murder, first-degree rape, or first-degree sexual offense).

Subchapter II of G.S. Chapter 7B, the Juvenile Code, is reproduced in *Appendix A*, indicating with editing marks where amendments related to raising the juvenile age would be needed. Some sections are followed by italicized comments that either explain the changes or identify issues that could affect the wording of the statute. In a few instances the changes are not directly required by the increase in the jurisdictional age but provide clarification of existing provisions.

### Assumptions

The document comprising *Appendix A* reflects some assumptions. First, it assumes that the nature of the conduct that is considered delinquent would not change – that is, that sixteen- and seventeen-year-olds would be subject to juvenile court jurisdiction for violations of the motor vehicle laws and for indirect contempt by a juvenile, as well as for the commission of crimes or infractions under state law or local ordinances. (*Appendix C* shows an alternative treatment of motor vehicle offenses.)

Second, the document assumes that the two-year increase in the court’s initial jurisdiction would be accompanied by a two-year increase in the court’s continuing or dispositional jurisdiction. Raising the age of initial jurisdiction to 18, without a comparable increase in the age of dispositional jurisdiction, would allow very little time, or in some cases no time, to implement meaningful dispositions in the cases of older juveniles. The draft assumes that the upper age limit would apply to all delinquent juveniles, not just those over a certain age or those who commit certain offenses.

The document in *Appendix A* makes no assumption about changes in the ages of extended jurisdiction but notes sections that would require amendments. (Applying the two-year extension to the current extended jurisdiction provisions would result in some juveniles’ remaining in the juvenile justice system until their 21<sup>st</sup> or 23<sup>rd</sup> birthdays.)

### Policy Questions

This report does not analyze policy issues related to raising the age of juvenile court jurisdiction. Some policy questions, however, have a bearing on whether or how certain statutes should be amended. These include, of course, the questions of whether the assumptions described above are accurate and how the statutes dealing with extended jurisdiction should be changed. Other questions are noted below or in the draft statutes in *Appendix A*.

A number of the policy issues relate to the increased number of juveniles who would be subject to juvenile court jurisdiction after they reach age eighteen and legally are adults. Under current law adults can be subject to juvenile court jurisdiction, for offenses they committed before they reached age sixteen, in several circumstances.

1. Pursuant to extended jurisdiction, some juveniles remain in the juvenile court system until their 19<sup>th</sup> or 21<sup>st</sup> birthdays.

2. Juvenile petitions can be filed and the juvenile court can conduct probable cause and transfer hearings for individuals of any age, for felony offenses they are alleged to have committed when at least 13 and not yet 16.
3. A juvenile who marries or is emancipated while subject to the juvenile court's jurisdiction is not released from the court's jurisdiction for that reason alone.

These cases are not numerous, and the Juvenile Code contains no special provisions addressing these juveniles' legal status as adults. It seems likely that an extension of the court's dispositional jurisdiction past age eighteen would increase substantially the number of adults in the juvenile justice system. They could be involved in intake, subject to diversion contracts, on probation, committed to or on post-release supervision from a youth development center, or subject to any other available disposition.

Following are some of the questions relating to whether the increased number of adults who would be subject to juvenile court jurisdiction suggests a need for statutory changes.

1. Because at age eighteen an individual is not legally subject to parental supervision and control, when a juvenile reaches age eighteen should the juvenile court continue to have jurisdiction over the juvenile's parents? For example, should the parents still be required to attend court hearings, and should the court have authority to order the parents to participate in the juvenile's treatment or take other actions?
2. Should the right to have a parent, guardian, or custodian present during in-custody interrogation apply to juveniles after age eighteen?
3. Should a juvenile who is eighteen or older be able to waive the right to counsel?
4. Are there dispositional options and resources provided in the Juvenile Code that will not or should not be available to juveniles who are eighteen or older?
5. Are there additional or different dispositional options that should be in the Juvenile Code to address the needs and circumstances of older juveniles?

### Applicability

Any legislation increasing the juvenile age needs to include clear applicability language.

### Other Statutes

*Appendix B* sets out various statutes other than the Juvenile Code for which raising the juvenile age has or may have implications. A number of criminal statutes define offenses in relation to the age of the offender, the age of the victim, or both. Raising the juvenile age does not require that these be changed. They are set out in *Appendix B*, however, with the age provisions highlighted, to facilitate consideration of whether changes are desirable.

### Motor Vehicle Offenses

The current definition of "delinquent juvenile" includes a juvenile who commits a violation of the motor vehicle laws. Inclusion in the juvenile justice system of motor vehicle offenses by 16- and 17-year-olds would not necessarily require significant changes in G.S. Chapter 20, the Motor

Vehicle laws. Some of the questions that should be considered in relation to the Juvenile Code, however, include the following:

- Would all motor vehicle offenses committed by juveniles be subject to the same intake, evaluation, and petitioning process as other delinquent offenses?
- Should additional diversion options be available for motor vehicle offenses?
- Would appropriate dispositions for all motor vehicle offenses be added to the Juvenile Code, or would some consequences be incorporated by reference from Chapter 20?
- How would the confidentiality provisions of the Juvenile Code work in relation to motor vehicle offenses?
- Would the appointment of counsel be required for all juveniles alleged to have committed a motor vehicle offense?

If not all motor vehicle offenses were handled in the juvenile system, other possible approaches include

1. specifying particular motor vehicle offenses for which a juvenile would continue to be treated as an adult.
2. leaving all motor vehicle offenses in the adult system but requiring or allowing reverse transfer from district or superior court to juvenile court for some offenses.

*Appendix C* provides an example of the second approach.

Appendix A.	Draft Changes to the Juvenile Code
Appendix B.	Draft Changes to Statutes other than the Juvenile Code
Appendix C.	Draft Alternative Treatment of Motor Vehicle Offenses

## APPENDIX A. DRAFT CHANGES TO THE JUVENILE CODE

*Changes that would be required or that seem likely as a result of raising the juvenile age are shown with underlining and strike-through. Italicized notes after some sections explain the changes or identify issues that could affect the wording of the statute. Shaded areas represent issues for consideration; language in the shaded area is unchanged from the original source.*

### Chapter 7B. Juvenile Code.

#### SUBCHAPTER II. UNDISCIPLINED AND DELINQUENT JUVENILES.

##### Article 15.

##### Purposes; Definitions.

#### § 7B-1500. Purpose.

This Subchapter shall be interpreted and construed so as to implement the following purposes and policies:

- (1) To protect the public from acts of delinquency.
- (2) To deter delinquency and crime, including patterns of repeat offending:
  - a. By providing swift, effective dispositions that emphasize the juvenile offender's accountability for the juvenile's actions; and
  - b. By providing appropriate rehabilitative services to juveniles and their families.
- (3) To provide an effective system of intake services for the screening and evaluation of complaints and, in appropriate cases, where court intervention is not necessary to ensure public safety, to refer juveniles to community-based resources.
- (4) To provide uniform procedures that assure fairness and equity; that protect the constitutional rights of juveniles, parents, and victims; and that encourage the court and others involved with juvenile offenders to proceed with all possible speed in making and implementing determinations required by this Subchapter.

#### § 7B-1501. Definitions.

In this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings. The singular includes the plural, unless otherwise specified.

- (1) Chief court counselor. – The person responsible for administration and supervision of juvenile intake, probation, and post-release supervision in each judicial district, operating under the supervision of the Department of Juvenile Justice and Delinquency Prevention.
- (2) Clerk. – Any clerk of superior court, acting clerk, or assistant or deputy clerk.

- (3) Community-based program. – A program providing nonresidential or residential treatment to a juvenile under the jurisdiction of the juvenile court in the community where the juvenile’s family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.
- (4) Court. – The district court division of the General Court of Justice.
- (5) Repealed by Session Laws 2001-490, s. 2.1, effective June 30, 2001.
- (6) Custodian. – The person or agency that has been awarded legal custody of a juvenile by a court.
- (7) Delinquent juvenile. – Any juvenile who, while less than ~~16~~ 18 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31.

*Note: If any motor vehicle offenses committed by 16- and 17-year-olds are to be handled in adult court rather than juvenile court, the definition would need to be amended to reflect that.*

- (7a) Department. – The Department of Juvenile Justice and Delinquency Prevention created under Article 12 of Chapter 143B of the General Statutes.
- (8) Detention. – The secure confinement of a juvenile under a court order.
- (9) Detention facility. – A facility approved to provide secure confinement and care for juveniles. Detention facilities include both State and locally administered detention homes, centers, and facilities.
- (10) District. – Any district court district as established by G.S. 7A-133.
- (11) Holdover facility. – A place in a jail which has been approved by the Department of Health and Human Services as meeting the State standards for detention as required in G.S. 153A-221 providing close supervision where the juvenile cannot converse with, see, or be seen by the adult population.
- (12) House arrest. – A requirement that the juvenile remain at the juvenile’s residence unless the court or the juvenile court counselor authorizes the juvenile to leave for specific purposes.
- (13) Intake. – The process of screening and evaluating a complaint alleging that a juvenile is delinquent or undisciplined to determine whether the complaint should be filed as a petition.
- (14) Interstate Compact on Juveniles. – An agreement ratified by 50 states and the District of Columbia providing a formal means of returning a juvenile, who is an absconder, escapee, or runaway, to the juvenile’s home state, and codified in Article 28 of this Chapter.
- (15) Judge. – Any district court judge.
- (16) Judicial district. – Any district court district as established by G.S. 7A-133.
- (17) Juvenile. – ~~Except as provided in subdivisions (7) and (27) of this section, any~~ Any person who has not reached the person’s eighteenth birthday and is not married, emancipated, or a member of the armed forces of the United States. In relation to delinquency proceedings, “juvenile” also means a person who is subject to the court’s jurisdiction due to a delinquent offense the person committed or is alleged to have committed before reaching the age of

eighteen. Wherever the term “juvenile” is used with reference to rights and privileges, that term encompasses the attorney for the juvenile as well.

*Note: The added sentence addresses the fact that with the extension of the jurisdictional age, an increasing number of references to “juvenile” in the Subchapter will be referring to persons who are 18 or older. The sentence is subject to the general proviso in the introductory language of the section – “unless the context clearly requires otherwise.”*

*It would be possible to use a different term, such as “youth,” to refer people who are subject to the juvenile court’s jurisdiction past age 18, although pinpointing the time at which the terminology should change might be awkward. A different possibility would be to make the term “youth” interchangeable with the term “juvenile.”*

- (18) Juvenile court. – Any district court exercising jurisdiction under this Chapter.
- (18a) Juvenile court counselor. – A person responsible for intake services and court supervision services to juveniles under the supervision of the chief court counselor.
- (19) Repealed by Session Laws 2000, c. 137, s. 2, effective July 20, 2000.
- (20) Petitioner. – The individual who initiates court action by the filing of a petition or a motion for review alleging the matter for adjudication.
- (21) Post-release supervision. – The supervision of a juvenile who has been returned to the community after having been committed to the Department for placement in a youth development center.
- (22) Probation. – The status of a juvenile who has been adjudicated delinquent, is subject to specified conditions under the supervision of a juvenile court counselor, and may be returned to the court for violation of those conditions during the period of probation.
- (23) Prosecutor. – The district attorney or assistant district attorney assigned by the district attorney to juvenile proceedings.
- (24) Protective supervision. – The status of a juvenile who has been adjudicated undisciplined and is under the supervision of a juvenile court counselor.
- (25) Teen court program. – A community resource for the diversion of cases in which a juvenile has allegedly committed certain offenses for hearing by a jury of the juvenile’s peers, which may assign the juvenile to counseling, restitution, curfews, community service, or other rehabilitative measures.
- (26) Repealed by Session Laws 2001-95, s. 1, effective May 18, 2001.
- (27) Undisciplined juvenile. –
  - a. A juvenile who, while less than 16 years of age but at least 6 years of age, is unlawfully absent from school; or is regularly disobedient to and beyond the disciplinary control of the juvenile’s parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours; or
  - b. A juvenile who is 16 or 17 years of age and who is regularly disobedient to and beyond the disciplinary control of the juvenile’s parent, guardian, or custodian; or is regularly found in places where it

is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours.

- (28) Wilderness program. – A rehabilitative residential treatment program in a rural or outdoor setting.
- (29) Youth development center. – A secure residential facility authorized to provide long-term treatment, education, and rehabilitative services for delinquent juveniles committed by the court to the Department.

## Article 16.

### Jurisdiction.

#### **§ 7B-1600. Jurisdiction over undisciplined juveniles.**

(a) The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be undisciplined. For purposes of determining jurisdiction, the age of the juvenile at the time of the alleged offense governs.

(b) When the court obtains jurisdiction over a juvenile under this section, jurisdiction shall continue until terminated by order of the court, the juvenile reaches the age of 18 years, or the juvenile is emancipated.

(c) The court has jurisdiction over the parent, guardian, or custodian of a juvenile who is under the jurisdiction of the court pursuant to this section, if the parent, guardian, or custodian has been served with a summons pursuant to G.S. 7B-1805.

#### **§ 7B-1601. Jurisdiction over delinquent juveniles.**

(a) The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be delinquent. For purposes of determining jurisdiction, the age of the juvenile at the time of the alleged offense governs.

(b) When the court obtains jurisdiction over a juvenile alleged to be delinquent, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of ~~18~~ 20 years, except as provided otherwise in this Article.

(c) When delinquency proceedings cannot be concluded before the juvenile reaches the age of ~~18~~ 20 years, the court retains jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition.

(d) When the court has not obtained jurisdiction over a juvenile before the juvenile reaches the age of ~~18~~ 20, for a felony and any related misdemeanors the juvenile allegedly committed on or after the juvenile's thirteenth birthday and prior to the juvenile's ~~sixteenth~~ eighteenth birthday, the court has jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition.

(e) The court has jurisdiction over delinquent juveniles in the custody of the Department and over proceedings to determine whether a juvenile who is under the post-release supervision of the juvenile court counselor has violated the terms of the juvenile's post-release supervision.

(f) The court has jurisdiction over persons ~~18~~ 20 years of age or older who are under the extended jurisdiction of the juvenile court.



(g) The court has jurisdiction over the parent, guardian, or custodian of a juvenile who is under the jurisdiction of the court pursuant to this section if the parent, guardian, or custodian has been served with a summons pursuant to G.S. 7B-1805.

*Note:*

- *The age changes reflect a two-year increase in the court's general dispositional jurisdiction.*
- *Should this or another section address any jurisdictional differences with respect to parents of juveniles who are 18 or older?*

**§ 7B-1602. Extended jurisdiction over a delinquent juvenile under certain circumstances.**

(a) When a juvenile is committed to the Department for placement in a youth development center for an offense that would be first degree murder pursuant to G.S. 14-17, first-degree rape pursuant to G.S. 14-27.2, or first-degree sexual offense pursuant to G.S. 14-27.4 if committed by an adult, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches **the age of 21 years**, whichever occurs first.

(b) When a juvenile is committed to the Department for placement in a youth development center for an offense that would be a Class **A**, B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in subsection (a) of this section, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches **the age of 19 years**, whichever occurs first.

*Note: This section would need to be rewritten to reflect changes in extended jurisdiction, with conforming changes in later sections. (If general dispositional jurisdiction were raised to age 20, age 19 would no longer represent an extension of jurisdiction.)*

*The added reference to a "Class A" felony reflects the fact that, in addition to first degree murder, willfully injuring another person by use of a nuclear, biological, or chemical weapon of mass destruction is a Class A felony under G.S. 14-288.22.*

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

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

- (1) Proceedings under the Interstate Compact on the Placement of Children set forth in Article 38 of this Chapter.
- (2) Proceedings involving judicial consent for emergency surgical or medical treatment for a juvenile when the juvenile's parent, guardian, custodian, or person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court refuses to consent for treatment to be rendered.
- (3) Proceedings to determine whether a juvenile should be emancipated.
- (4) Proceedings in which a juvenile has been ordered pursuant to G.S. 5A-32(b) to appear and show cause why the juvenile should not be held in contempt.

**§ 7B-1604. Limitations on juvenile court jurisdiction.**

(a) Any **juvenile individual**, including a **juvenile one** who is under the jurisdiction of the court, who commits a criminal offense on or after the **juvenile's sixteenth individual's eighteenth** birthday is subject to prosecution as an adult. A juvenile who is emancipated shall be prosecuted as an adult for the commission of a criminal offense.

(b) A juvenile who is transferred to and convicted in superior court shall be prosecuted as an adult for any criminal offense the juvenile commits after the superior court conviction.

## Article 17.

### Screening of Delinquency and Undisciplined Complaints.

#### **§ 7B-1700. Intake services.**

The chief court counselor, under the direction of the Department, shall establish intake services in each judicial district of the State for all delinquency and undisciplined cases.

The purpose of intake services shall be to determine from available evidence whether there are reasonable grounds to believe the facts alleged are true, to determine whether the facts alleged constitute a delinquent or undisciplined offense within the jurisdiction of the court, to determine whether the facts alleged are sufficiently serious to warrant court action, and to obtain assistance from community resources when court referral is not necessary. The juvenile court counselor shall not engage in field investigations to substantiate complaints or to produce supplementary evidence but may refer complainants to law enforcement agencies for those purposes.

#### **§ 7B-1701. Preliminary inquiry.**

When a complaint is received, the juvenile court counselor shall make a preliminary determination as to whether the juvenile is within the jurisdiction of the court as a delinquent or undisciplined juvenile. If the juvenile court counselor finds that the facts contained in the complaint do not state a case within the jurisdiction of the court, that legal sufficiency has not been established, or that the matters alleged are frivolous, the juvenile court counselor, without further inquiry, shall refuse authorization to file the complaint as a petition.

When requested by the juvenile court counselor, the prosecutor shall assist in determining the sufficiency of evidence as it affects the quantum of proof and the elements of offenses.

The juvenile court counselor, without further inquiry, shall authorize the complaint to be filed as a petition if the juvenile court counselor finds reasonable grounds to believe that the juvenile has committed one of the following nondivertible offenses:

- (1) Murder;
- (2) First-degree rape or second degree rape;
- (3) First-degree sexual offense or second degree sexual offense;
- (4) Arson;
- (5) Any violation of Article 5, Chapter 90 of the General Statutes that would constitute a felony if committed by an adult;
- (6) First degree burglary;
- (7) Crime against nature; or
- (8) Any felony which involves the willful infliction of serious bodily injury upon another or which was committed by use of a deadly weapon.

#### **§ 7B-1702. Evaluation.**

Upon a finding of legal sufficiency, except in cases involving nondivertible offenses set out in G.S. 7B-1701, the juvenile court counselor shall determine whether a complaint should be filed as a petition, the juvenile diverted pursuant to G.S. 7B-1706, or the case resolved without further action. In making the decision, the counselor shall consider criteria provided by the Department. The intake process shall include the following steps if practicable:

- (1) Interviews with the complainant and the victim if someone other than the complainant;

- (2) Interviews with the juvenile and the juvenile's parent, guardian, or custodian;
- (3) Interviews with persons known to have relevant information about the juvenile or the juvenile's family.

Interviews required by this section shall be conducted in person unless it is necessary to conduct them by telephone.

**§ 7B-1703. Evaluation decision.**

(a) The juvenile court counselor shall complete evaluation of a complaint within 15 days of receipt of the complaint, with an extension for a maximum of 15 additional days at the discretion of the chief court counselor. The juvenile court counselor shall decide within this time period whether a complaint shall be filed as a juvenile petition.

(b) Except as provided in G.S. 7B-1706, if the juvenile court counselor determines that a complaint should be filed as a petition, the counselor shall file the petition as soon as practicable, but in any event within 15 days after the complaint is received, with an extension for a maximum of 15 additional days at the discretion of the chief court counselor. The juvenile court counselor shall assist the complainant when necessary with the preparation and filing of the petition, shall include on it the date and the words "Approved for Filing", shall sign it, and shall transmit it to the clerk of superior court.

(c) If the juvenile court counselor determines that a petition should not be filed, the juvenile court counselor shall notify the complainant immediately in writing with reasons for the decision and shall include notice of the complainant's right to have the decision reviewed by the prosecutor. The juvenile court counselor shall sign the complaint after indicating on it:

- (1) The date of the determination;
- (2) The words "Not Approved for Filing"; and
- (3) Whether the matter is "Closed" or "Diverted and Retained".

Except as provided in G.S. 7B-1706, any complaint not approved for filing as a juvenile petition shall be destroyed by the juvenile court counselor after holding the complaint for a temporary period to allow review as provided in G.S. 7B-1705.

**§ 7B-1704. Request for review by prosecutor.**

The complainant has five calendar days, from receipt of the juvenile court counselor's decision not to approve the filing of a petition, to request review by the prosecutor. The juvenile court counselor shall notify the prosecutor immediately of such request and shall transmit to the prosecutor a copy of the complaint. The prosecutor shall notify the complainant and the juvenile court counselor of the time and place for the review.

**§ 7B-1705. Review of determination that petition should not be filed.**

No later than 20 days after the complainant is notified, the prosecutor shall review the juvenile court counselor's determination that a juvenile petition should not be filed. Review shall include conferences with the complainant and the juvenile court counselor. At the conclusion of the review, the prosecutor shall: (i) affirm the decision of the juvenile court counselor or direct the filing of a petition and (ii) notify the complainant of the prosecutor's action.

**§ 7B-1706. Diversion plans and referral.**

(a) Unless the offense is one in which a petition is required by G.S. 7B-1701, upon a finding of legal sufficiency the juvenile court counselor may divert the juvenile pursuant to a diversion plan, which may include referring the juvenile to any of the following resources:

- (1) An appropriate public or private resource;
- (2) Restitution;
- (3) Community service;
- (4) Victim-offender mediation;
- (5) Regimented physical training;
- (6) Counseling;
- (7) A teen court program, as set forth in subsection (c) of this section.

As part of a diversion plan, the juvenile court counselor may enter into a diversion contract with the juvenile and the juvenile's parent, guardian, or custodian.

(b) Unless the offense is one in which a petition is required by G.S. 7B-1701, upon a finding of legal sufficiency the juvenile court counselor may enter into a diversion contract with the juvenile and the parent, guardian, or custodian; provided, a diversion contract requires the consent of the juvenile and the juvenile's parent, guardian, or custodian. A diversion contract shall:

- (1) State conditions by which the juvenile agrees to abide and any actions the juvenile agrees to take;
- (2) State conditions by which the parent, guardian, or custodian agrees to abide and any actions the parent, guardian, or custodian agrees to take;
- (3) Describe the role of the juvenile court counselor in relation to the juvenile and the parent, guardian, or custodian;
- (4) Specify the length of the contract, which shall not exceed six months;
- (5) Indicate that all parties understand and agree that:
  - a. The juvenile's violation of the contract may result in the filing of the complaint as a petition; and
  - b. The juvenile's successful completion of the contract shall preclude the filing of a petition.

After a diversion contract is signed by the parties, the juvenile court counselor shall provide copies of the contract to the juvenile and the juvenile's parent, guardian, or custodian. The juvenile court counselor shall notify any agency or other resource from which the juvenile or the juvenile's parent, guardian, or custodian will be seeking services or treatment pursuant to the terms of the contract. At any time during the term of the contract if the juvenile court counselor determines that the juvenile has failed to comply substantially with the terms of the contract, the juvenile court counselor may file the complaint as a petition. Unless the juvenile court counselor has filed the complaint as a petition, the juvenile court counselor shall close the juvenile's file in regard to the diverted matter within six months after the date of the contract.

(c) If a teen court program has been established in the district, the juvenile court counselor, upon a finding of legal sufficiency, may refer to a teen court program, any case in which a juvenile has allegedly committed an offense that would be an infraction or misdemeanor if committed by an adult. However, the juvenile court counselor shall not refer a case to a teen court program (i) if the juvenile has been referred to a teen court program previously, or (ii) if the juvenile is alleged to have committed any of the following offenses:

- (1) Driving while impaired under G.S. 20-138.1, 20-138.2, 20-138.3, 20-138.5, or 20-138.7, or any other motor vehicle violation;
- (2) A Class A1 misdemeanor;
- (3) An assault in which a weapon is used; or

(4) A controlled substance offense under Article 5 of Chapter 90 of the General Statutes, other than simple possession of a Schedule VI drug or alcohol.

(d) The juvenile court counselor shall maintain diversion plans and contracts entered into pursuant to this section to allow juvenile court counselors to determine when a juvenile has had a complaint diverted previously. Diversion plans and contracts are not public records under Chapter 132 of the General Statutes, shall not be included in the clerk's record pursuant to G.S. 7B-3000, and shall be withheld from public inspection or examination. Diversion plans and contracts shall be destroyed when the juvenile reaches the age of ~~18~~ 20 years or when the juvenile is no longer under the jurisdiction of the court, whichever is longer.

(e) No later than 60 days after the juvenile court counselor diverts a juvenile, the juvenile court counselor shall determine whether the juvenile and the juvenile's parent, guardian, or custodian have complied with the terms of the diversion plan or contract. In making this determination, the juvenile court counselor shall contact any referral resources to determine whether the juvenile and the juvenile's parent, guardian, or custodian complied with any recommendations for treatment or services made by the resource. If the juvenile and the juvenile's parent, guardian, or custodian have not complied, the juvenile court counselor shall reconsider the decision to divert and may authorize the filing of the complaint as a petition within 10 days after making the determination. If the juvenile court counselor does not file a petition, the juvenile court counselor may continue to monitor the case for up to six months from the date of the diversion plan or contract. At any point during that time period if the juvenile and the juvenile's parent, guardian, or custodian fail to comply, the juvenile court counselor shall reconsider the decision to divert and may authorize the filing of the complaint as a petition. After six months, the juvenile court counselor shall close the diversion plan or contract file.

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

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

### Article 18.

#### Venue; Petition; Summons.

#### **§ 7B-1800. Venue.**

(a) A proceeding in which a juvenile is alleged to be delinquent or undisciplined shall be commenced and adjudicated in the district in which the offense is alleged to have occurred. When a proceeding is commenced in a district other than that of the juvenile's residence, the court shall proceed to adjudication in that district and, if the juvenile is in residential treatment or foster care in that district, the court shall conduct the dispositional hearing in that district as well, unless the judge enters an order, supported by findings of fact, that a transfer would serve the ends of justice or is in the best interests of the juvenile.

(b) Except as provided in subsection (a) of this section, after adjudication, the following procedures shall be available to the court:

(1) The court may transfer the proceeding to the court in the district where the juvenile resides for disposition.

(2) Where the proceeding is not transferred under subdivision (1) of this section, the court shall immediately notify the chief district court judge in the district in which the juvenile resides. If the chief district court judge requests a

transfer within five days after receipt of notification, the court shall transfer the proceeding.

- (3) Where the proceeding is not transferred under subdivision (1) or (2) of this section, the court, upon motion of the juvenile, shall transfer the proceeding to the court in the district where the juvenile resides for disposition. The court shall advise the juvenile of the juvenile's right to transfer under this section.

#### **§ 7B-1801. Pleading and process.**

The pleading in a juvenile action is the petition. The process in a juvenile action is the summons.

#### **§ 7B-1802. Petition.**

The petition shall contain the name, date of birth, and address of the juvenile and the name and last known address of the juvenile's parent, guardian, or custodian. The petition shall allege the facts that invoke jurisdiction over the juvenile. The petition shall not contain information on more than one juvenile.

A petition in which delinquency is alleged shall contain a plain and concise statement, without allegations of an evidentiary nature, asserting facts supporting every element of a criminal offense and the juvenile's commission thereof with sufficient precision clearly to apprise the juvenile of the conduct which is the subject of the allegation.

Sufficient copies of the petition shall be prepared so that copies will be available for the juvenile, for each parent if living separate and apart, for the guardian or custodian if any, for the juvenile court counselor, for the prosecutor, and for any person determined by the court to be a necessary party.

#### **§ 7B-1803. Receipt of complaints; filing of petition.**

(a) All complaints concerning a juvenile alleged to be delinquent or undisciplined shall be referred to the juvenile court counselor for screening and evaluation. Thereafter, if the juvenile court counselor determines that a petition should be filed, the petition shall be drawn by the juvenile court counselor or the clerk, signed by the complainant, and verified before an official authorized to administer oaths. If the circumstances indicate a need for immediate attachment of jurisdiction and if the juvenile court counselor is out of the county or otherwise unavailable to receive a complaint and to draw a petition when it is needed, the clerk shall assist the complainant in communicating the complaint to the juvenile court counselor by telephone and, with the approval of the juvenile court counselor, shall draw a petition and file it when signed and verified. A copy of the complaint and petition shall be transmitted to the juvenile court counselor. Procedures for receiving delinquency and undisciplined complaints and drawing petitions thereon, consistent with this Article and Article 17 of this Chapter, shall be established by administrative order of the chief judge in each judicial district.

(b) If review is requested pursuant to G.S. 7B-1704, the prosecutor shall review a complaint and any decision of the juvenile court counselor not to authorize that the complaint be filed as a petition. If the prosecutor, after review, authorizes a complaint to be filed as a petition, the prosecutor shall prepare the complaint to be filed by the clerk as a petition, recording the day of filing.

**§ 7B-1804. Commencement of action.**

(a) An action is commenced by the filing of a petition in the clerk's office when that office is open, or by a magistrate's acceptance of a petition for filing pursuant to subsection (b) of this section when the clerk's office is closed.

(b) When the office of the clerk is closed and the juvenile court counselor requests a petition alleging a juvenile to be delinquent or undisciplined, a magistrate may draw and verify the petition and accept it for filing, which acceptance shall constitute filing. The magistrate's authority under this subsection is limited to emergency situations when a petition is required in order to obtain a secure or nonsecure custody order. Any petition accepted for filing under this subsection shall be delivered to the clerk's office for processing as soon as that office is open for business.

**§ 7B-1805. Issuance of summons.**

(a) Immediately after a petition has been filed alleging that a juvenile is undisciplined or delinquent, the clerk shall issue a summons to the juvenile and to the parent, guardian, or custodian requiring them to appear for a hearing at the time and place stated in the summons. A copy of the petition shall be attached to each summons.

(b) A summons shall be on a printed form supplied by the Administrative Office of the Courts and shall include:

- (1) Notice of the nature of the proceeding and the purpose of the hearing scheduled on the summons.
- (2) Notice of any right to counsel and information about how to seek the appointment of counsel prior to a hearing.
- (3) Notice that, if the court determines at the adjudicatory hearing that the allegations of the petition are true, the court will conduct a dispositional hearing and will have jurisdiction to enter orders affecting substantial rights of the juvenile and of the parent, guardian, or custodian, including orders that:
  - a. Affect the juvenile's custody;
  - b. Impose conditions on the juvenile;
  - c. Require that the juvenile receive medical, psychiatric, psychological, or other treatment and that the parent participate in the treatment;
  - d. Require the parent to undergo psychiatric, psychological, or other treatment or counseling;
  - e. Order the parent to pay for treatment that is ordered for the juvenile or the parent; and
  - f. Order the parent to pay support for the juvenile for any period the juvenile does not reside with the parent or to pay attorneys' fees or other fees or expenses as ordered by the court.
- (4) Notice that the parent, guardian, or custodian shall be required to attend scheduled hearings and that failure without reasonable cause to attend may result in proceedings for contempt of court.
- (5) Notice that the parent, guardian, or custodian shall be responsible for bringing the juvenile before the court at any hearing the juvenile is required to attend and that failure without reasonable cause to bring the juvenile before the court may result in proceedings for contempt of court.

(c) The summons shall advise the parent, guardian, or custodian that upon service, jurisdiction over the parent, guardian, or custodian is obtained and that failure of the parent, guardian, or custodian to appear or bring the juvenile before the court without reasonable cause or to comply with any order of the court pursuant to Article 27 of this Chapter may cause the court to issue a show cause order for contempt. The summons shall contain the following language in bold type:

**“TO THE PARENT(S), GUARDIAN(S), OR CUSTODIAN(S): YOUR FAILURE TO APPEAR IN COURT FOR A SCHEDULED HEARING OR TO COMPLY WITH AN ORDER OF THE COURT MAY RESULT IN A FINDING OF CRIMINAL CONTEMPT. A PERSON HELD IN CRIMINAL CONTEMPT MAY BE SUBJECT TO IMPRISONMENT OF UP TO 30 DAYS, A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) OR BOTH.”**

(d) A summons shall be directed to the person summoned to appear and shall be delivered to any person authorized to serve process.

#### **§ 7B-1806. Service of summons.**

The summons and petition shall be personally served upon the parent, the guardian, or custodian and the juvenile not less than five days prior to the date of the scheduled hearing. The time for service may be waived in the discretion of the court.

If the parent, guardian, or custodian entitled to receive a summons cannot be found by a diligent effort, the court may authorize service of the summons and petition by mail or by publication. The cost of the service by publication shall be advanced by the petitioner and may be charged as court costs as the court may direct.

The court may issue a show cause order for contempt against a parent, guardian, or custodian who is personally served and fails without reasonable cause to appear and to bring the juvenile before the court.

The provisions of G.S. 15A-301(a), (c), (d), and (e) relating to criminal process apply to juvenile process; provided the period of time for return of an unserved summons is 30 days.

#### **§ 7B-1807. Notice to parent and juvenile of scheduled hearings.**

The clerk shall give to all parties, including both parents of the juvenile, the juvenile’s guardian or custodian, and any other person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court, five days’ written notice of the date and time of all scheduled hearings unless the party is notified in open court or the court orders otherwise.

#### **§ 7B-1808. First appearance for felony cases.**

(a) A juvenile who is alleged in the petition to have committed an offense that would be a felony if committed by an adult shall be summoned to appear before the court for a first appearance within 10 days of the filing of the petition. If the juvenile is in secure or nonsecure custody, the first appearance shall take place at the initial hearing required by G.S. 7B-1906. Unless the juvenile is in secure or nonsecure custody, the court may continue the first appearance to a time certain for good cause.

(b) At the first appearance, the court shall:

- (1) Inform the juvenile of the allegations set forth in the petition;
- (2) Determine whether the juvenile has retained counsel or has been assigned counsel;



- (3) If applicable, inform the juvenile of the date of the probable cause hearing, which shall be within 15 days of the first appearance; and
- (4) Inform the parent, guardian, or custodian that the parent, guardian, or custodian is required to attend all hearings scheduled in the matter and may be held in contempt of court for failure to attend any scheduled hearing.

If the juvenile is not represented by counsel, counsel for the juvenile shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services.

#### Article 19.

##### Temporary Custody; Secure and Nonsecure Custody; Custody Hearings.

#### **§ 7B-1900. Taking a juvenile into temporary custody.**

Temporary custody means the taking of physical custody and providing personal care and supervision until a court order for secure or nonsecure custody can be obtained. A juvenile may be taken into temporary custody without a court order under the following circumstances:

- (1) By a law enforcement officer if grounds exist for the arrest of an adult in identical circumstances under G.S. 15A-401(b).
- (2) By a law enforcement officer or a juvenile court counselor if there are reasonable grounds to believe that the juvenile is an undisciplined juvenile.
- (3) By a law enforcement officer, by a juvenile court counselor, by a member of the Black Mountain Center, Alcohol Rehabilitation Center, and Juvenile Evaluation Center Joint Security Force established pursuant to G.S. 122C-421, or by personnel of the Department if there are reasonable grounds to believe the juvenile is an absconder from any residential facility operated by the Department or from an approved detention facility.

#### **§ 7B-1901. Duties of person taking juvenile into temporary custody.**

(a) A person who takes a juvenile into custody without a court order under G.S. 7B-1900(1) or (2) shall proceed as follows:

- (1) Notify the juvenile's parent, guardian, or custodian that the juvenile has been taken into temporary custody and advise the parent, guardian, or custodian of the right to be present with the juvenile until a determination is made as to the need for secure or nonsecure custody. Failure to notify the parent, guardian, or custodian that the juvenile is in custody shall not be grounds for release of the juvenile.
- (2) Release the juvenile to the juvenile's parent, guardian, or custodian if the person having the juvenile in temporary custody decides that continued custody is unnecessary. In the case of a juvenile unlawfully absent from school, if continued custody is unnecessary, the person having temporary custody may deliver the juvenile to the juvenile's school or, if the local city or county government and the local school board adopt a policy, to a place in the local school administrative unit.
- (3) If the juvenile is not released, request that a petition be drawn pursuant to G.S. 7B-1803 or G.S. 7B-1804. Once the petition has been drawn and verified, the person shall communicate with the juvenile court counselor. If the juvenile court counselor approves the filing of the petition, the juvenile court counselor shall contact the judge or the person delegated authority pursuant to G.S.

7B-1902 if other than the juvenile court counselor, for a determination of the need for continued custody.

(b) A juvenile taken into temporary custody under this Article shall not be held for more than 12 hours, or for more than 24 hours if any of the 12 hours falls on a Saturday, Sunday, or legal holiday, unless a petition or motion for review has been filed and an order for secure or nonsecure custody has been entered.

~~(c) — If the juvenile is not released, request that a petition be drawn pursuant to G.S. 7B-1803 or G.S. 7B-1804. Once the petition has been drawn and verified, the person shall communicate with the juvenile court counselor. If the juvenile court counselor approves the filing of the petition, the juvenile court counselor shall contact the judge or the person delegated authority pursuant to G.S. 7B-1902 if other than the juvenile court counselor, for a determination of the need for continued custody.~~

*Note: Subsection (c) is identical to subdivision (a)(3).*

*Should any of these duties be different when the juvenile is 18 or older?*

### **§ 7B-1902. Authority to issue custody orders; delegation.**

In the case of any juvenile alleged to be within the jurisdiction of the court, when the court finds it necessary to place the juvenile in custody, the court may order that the juvenile be placed in secure or nonsecure custody pursuant to criteria set out in G.S. 7B-1903.

Any district court judge may issue secure and nonsecure custody orders pursuant to G.S. 7B-1903. The chief district court judge may delegate the court's authority to the chief court counselor or the chief court counselor's counseling staff by administrative order filed in the office of the clerk of superior court. The administrative order shall specify which persons may be contacted for approval of a secure or nonsecure custody order. The chief district court judge shall not delegate the court's authority to detain or house juveniles in holdover facilities pursuant to G.S. 7B-1905 or G.S. 7B-2513.

### **§ 7B-1903. Criteria for secure or nonsecure custody.**

(a) When a request is made for nonsecure custody, the court shall first consider release of the juvenile to the juvenile's parent, guardian, custodian, or other responsible adult. An order for nonsecure custody shall be made only when there is a reasonable factual basis to believe the matters alleged in the petition are true, and that:

- (1) The juvenile is a runaway and consents to nonsecure custody; or
- (2) The juvenile meets one or more of the criteria for secure custody, but the court finds it in the best interests of the juvenile that the juvenile be placed in a nonsecure placement.

(b) When a request is made for secure custody, the court may order secure custody only where the court finds there is a reasonable factual basis to believe that the juvenile committed the offense as alleged in the petition, and that one of the following circumstances exists:

- (1) The juvenile is charged with a felony and has demonstrated that the juvenile is a danger to property or persons.
- (2) The juvenile has demonstrated that the juvenile is a danger to persons and is charged with either (i) a misdemeanor at least one element of which is assault on a person or (ii) a misdemeanor in which the juvenile used, threatened to use, or displayed a firearm or other deadly weapon.

- (2a) The juvenile has demonstrated that the juvenile is a danger to persons and is charged with a violation of G.S. 20-138.1 or G.S. 20-138.3.
- (3) The juvenile has willfully failed to appear on a pending delinquency charge or on charges of violation of probation or post-release supervision, providing the juvenile was properly notified.
- (4) A delinquency charge is pending against the juvenile, and there is reasonable cause to believe the juvenile will not appear in court.
- (5) The juvenile is an absconder from (i) any residential facility operated by the Department or any detention facility in this State or (ii) any comparable facility in another state.
- (6) There is reasonable cause to believe the juvenile should be detained for the juvenile's own protection because the juvenile has recently suffered or attempted self-inflicted physical injury. In such case, the juvenile must have been refused admission by one appropriate hospital, and the period of secure custody is limited to 24 hours to determine the need for inpatient hospitalization. If the juvenile is placed in secure custody, the juvenile shall receive continuous supervision and a physician shall be notified immediately.
- (7) The juvenile is alleged to be undisciplined by virtue of the juvenile's being a runaway and is inappropriate for nonsecure custody placement or refuses nonsecure custody, and the court finds that the juvenile needs secure custody for up to 24 hours, excluding Saturdays, Sundays, and State holidays, or where circumstances require, for a period not to exceed 72 hours to evaluate the juvenile's need for medical or psychiatric treatment or to facilitate reunion with the juvenile's parents, guardian, or custodian.
- (8) The juvenile is alleged to be undisciplined and has willfully failed to appear in court after proper notice; the juvenile shall be brought to court as soon as possible and in no event should be held more than 24 hours, excluding Saturdays, Sundays, and State holidays or where circumstances require for a period not to exceed 72 hours.

(c) When a juvenile has been adjudicated delinquent, the court may order secure custody pending the dispositional hearing or pending placement of the juvenile pursuant to G.S. 7B-2506.

(d) The court may order secure custody for a juvenile who is alleged to have violated the conditions of the juvenile's probation or post-release supervision, but only if the juvenile is alleged to have committed acts that damage property or injure persons.

(e) If the criteria for secure custody as set out in subsection (b), (c), or (d) of this section are met, the court may enter an order directing an officer or other authorized person to assume custody of the juvenile and to take the juvenile to the place designated in the order.

**§ 7B-1904. Order for secure or nonsecure custody.**

The custody order shall be in writing and shall direct a law enforcement officer or other authorized person to assume custody of the juvenile and to make due return on the order. The official executing the order shall give a copy of the order to the juvenile's parent, guardian, or custodian. If the order is for secure custody, copies of the petition and custody order shall accompany the juvenile to the detention facility or holdover facility of the jail. A message of the Division of Criminal Information, State Bureau of Investigation, stating that a juvenile petition and secure custody order relating to a specified juvenile are on file in a particular county shall be

authority to detain the juvenile in secure custody until a copy of the juvenile petition and secure custody order can be forwarded to the juvenile detention facility. The copies of the juvenile petition and secure custody order shall be transmitted to the detention facility no later than 72 hours after the initial detention of the juvenile.

An officer receiving an order for custody which is complete and regular on its face may execute it in accordance with its terms and need not inquire into its regularity or continued validity, nor does the officer incur criminal or civil liability for its execution.

#### **§ 7B-1905. Place of secure or nonsecure custody.**

(a) A juvenile meeting the criteria set out in G.S. 7B-1903(a), may be placed in nonsecure custody with a department of social services or a person designated in the order for temporary residential placement in:

- (1) A licensed foster home or a home otherwise authorized by law to provide such care;
- (2) A facility operated by a department of social services; or
- (3) Any other home or facility approved by the court and designated in the order.

*Note: Should placement of a juvenile in DSS custody be an option when the juvenile is 18 or older?*

In placing a juvenile in nonsecure custody, the court shall first consider whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile. If the court finds that the relative is willing and able to provide proper care and supervision, the court shall order placement of the juvenile with the relative unless the court finds that placement with the relative would be contrary to the best interest of the juvenile. Placement of a juvenile who is under the age of 18 outside of this State shall be in accordance with the Interstate Compact on the Placement of Children set forth in Article 38 of this Chapter.

*Note: The Interstate Compact applies only to children who are legally minors.*

(b) Pursuant to G.S. 7B-1903(b), (c), or (d), a juvenile may be temporarily detained in an approved detention facility which shall be separate from any jail, lockup, prison, or other adult penal institution, except as provided in subsection (c) of this section. It shall be unlawful for a county or any unit of government to operate a juvenile detention facility unless the facility meets the standards and rules adopted by the Department of Health and Human Services.

(c) A juvenile who has allegedly committed an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult may be detained in secure custody in a holdover facility up to 72 hours, if the court, based on information provided by the juvenile court counselor, determines that no acceptable alternative placement is available and the protection of the public requires the juvenile be housed in a holdover facility.

*Note: Regarding subsections (b) and (c), is there a need for any special provisions regarding where older juveniles may be placed in secure custody?*

#### **§ 7B-1906. Secure or nonsecure custody hearings.**

(a) No juvenile shall be held under a secure custody order for more than five calendar days or under a nonsecure custody order for more than seven calendar days without a hearing on the merits or an initial hearing to determine the need for continued custody. A hearing conducted under this subsection may not be continued or waived. In every case in which an order has been entered by an official exercising authority delegated pursuant to G.S. 7B-1902, a hearing to determine the need for continued custody shall be conducted on the day of the next regularly

scheduled session of district court in the city or county where the order was entered if the session precedes the expiration of the applicable time period set forth in this subsection. If the session does not precede the expiration of the time period, the hearing may be conducted at another regularly scheduled session of district court in the district where the order was entered.

(b) As long as the juvenile remains in secure or nonsecure custody, further hearings to determine the need for continued secure custody shall be held at intervals of no more than 10 calendar days. A subsequent hearing on continued nonsecure custody shall be held within seven business days, excluding Saturdays, Sundays, and legal holidays when the courthouse is closed for transactions, of the initial hearing required in subsection (a) of this section and hearings thereafter shall be held at intervals of no more than 30 calendar days. In the case of a juvenile alleged to be delinquent, further hearings may be waived only with the consent of the juvenile, through counsel for the juvenile.

(c) The court shall determine whether a juvenile who is alleged to be delinquent has retained counsel or has been assigned counsel; if the juvenile is not represented by counsel, counsel for the juvenile shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services.

(d) At a hearing to determine the need for continued custody, the court shall receive testimony and shall allow the juvenile and the juvenile's parent, guardian, or custodian an opportunity to introduce evidence, to be heard in their own behalf, and to examine witnesses. The State shall bear the burden at every stage of the proceedings to provide clear and convincing evidence that restraints on the juvenile's liberty are necessary and that no less intrusive alternative will suffice. The court shall not be bound by the usual rules of evidence at the hearings.

(e) The court shall be bound by criteria set forth in G.S. 7B-1903 in determining whether continued custody is warranted.

(f) The court may impose appropriate restrictions on the liberty of a juvenile who is released from secure custody, including:

- (1) Release on the written promise of the juvenile's parent, guardian, or custodian to produce the juvenile in court for subsequent proceedings;
- (2) Release into the care of a responsible person or organization;
- (3) Release conditioned on restrictions on activities, associations, residence, or travel if reasonably related to securing the juvenile's presence in court; or
- (4) Any other conditions reasonably related to securing the juvenile's presence in court.

(g) If the court determines that the juvenile meets the criteria in G.S. 7B-1903 and should continue in custody, the court shall issue an order to that effect. The order shall be in writing with appropriate findings of fact. The findings of fact shall include the evidence relied upon in reaching the decision and the purposes which continued custody is to achieve.

(h) The hearing to determine the need to continue custody may be conducted by audio and video transmission which allows the court and the juvenile to see and hear each other. If the juvenile has counsel, the juvenile may communicate fully and confidentially with the juvenile's attorney during the proceeding. Prior to the use of audio and video transmission, the procedures and type of equipment for audio and video transmission shall be submitted to the Administrative Office of the Courts by the chief district court judge and approved by the Administrative Office of the Courts.

**§ 7B-1907. Telephonic communication authorized.**

All communications, notices, orders, authorizations, and requests authorized or required by G.S. 7B-1901, 7B-1903, and 7B-1904 may be made by telephone when other means of communication are impractical. All written orders pursuant to telephonic communication shall bear the name and the title of the person communicating by telephone, the signature and the title of the official entering the order, and the hour and the date of the authorization.

Article 20.

Basic Rights.

**§ 7B-2000. Juvenile's right to counsel; presumption of indigence.**

(a) A juvenile alleged to be within the jurisdiction of the court has the right to be represented by counsel in all proceedings. Counsel for the juvenile shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services, unless counsel is retained for the juvenile, in any proceeding in which the juvenile is alleged to be (i) delinquent or (ii) in contempt of court when alleged or adjudicated to be undisciplined.

(b) All juveniles shall be conclusively presumed to be indigent, and it shall not be necessary for the court to receive from any juvenile an affidavit of indigency.

*Note: Should all juveniles over the age of 18 be conclusively presumed to be indigent?*

**§ 7B-2001. Appointment of guardian.**

In any case when no parent, guardian, or custodian appears in a hearing with the juvenile or when the court finds it would be in the best interests of the juvenile, the court may appoint a guardian of the person for the juvenile. The guardian shall operate under the supervision of the court with or without bond and shall file only such reports as the court shall require. Unless the court orders otherwise, the guardian:

- (1) Shall have the care, custody, and control of the juvenile or may arrange a suitable placement for the juvenile.
- (2) May represent the juvenile in legal actions before any court.
- (3) May consent to certain actions on the part of the juvenile in place of the parent or custodian, including (i) marriage, (ii) enlisting in the armed forces, and (iii) enrollment in school.
- (4) May consent to any necessary remedial, psychological, medical, or surgical treatment for the juvenile.

The authority of the guardian shall continue until the guardianship is terminated by court order, until the juvenile is emancipated pursuant to Subchapter IV of this Chapter, or until the juvenile reaches the age of majority.

Article 21.

Law Enforcement Procedures in Delinquency Proceedings.

**§ 7B-2100. Role of the law enforcement officer.**

A law enforcement officer who takes a juvenile into temporary custody should select the most appropriate course of action to the situation, the needs of the juvenile, and the protection of the public safety. The officer may:

- (1) Release the juvenile, with or without first counseling the juvenile;
- (2) Release the juvenile to the juvenile's parent, guardian, or custodian;

- (3) Refer the juvenile to community resources;
- (4) Seek a petition; or
- (5) Seek a petition and request a custody order.

**§ 7B-2101. Interrogation procedures.**

- (a) Any juvenile in custody must be advised prior to questioning:
  - (1) That the juvenile has a right to remain silent;
  - (2) That any statement the juvenile does make can be and may be used against the juvenile;
  - (3) That the juvenile has a right to have a parent, guardian, or custodian present during questioning; and
  - (4) That the juvenile has a right to consult with an attorney and that one will be appointed for the juvenile if the juvenile is not represented and wants representation.

*Note: If the juvenile is 18 or older, should the right to have a parent present during questioning continue and should indigency be a factor with respect to the appointment of counsel?*

(b) When the juvenile is less than 14 years of age, no in-custody admission or confession resulting from interrogation may be admitted into evidence unless the confession or admission was made in the presence of the juvenile's parent, guardian, custodian, or attorney. If an attorney is not present, the parent, guardian, or custodian as well as the juvenile must be advised of the juvenile's rights as set out in subsection (a) of this section; however, a parent, guardian, or custodian may not waive any right on behalf of the juvenile.

(c) If the juvenile indicates in any manner and at any stage of questioning pursuant to this section that the juvenile does not wish to be questioned further, the officer shall cease questioning.

(d) Before admitting into evidence any statement resulting from custodial interrogation, the court shall find that the juvenile knowingly, willingly, and understandingly waived the juvenile's rights.

**§ 7B-2102. Fingerprinting and photographing juveniles.**

(a) A law enforcement officer or agency shall fingerprint and photograph a juvenile who was 10 years of age or older at the time the juvenile allegedly committed a nondivertible offense as set forth in G.S. 7B-1701, when a complaint has been prepared for filing as a petition and the juvenile is in physical custody of law enforcement or the Department.

(a1) A county juvenile detention facility shall photograph a juvenile who has been committed to that facility. The county detention facility shall release any photograph it makes or receives pursuant to this section to the Department, upon the Department's request. The duty of confidentiality in subsection (d) of this section applies to the Department, except as provided in G.S. 7B-3102.

(b) If a law enforcement officer or agency does not take the fingerprints or a photograph of the juvenile pursuant to subsection (a) of this section or the fingerprints or photograph have been destroyed pursuant to subsection (e) of this section, a law enforcement officer or agency shall fingerprint and photograph a juvenile who has been adjudicated delinquent if the juvenile was 10 years of age or older at the time the juvenile committed an offense that would be a felony if committed by an adult.

(c) A law enforcement officer, facility, or agency who fingerprints or photographs a juvenile pursuant to this section shall do so in a proper format for transfer to the State Bureau of Investigation and the Federal Bureau of Investigation. After the juvenile, who was 10 years of age or older at the time of the offense, is adjudicated delinquent of an offense that would be a felony if committed by an adult, fingerprints obtained pursuant to this section shall be transferred to the State Bureau of Investigation and placed in the Automated Fingerprint Identification System (AFIS) to be used for all investigative and comparison purposes. Photographs obtained pursuant to this section shall be placed in a format approved by the State Bureau of Investigation and may be used for all investigative or comparison purposes. The State Bureau of Investigation shall release any photograph it receives pursuant to this section to the Department, upon the Department's request. The duty of confidentiality in subsection (d) of this section applies to the Department, except as provided in G.S. 7B-3102.

(d) Fingerprints and photographs taken pursuant to this section are not public records under Chapter 132 of the General Statutes, shall not be included in the clerk's record pursuant to G.S. 7B-3000, shall be withheld from public inspection or examination, and shall not be eligible for expunction pursuant to G.S. 7B-3200. Fingerprints and photographs taken pursuant to this section shall be maintained separately from any juvenile record, other than the electronic file maintained by the State Bureau of Investigation.

(d1) Repealed by Session Laws 2007-458, s. 1, effective October 1, 2007.

(e) If a juvenile is fingerprinted and photographed pursuant to subsection (a) of this section, the custodian of records shall destroy all fingerprints and photographs at the earlier of the following:

- (1) The juvenile court counselor or prosecutor does not file a petition against the juvenile within one year of fingerprinting and photographing the juvenile pursuant to subsection (a) of this section;
- (2) The court does not find probable cause pursuant to G.S. 7B-2202; or
- (3) The juvenile is not adjudicated delinquent of any offense that would be a felony or a misdemeanor if committed by an adult.

The chief court counselor shall notify the local custodian of records, and the local custodian of records shall notify any other record-holding agencies, when a decision is made not to file a petition, the court does not find probable cause, or the court does not adjudicate the juvenile delinquent.

### **§ 7B-2103. Authority to issue nontestimonial identification order where juvenile alleged to be delinquent.**

Except as provided in G.S. 7B-2102, nontestimonial identification procedures shall not be conducted on any juvenile without a court order issued pursuant to this Article unless the juvenile has been charged as an adult or transferred to superior court for trial as an adult in which case procedures applicable to adults, as set out in Articles 14 and 23 of Chapter 15A of the General Statutes, shall apply. A nontestimonial identification order authorized by this Article may be issued by any judge of the district court or of the superior court upon request of a prosecutor. As used in this Article, "nontestimonial identification" means identification by fingerprints, palm prints, footprints, measurements, blood specimens, urine specimens, saliva samples, hair samples, or other reasonable physical examination, handwriting exemplars, voice samples, photographs, and lineups or similar identification procedures requiring the presence of a juvenile.



**§ 7B-2104. Time of application for nontestimonial identification order.**

A request for a nontestimonial identification order may be made prior to taking a juvenile into custody or after custody and prior to the adjudicatory hearing.

**§ 7B-2105. Grounds for nontestimonial identification order.**

(a) Except as provided in subsection (b) of this section, a nontestimonial identification order may issue only on affidavit or affidavits sworn to before the court and establishing the following grounds for the order:

- (1) That there is probable cause to believe that an offense has been committed that would be a felony if committed by an adult;
- (2) That there are reasonable grounds to suspect that the juvenile named or described in the affidavit committed the offense; and
- (3) That the results of specific nontestimonial identification procedures will be of material aid in determining whether the juvenile named in the affidavit committed the offense.

(b) A nontestimonial identification order to obtain a blood specimen from a juvenile may issue only on affidavit or affidavits sworn to before the court and establishing the following grounds for the order:

- (1) That there is probable cause to believe that an offense has been committed that would be a felony if committed by an adult;
- (2) That there is probable cause to believe that the juvenile named or described in the affidavit committed the offense; and
- (3) That there is probable cause to believe that obtaining a blood specimen from the juvenile will be of material aid in determining whether the juvenile named in the affidavit committed the offense.

**§ 7B-2106. Issuance of order.**

Upon a showing that the grounds specified in G.S. 7B-2105 exist, the judge may issue an order following the same procedure as in the case of adults under G.S. 15A-274, 15A-275, 15A-276, 15A-277, 15A-278, 15A-279, 15A-280, and 15A-282.

**§ 7B-2107. Nontestimonial identification order at request of juvenile.**

A juvenile in custody for or charged with an offense which if committed by an adult would be a felony offense may request that nontestimonial identification procedures be conducted. If it appears that the results of specific nontestimonial identification procedures will be of material aid to the juvenile's defense, the judge to whom the request was directed must order the State to conduct the identification procedures.

**§ 7B-2108. Destruction of records resulting from nontestimonial identification procedures.**

The results of any nontestimonial identification procedures shall be retained or disposed of as follows:

- (1) If a petition is not filed against a juvenile who has been the subject of nontestimonial identification procedures, all records of the evidence shall be destroyed.
- (2) If the juvenile is not adjudicated delinquent or convicted in superior court following transfer, all records resulting from a nontestimonial order shall be

destroyed. Further, in the case of a juvenile who is under 13 years of age and who is adjudicated delinquent for an offense that would be less than a felony if committed by an adult, all records shall be destroyed.

- (3) If a juvenile 13 years of age or older is adjudicated delinquent for an offense that would be a felony if committed by an adult, all records resulting from a nontestimonial order may be retained in the court file. Special precautions shall be taken to ensure that these records will be maintained in a manner and under sufficient safeguards to limit their use to inspection by law enforcement officers for comparison purposes in the investigation of a crime.
- (4) If the juvenile is transferred to and convicted in superior court, all records resulting from nontestimonial identification procedures shall be processed as in the case of an adult.
- (5) Any evidence seized pursuant to a nontestimonial order shall be retained by law enforcement officers until further order is entered by the court.
- (6) Destruction of nontestimonial identification records pursuant to this section shall be performed by the law enforcement agency having possession of the records. Following destruction, the law enforcement agency shall make written certification to the court of the destruction.

**§ 7B-2109. Penalty for willful violation.**

Any person who willfully violates provisions of this Article which prohibit conducting nontestimonial identification procedures without an order issued by the court shall be guilty of a Class 1 misdemeanor.

Article 22.

Probable Cause Hearing and Transfer Hearing.

**§ 7B-2200. Transfer of jurisdiction of juvenile to superior court.**

After notice, hearing, and a finding of probable cause the court may, upon motion of the prosecutor or the juvenile's attorney or upon its own motion, transfer jurisdiction over a juvenile to superior court if the juvenile was 13 years of age or older at the time the juvenile allegedly committed an offense that would be a felony if committed by an adult. If the alleged felony constitutes a Class A felony and the court finds probable cause, the court shall transfer the case to the superior court for trial as in the case of adults.

**§ 7B-2201. Fingerprinting juvenile transferred to superior court.**

When jurisdiction over a juvenile is transferred to the superior court, the juvenile shall be fingerprinted and the juvenile's fingerprints shall be sent to the State Bureau of Investigation.

**§ 7B-2202. Probable cause hearing.**

(a) The court shall conduct a hearing to determine probable cause in all felony cases in which a juvenile was 13 years of age or older when the offense was allegedly committed. The hearing shall be conducted within 15 days of the date of the juvenile's first appearance. The court may continue the hearing for good cause.

(b) At the probable cause hearing:

- (1) A prosecutor shall represent the State;
- (2) The juvenile shall be represented by counsel;

*Note: Should a juvenile who is 18 or older be able to waive the right to counsel?*

- (3) The juvenile may testify, call, and examine witnesses, and present evidence; and
- (4) Each witness shall testify under oath or affirmation and be subject to cross-examination.

(c) The State shall by nonhearsay evidence, or by evidence that satisfies an exception to the hearsay rule, show that there is probable cause to believe that the offense charged has been committed and that there is probable cause to believe that the juvenile committed it, except:

- (1) A report or copy of a report made by a physicist, chemist, firearms identification expert, fingerprint technician, or an expert or technician in some other scientific, professional, or medical field, concerning the results of an examination, comparison, or test performed in connection with the case in issue, when stated in a report by that person, is admissible in evidence;
- (2) If there is no serious contest, reliable hearsay is admissible to prove value, ownership of property, possession of property in a person other than the juvenile, lack of consent of the owner, possessor, or custodian of property to the breaking or entering of premises, chain of custody, and authenticity of signatures.

(d) Counsel for the juvenile may waive in writing the right to the hearing and stipulate to a finding of probable cause.

(e) If probable cause is found and transfer to superior court is not required by G.S. 7B-2200, upon motion of the prosecutor or the juvenile's attorney or upon its own motion, the court shall either proceed to a transfer hearing or set a date for that hearing. If the juvenile has not received notice of the intention to seek transfer at least five days prior to the probable cause hearing, the court, at the request of the juvenile, shall continue the transfer hearing.

(f) If the court does not find probable cause for a felony offense, the court shall:

- (1) Dismiss the proceeding, or
- (2) If the court finds probable cause to believe that the juvenile committed a lesser included offense that would constitute a misdemeanor if committed by an adult, either proceed to an adjudicatory hearing or set a date for that hearing.

*Note: If any juveniles are allowed to waive the right to counsel, the references in this section to the juvenile's attorney should be changed to refer to the juvenile. G.S. 7B-1501(17) states that "[w]herever the term 'juvenile' is used with reference to rights and privileges, that term encompasses the attorney for the juvenile as well."*

### **§ 7B-2203. Transfer hearing.**

(a) At the transfer hearing, the prosecutor and the juvenile may be heard and may offer evidence, and the juvenile's attorney may examine any court or probation records, or other records the court may consider in determining whether to transfer the case.

(b) In the transfer hearing, the court shall determine whether the protection of the public and the needs of the juvenile will be served by transfer of the case to superior court and shall consider the following factors:

- (1) The age of the juvenile;
- (2) The maturity of the juvenile;
- (3) The intellectual functioning of the juvenile;
- (4) The prior record of the juvenile;
- (5) Prior attempts to rehabilitate the juvenile;
- (6) Facilities or programs available to the court prior to the expiration of the court's jurisdiction under this Subchapter and the likelihood that the juvenile would benefit from treatment or rehabilitative efforts;
- (7) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner; and
- (8) The seriousness of the offense and whether the protection of the public requires that the juvenile be prosecuted as an adult.

(c) Any order of transfer shall specify the reasons for transfer. When the case is transferred to superior court, the superior court has jurisdiction over that felony, any offense based on the same act or transaction or on a series of acts or transactions connected together or constituting parts of a single scheme or plan of that felony, and any greater or lesser included offense of that felony.

(d) If the court does not transfer the case to superior court, the court shall either proceed to an adjudicatory hearing or set a date for that hearing.

#### **§ 7B-2204. Right to pretrial release; detention.**

Once the order of transfer has been entered, the juvenile has the right to pretrial release as provided in G.S. 15A-533 and G.S. 15A-534. The release order shall specify the person or persons to whom the juvenile may be released. Pending release, the court shall order that the juvenile be detained in a detention facility while awaiting trial. The court may order the juvenile to be held in a holdover facility at any time the presence of the juvenile is required in court for pretrial hearings or trial, if the court finds that it would be inconvenient to return the juvenile to the detention facility.

*Note: There is no upper age limit for persons who may be subject to probable cause and transfer proceedings for offenses they are alleged to have committed as juveniles. Should there be an age after which someone whose case has been transferred to superior court should not be held in a juvenile detention facility? If so, where should the person be held?*

Should the juvenile be found guilty, or enter a plea of guilty or no contest to a criminal offense in superior court and receive an active sentence, then immediate transfer to the Department of Correction shall be ordered. Until such time as the juvenile is transferred to the Department of Correction, the juvenile may be detained in a holdover facility. The juvenile may not be detained in a detention facility pending transfer to the Department of Correction.

The juvenile may be kept by the Department of Correction as a safekeeper until the juvenile is placed in an appropriate correctional program.

Article 23.

Discovery.

**§ 7B-2300. Disclosure of evidence by petitioner.**

(a) Statement of the Juvenile. – Upon motion of a juvenile alleged to be delinquent, the court shall order the petitioner:

- (1) To permit the juvenile to inspect and copy any relevant written or recorded statements within the possession, custody, or control of the petitioner made by the juvenile or any other party charged in the same action; and
- (2) To divulge, in written or recorded form, the substance of any oral statement made by the juvenile or any other party charged in the same action.

(b) Names of Witnesses. – Upon motion of the juvenile, the court shall order the petitioner to furnish the names of persons to be called as witnesses. A copy of the record of witnesses under the age of ~~16~~ 18 shall be provided by the petitioner to the juvenile upon the juvenile's motion if accessible to the petitioner.

(c) Documents and Tangible Objects. – Upon motion of the juvenile, the court shall order the petitioner to permit the juvenile to inspect and copy books, papers, documents, photographs, motion pictures, mechanical or electronic recordings, tangible objects, or portions thereof:

- (1) Which are within the possession, custody, or control of the petitioner, the prosecutor, or any law enforcement officer conducting an investigation of the matter alleged; and
- (2) Which are material to the preparation of the defense, are intended for use by the petitioner as evidence, or were obtained from or belong to the juvenile.

(d) Reports of Examinations and Tests. – Upon motion of a juvenile, the court shall order the petitioner to permit the juvenile to inspect and copy results of physical or mental examinations or of tests, measurements, or experiments made in connection with the case, within the possession, custody, or control of the petitioner. In addition upon motion of a juvenile, the court shall order the petitioner to permit the juvenile to inspect, examine, and test, subject to appropriate safeguards, any physical evidence or a sample of it or tests or experiments made in connection with the evidence in the case if it is available to the petitioner, the prosecutor, or any law enforcement officer conducting an investigation of the matter alleged, and if the petitioner intends to offer the evidence at trial.

(e) Except as provided in subsections (a) through (d) of this section, this Article does not require the production of reports, memoranda, or other internal documents made by the petitioner, law enforcement officers, or other persons acting on behalf of the petitioner in connection with the investigation or prosecution of the case or of statements made by witnesses or the petitioner to anyone acting on behalf of the petitioner.

(f) Nothing in this section prohibits a petitioner from making voluntary disclosures in the interest of justice.

**§ 7B-2301. Disclosure of evidence by juvenile.**

(a) Names of Witnesses. – Upon motion of the petitioner, the court shall order the juvenile to furnish to the petitioner the names of persons to be called as witnesses.

(b) Documents and Tangible Objects. – If the court grants any relief sought by the juvenile under G.S. 7B-2300, upon motion of the petitioner, the court shall order the juvenile to permit the petitioner to inspect and copy books, papers, documents, photographs, motion pictures, mechanical or electronic recordings, tangible objects, or portions thereof which are

within the possession, custody, or control of the juvenile and which the juvenile intends to introduce in evidence.

(c) Reports of Examinations and Tests. – If the court grants any relief sought by the juvenile under G.S. 7B-2300, upon motion of the petitioner, the court shall order the juvenile to permit the petitioner to inspect and copy results of physical or mental examinations or of tests, measurements, or experiments made in connection with the case within the possession and control of the juvenile which the juvenile intends to introduce in evidence or which were prepared by a witness whom the juvenile intends to call if the results relate to the witness's testimony. In addition, upon motion of a petitioner, the court shall order the juvenile to permit the petitioner to inspect, examine, and test, subject to appropriate safeguards, any physical evidence or a sample of it if the juvenile intends to offer the evidence or tests or experiments made in connection with the evidence in the case.

**§ 7B-2302. Regulation of discovery; protective orders.**

(a) Upon written motion of a party and a finding of good cause, the court may at any time order that discovery or inspection be denied, restricted, or deferred.

(b) The court may permit a party seeking relief under subsection (a) of this section to submit supporting affidavits or statements to the court for in camera inspection. If thereafter the court enters an order granting relief under subsection (a) of this section, the material submitted in camera must be available to the Court of Appeals in the event of an appeal.

**§ 7B-2303. Continuing duty to disclose.**

If a party, subject to compliance with an order issued pursuant to this Article, discovers additional evidence prior to or during the hearing or decides to use additional evidence, and if the evidence is or may be subject to discovery or inspection under this Article, the party shall promptly notify the other party of the existence of the additional evidence or of the name of each additional witness.

Article 24.

Hearing Procedures.

**§ 7B-2400. Amendment of petition.**

The court may permit a petition to be amended when the amendment does not change the nature of the offense alleged. If a motion to amend is allowed, the juvenile shall be given a reasonable opportunity to prepare a defense to the amended allegations.

**§ 7B-2401. Determination of incapacity to proceed; evidence; temporary commitment; temporary orders.**

The provisions of G.S. 15A-1001, 15A-1002, and 15A-1003 apply to all cases in which a juvenile is alleged to be delinquent. No juvenile committed under this section may be placed in a situation where the juvenile will come in contact with adults committed for any purpose.

**§ 7B-2402. Open hearings.**

All hearings authorized or required pursuant to this Subchapter shall be open to the public unless the court closes the hearing or part of the hearing for good cause, upon motion of a party or its own motion. If the court closes the hearing or part of the hearing to the public, the court

may allow any victim, member of a victim's family, law enforcement officer, witness or any other person directly involved in the hearing to be present at the hearing.

In determining good cause to close a hearing or part of a hearing, the court shall consider the circumstances of the case, including, but not limited to, the following factors:

- (1) The nature of the allegations against the juvenile;
- (2) The age and maturity of the juvenile;
- (3) The benefit to the juvenile of confidentiality;
- (4) The benefit to the public of an open hearing; and
- (5) The extent to which the confidentiality of the juvenile's file will be compromised by an open hearing.

No hearing or part of a hearing shall be closed by the court if the juvenile requests that it remain open.

#### **§ 7B-2402.1. Restraint of juveniles in courtroom.**

At any hearing authorized or required by this Subchapter, the judge may subject a juvenile to physical restraint in the courtroom only when the judge finds the restraint to be reasonably necessary to maintain order, prevent the juvenile's escape, or provide for the safety of the courtroom. Whenever practical, the judge shall provide the juvenile and the juvenile's attorney an opportunity to be heard to contest the use of restraints before the judge orders the use of restraints. If restraints are ordered, the judge shall make findings of fact in support of the order.

#### **§ 7B-2403. Adjudicatory hearing.**

The adjudicatory hearing shall be held within a reasonable time in the district at the time and place the chief district court judge designates.

#### **§ 7B-2404. Participation of the prosecutor.**

A prosecutor shall represent the State in contested delinquency hearings including first appearance, detention, probable cause, transfer, adjudicatory, dispositional, probation revocation, post-release supervision, and extended jurisdiction hearings.

#### **§ 7B-2405. Conduct of the adjudicatory hearing.**

The adjudicatory hearing shall be a judicial process designed to determine whether the juvenile is undisciplined or delinquent. In the adjudicatory hearing, the court shall protect the following rights of the juvenile and the juvenile's parent, guardian, or custodian to assure due process of law:

- (1) The right to written notice of the facts alleged in the petition;
- (2) The right to counsel;
- (3) The right to confront and cross-examine witnesses;
- (4) The privilege against self-incrimination;
- (5) The right of discovery; and
- (6) All rights afforded adult offenders except the right to bail, the right of self-representation, and the right of trial by jury.

#### **§ 7B-2406. Continuances.**

The court for good cause may continue the hearing for as long as is reasonably required to receive additional evidence, reports, or assessments that the court has requested, or other

information needed in the best interests of the juvenile and to allow for a reasonable time for the parties to conduct expeditious discovery. Otherwise, continuances shall be granted only in extraordinary circumstances when necessary for the proper administration of justice or in the best interests of the juvenile.

**§ 7B-2407. When admissions by juvenile may be accepted.**

(a) The court may accept an admission from a juvenile only after first addressing the juvenile personally and:

- (1) Informing the juvenile that the juvenile has a right to remain silent and that any statement the juvenile makes may be used against the juvenile;
- (2) Determining that the juvenile understands the nature of the charge;
- (3) Informing the juvenile that the juvenile has a right to deny the allegations;
- (4) Informing the juvenile that by the juvenile's admissions the juvenile waives the juvenile's right to be confronted by the witnesses against the juvenile;
- (5) Determining that the juvenile is satisfied with the juvenile's representation; and
- (6) Informing the juvenile of the most restrictive disposition on the charge.

(b) By inquiring of the prosecutor, the juvenile's attorney, and the juvenile personally, the court shall determine whether there were any prior discussions involving admissions, whether the parties have entered into any arrangement with respect to the admissions and the terms thereof, and whether any improper pressure was exerted. The court may accept an admission from a juvenile only after determining that the admission is a product of informed choice.

(c) The court may accept an admission only after determining that there is a factual basis for the admission. This determination may be based upon any of the following information: a statement of the facts by the prosecutor; a written statement of the juvenile; sworn testimony which may include reliable hearsay; or a statement of facts by the juvenile's attorney.

**§ 7B-2408. Rules of evidence.**

If the juvenile denies the allegations of the petition, the court shall proceed in accordance with the rules of evidence applicable to criminal cases. In addition, no statement made by a juvenile to the juvenile court counselor during the preliminary inquiry and evaluation process shall be admissible prior to the dispositional hearing.

**§ 7B-2409. Quantum of proof in adjudicatory hearing.**

The allegations of a petition alleging the juvenile is delinquent shall be proved beyond a reasonable doubt. The allegations in a petition alleging undisciplined behavior shall be proved by clear and convincing evidence.

**§ 7B-2410. Record of proceedings.**

All adjudicatory and dispositional hearings and hearings on probable cause and transfer to superior court shall be recorded by stenographic notes or by electronic or mechanical means. Records shall be reduced to a written transcript only when timely notice of appeal has been given. The court may order that other hearings be recorded.



**§ 7B-2411. Adjudication.**

If the court finds that the allegations in the petition have been proved as provided in G.S. 7B-2409, the court shall so state. If the court finds that the allegations have not been proved, the court shall dismiss the petition with prejudice and the juvenile shall be released from secure or nonsecure custody if the juvenile is in custody.

**§ 7B-2412. Legal effect of adjudication of delinquency.**

An adjudication that a juvenile is delinquent or commitment of a juvenile to the Department for placement in a youth development center shall neither be considered conviction of any criminal offense nor cause the juvenile to forfeit any citizenship rights.

**§ 7B-2413. Predisposition investigation and report.**

The court shall proceed to the dispositional hearing upon receipt of the predisposition report. A risk and needs assessment, containing information regarding the juvenile's social, medical, psychiatric, psychological, and educational history, as well as any factors indicating the probability of the juvenile committing further delinquent acts, shall be conducted for the juvenile and shall be attached to the predisposition report. In cases where no predisposition report is available and the court makes a written finding that a report is not needed, the court may proceed with the dispositional hearing. No predisposition report or risk and needs assessment of any **child juvenile** alleged to be delinquent or undisciplined shall be made prior to an adjudication that the juvenile is within the juvenile jurisdiction of the court unless the juvenile, the juvenile's parent, guardian, or custodian, or the juvenile's attorney files a written statement with the juvenile court counselor granting permission and giving consent to the predisposition report or risk and needs assessment. No predisposition report shall be submitted to or considered by the court prior to the completion of the adjudicatory hearing. The court shall permit the juvenile to inspect any predisposition report, including any attached risk and needs assessment, to be considered by the court in making the disposition unless the court determines that disclosure would seriously harm the juvenile's treatment or rehabilitation or would violate a promise of confidentiality. Opportunity to offer evidence in rebuttal shall be afforded the juvenile and the juvenile's parent, guardian, or custodian at the dispositional hearing. The court may order counsel not to disclose parts of the report to the juvenile or the juvenile's parent, guardian, or custodian if the court finds that disclosure would seriously harm the treatment or rehabilitation of the juvenile or would violate a promise of confidentiality given to a source of information.

**§ 7B-2414. When jeopardy attaches.**

Jeopardy attaches in an adjudicatory hearing when the court begins to hear evidence.

Article 25.

Dispositions.

**§ 7B-2500. 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, including the protection of the public. The court should develop a disposition in each case that:

- (1) Promotes public safety;

- (2) Emphasizes accountability and responsibility of both the parent, guardian, or custodian and the juvenile for the juvenile's conduct; and
- (3) Provides the appropriate consequences, treatment, training, and rehabilitation to assist the juvenile toward becoming a nonoffending, responsible, and productive member of the community.

**§ 7B-2501. Dispositional hearing.**

(a) The dispositional hearing may be informal, and the court may consider written reports or other evidence concerning the needs of the juvenile. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition.

(b) The juvenile and the juvenile's parent, guardian, or custodian shall have an opportunity to present evidence, and they may advise the court concerning the disposition they believe to be in the best interests of the juvenile.

(c) In choosing among statutorily permissible dispositions, the court shall select the most appropriate disposition both in terms of kind and duration for the delinquent juvenile. Within the guidelines set forth in G.S. 7B-2508, the court shall select a disposition that is designed to protect the public and to meet the needs and best interests of the juvenile, based upon:

- (1) The seriousness of the offense;
- (2) The need to hold the juvenile accountable;
- (3) The importance of protecting the public safety;
- (4) The degree of culpability indicated by the circumstances of the particular case; and
- (5) The rehabilitative and treatment needs of the juvenile indicated by a risk and needs assessment.

(d) The court may dismiss the case, or continue the case for no more than six months in order to allow the family an opportunity to meet the needs of the juvenile through more adequate home supervision, through placement in a private or specialized school or agency, through placement with a relative, or through some other plan approved by the court.

**§ 7B-2502. Evaluation and treatment of undisciplined and delinquent juveniles.**

(a) In any case, the court may order that the juvenile be examined by a physician, psychiatrist, psychologist, or other qualified expert as may be needed for the court to determine the needs of the juvenile. In the case of a juvenile adjudicated delinquent for committing an offense that involves the possession, use, sale, or delivery of alcohol or a controlled substance, the court shall require the juvenile to be tested for the use of controlled substances or alcohol within 30 days of the adjudication. In the case of any juvenile adjudicated delinquent, the court may, if it deems it necessary, require the juvenile to be tested for the use of controlled substances or alcohol. The results of these initial tests conducted pursuant to this subsection shall be used for evaluation and treatment purposes only. In placing a juvenile in out-of-home care under this section, the court shall also consider whether it is in the juvenile's best interest to remain in the juvenile's community of residence.

(b) Upon completion of the examination, the court shall conduct a hearing to determine whether the juvenile is in need of medical, surgical, psychiatric, psychological, or other evaluation or treatment and who should pay the cost of the evaluation or treatment. The county

manager, or any other person who is designated by the chair of the board of county commissioners, of the county of the juvenile's residence shall be notified of the hearing, and allowed to be heard. If the court finds the juvenile to be in need of medical, surgical, psychiatric, psychological, or other evaluation or treatment, the court shall permit the parent, guardian, custodian, or other responsible persons to arrange for evaluation or treatment. If the parent, guardian, or custodian declines or is unable to make necessary arrangements, the court may order the needed evaluation or treatment, surgery, or care, and the court may order the parent to pay the cost of the care pursuant to Article 27 of this Chapter. If the court finds the parent is unable to pay the cost of evaluation or treatment, the court shall order the county to arrange for evaluation or treatment of the juvenile and to pay for the cost of the evaluation or treatment. The county department of social services shall recommend the facility that will provide the juvenile with evaluation or treatment.

(c) If the court believes, or if there is evidence presented to the effect that the juvenile is mentally ill or is developmentally disabled, the court shall refer 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 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, guardian, or custodian. 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 court may be substituted for that purpose. In all cases in which a regional mental hospital refuses admission to a juvenile referred for admission by the court and an area mental health, developmental disabilities, and substance abuse director or discharges a juvenile previously admitted on court referral prior to completion of the juvenile's treatment, the hospital shall submit to the court 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.

*Note: Should there be exceptions, here or elsewhere in the Code, to the provisions relating to parents when a juvenile is 18 or older? See also G.S. 7B-2506(1) and Article 27, below.*

### **§ 7B-2503. Dispositional alternatives for undisciplined juveniles.**

The following alternatives for disposition shall be available to the court exercising jurisdiction over a juvenile who has been adjudicated undisciplined. In placing a juvenile in out-of-home care under this section, the court shall also consider whether it is in the juvenile's best interest to remain in the juvenile's community of residence. The court may combine any of the applicable alternatives when the court finds it to be in the best interests of the juvenile:

- (1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:

- a. Require that the juvenile be supervised in the juvenile's own home by a department of social services in the juvenile's county of residence, a juvenile court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or
  - b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or
  - c. Place the juvenile in the custody of a department of social services in the county of the juvenile's residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. An order placing a juvenile in the custody or placement responsibility of a county department of social services shall contain a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. This placement shall be reviewed in accordance with G.S. 7B-906. The director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on behalf of the juvenile or juveniles, the director may, unless otherwise ordered by the judge, arrange for, provide or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a judge or the judge's designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent, guardian, or custodian of the affected juvenile. If the director cannot obtain consent, the director shall promptly notify the parent, guardian, or custodian that care or treatment has been provided and shall give the parent, guardian, or custodian frequent status reports on the circumstances of the juvenile. Upon request of a parent, guardian, or custodian of the affected juvenile, the results or records of the aforementioned evaluations, findings, or treatment shall be made available to the parent, guardian, or custodian by the director unless prohibited by G.S. 122C-53(d).
- (2) Place the juvenile under the protective supervision of a juvenile court counselor for a period of up to three months, with an extension of an additional three months in the discretion of the court.
  - (3) Excuse the juvenile from compliance with the compulsory school attendance law when the court finds that suitable alternative plans can be arranged by the family through other community resources for one of the following:
    - a. An education related to the needs or abilities of the juvenile including vocational education or special education;

- b. A suitable plan of supervision or placement; or
- c. Some other plan that the court finds to be in the best interests of the juvenile.

**§ 7B-2504. Conditions of protective supervision for undisciplined juveniles.**

The court may place a juvenile on protective supervision pursuant to G.S. 7B-2503 so that the juvenile court counselor may (i) assist the juvenile in securing social, medical, and educational services and (ii) visit and work with the family as a unit to ensure the juvenile is provided proper supervision and care. The court may impose any combination of the following conditions of protective supervision that are related to the needs of the juvenile, including:

- (1) That the juvenile shall remain on good behavior and not violate any laws;
- (2) That the juvenile attend school regularly;
- (3) That the juvenile maintain passing grades in up to four courses during each grading period and meet with the juvenile court counselor and a representative of the school to make a plan for how to maintain those passing grades;
- (4) That the juvenile not associate with specified persons or be in specified places;
- (5) That the juvenile abide by a prescribed curfew;
- (6) That the juvenile report to a juvenile court counselor as often as required by a juvenile court counselor;
- (7) That the juvenile be employed regularly if not attending school; and
- (8) That the juvenile satisfy any other conditions determined appropriate by the court.

**§ 7B-2505. Contempt of court for undisciplined juveniles.**

Upon motion of the juvenile court counselor or on the court's own motion, the court may issue an order directing a juvenile who has been adjudicated undisciplined to appear and show cause why the juvenile should not be held in contempt for willfully failing to comply with an order of the court. The first time the juvenile is held in contempt, the court may order the juvenile confined in an approved detention facility for a period not to exceed 24 hours. The second time the juvenile is held in contempt, the court may order the juvenile confined in an approved detention facility for a period not to exceed three days. The third time and all subsequent times the juvenile is held in contempt, the court may order the juvenile confined in an approved detention facility for a period not to exceed five days. The timing of any confinement under this section shall be determined by the court in its discretion. In no event shall a juvenile held in contempt pursuant to this section be confined for more than 14 days in one 12-month period.

**§ 7B-2506. Dispositional alternatives for delinquent juveniles.**

The court exercising jurisdiction over a juvenile who has been adjudicated delinquent may use the following alternatives in accordance with the dispositional structure set forth in G.S. 7B-2508:

- (1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:
  - a. Require that a juvenile be supervised in the juvenile's own home by the department of social services in the juvenile's county, a juvenile

court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or

*Note:*

- *Should there be exceptions, here or elsewhere in the Code, to the provisions relating to parents when a juvenile is 18 or older? See also Article 27, below.*
- *Is supervision by DSS a feasible option for juveniles who are 18 or older?*

- b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or

*Note: When the juvenile is emancipated, by age or otherwise, can the juvenile be placed in custody as provided here?*

- c. Place the juvenile in the custody of the department of social services in the county of his residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state.

*Note: Should placement in the custody of DSS be an option when the juvenile is 18 or older?*

An order placing a juvenile in the custody or placement responsibility of a county department of social services shall contain a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. This placement shall be reviewed in accordance with G.S. 7B-906. The director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on behalf of the juvenile or juveniles, the director may, unless otherwise ordered by the judge, arrange for, provide, or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a judge or his designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent, guardian, or custodian of the affected juvenile. If the director cannot obtain consent, the director shall promptly notify the parent, guardian, or custodian that care or treatment has been provided and shall give the parent, guardian, or custodian frequent status reports on the circumstances of the juvenile. Upon request of a parent, guardian, or custodian of the affected juvenile, the results or records of the aforementioned evaluations, findings, or treatment shall be made

available to the parent, guardian, or custodian by the director unless prohibited by G.S. 122C-53(d).

- (2) Excuse the juvenile from compliance with the compulsory school attendance law when the court finds that suitable alternative plans can be arranged by the family through other community resources for one of the following:
  - a. An education related to the needs or abilities of the juvenile including vocational education or special education;
  - b. A suitable plan of supervision or placement; or
  - c. Some other plan that the court finds to be in the best interests of the juvenile.
- (3) Order the juvenile to cooperate with a community-based program, an intensive substance abuse treatment program, or a residential or nonresidential treatment program. Participation in the programs shall not exceed 12 months.
- (4) Require restitution, full or partial, up to five hundred dollars (\$500.00), payable within a 12-month period to any person who has suffered loss or damage as a result of the offense committed by the juvenile. The court may determine the amount, terms, and conditions of the restitution. If the juvenile participated with another person or persons, all participants should be jointly and severally responsible for the payment of restitution; however, the court shall not require the juvenile to make restitution if the juvenile satisfies the court that the juvenile does not have, and could not reasonably acquire, the means to make restitution.
- (5) Impose a fine related to the seriousness of the juvenile's offense. If the juvenile has the ability to pay the fine, it shall not exceed the maximum fine for the offense if committed by an adult.
- (6) Order the juvenile to perform up to 100 hours supervised community service consistent with the juvenile's age, skill, and ability, specifying the nature of the work and the number of hours required. The work shall be related to the seriousness of the juvenile's offense and in no event may the obligation to work exceed 12 months.
- (7) Order the juvenile to participate in the victim-offender reconciliation program.
- (8) Place the juvenile on probation under the supervision of a juvenile court counselor, as specified in G.S. 7B-2510.
- (9) Order that the juvenile shall not be licensed to operate a motor vehicle in the State of North Carolina for as long as the court retains jurisdiction over the juvenile or for any shorter period of time. The clerk of court shall notify the Division of Motor Vehicles of that order.
- (10) Impose a curfew upon the juvenile.
- (11) Order that the juvenile not associate with specified persons or be in specified places.
- (12) Impose confinement on an intermittent basis in an approved detention facility. Confinement shall be limited to not more than five 24-hour periods, the timing of which is determined by the court in its discretion.
- (13) Order the juvenile to cooperate with placement in a wilderness program.
- (14) Order the juvenile to cooperate with placement in a residential treatment facility, an intensive nonresidential treatment program, an intensive substance

- abuse program, or in a group home other than a multipurpose group home operated by a State agency.
- (15) Place the juvenile on intensive probation under the supervision of a juvenile court counselor.
  - (16) Order the juvenile to cooperate with a supervised day program requiring the juvenile to be present at a specified place for all or part of every day or of certain days. In determining whether to order a juvenile to a particular supervised day program, the court shall consider the structure and operations of the program and whether that program will meet the needs of the juvenile. The court also may require the juvenile to comply with any other reasonable conditions specified in the dispositional order that are designed to facilitate supervision.
  - (17) Order the juvenile to participate in a regimented training program.
  - (18) Order the juvenile to submit to house arrest.
  - (19) Suspend imposition of a more severe, statutorily permissible disposition with the provision that the juvenile meet certain conditions agreed to by the juvenile and specified in the dispositional order. The conditions shall not exceed the allowable dispositions for the level under which disposition is being imposed.
  - (20) Order that the juvenile be confined in an approved juvenile detention facility for a term of up to 14 24-hour periods, which confinement shall not be imposed consecutively with intermittent confinement pursuant to subdivision (12) of this section at the same dispositional hearing. The timing of this confinement shall be determined by the court in its discretion.
  - (21) Order the residential placement of a juvenile in a multipurpose group home operated by a State agency.
  - (22) Require restitution of more than five hundred dollars (\$500.00), full or partial, payable within a 12-month period to any person who has suffered loss or damage as a result of an offense committed by the juvenile. The court may determine the amount, terms, and conditions of restitution. If the juvenile participated with another person or persons, all participants should be jointly and severally responsible for the payment of the restitution; however, the court shall not require the juvenile to make restitution if the juvenile satisfies the court that the juvenile does not have, and could not reasonably acquire, the means to make restitution.
  - (23) Order the juvenile to perform up to 200 hours supervised community service consistent with the juvenile's age, skill, and ability, specifying the nature of work and the number of hours required. The work shall be related to the seriousness of the juvenile's offense.
  - (24) Commit the juvenile to the Department for placement in a youth development center in accordance with G.S. 7B-2513 for a period of not less than six months.

Note:

- *Should any dispositional options be amended or added to reflect the needs and circumstances of older juveniles?*



- *Are these dispositional options sufficient to respond appropriately to motor vehicle offenses committed by older juveniles?*

**§ 7B-2507. Delinquency history levels.**

(a) Generally. – The delinquency history level for a delinquent juvenile is determined by calculating the sum of the points assigned to each of the juvenile’s prior adjudications and to the juvenile’s probation status, if any, that the court finds to have been proved in accordance with this section.

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

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

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

(c) Delinquency History Levels. – The delinquency history levels are:

- (1) Low – No more than 1 point.
- (2) Medium – At least 2, but not more than 3 points.
- (3) High – At least 4 points.

In determining the delinquency history level, the classification of a prior offense is the classification assigned to that offense at the time the juvenile committed the offense for which disposition is being ordered.

(d) Multiple Prior Adjudications Obtained in One Court Session. – For purposes of determining the delinquency history level, if a juvenile is adjudicated delinquent for more than one offense in a single session of district court, only the adjudication for the offense with the highest point total is used.

(e) Classification of Prior Adjudications From Other Jurisdictions. – Except as otherwise provided in this subsection, an adjudication occurring in a jurisdiction other than North Carolina is classified as a Class I felony if the jurisdiction in which the offense occurred classifies the offense as a felony, or is classified as a Class 3 misdemeanor if the jurisdiction in which the offense occurred classifies the offense as a misdemeanor. If the juvenile proves by the preponderance of the evidence that an offense classified as a felony in the other jurisdiction is substantially similar to an offense that is a misdemeanor in North Carolina, the conviction is treated as that class of misdemeanor for assigning delinquency history level points. If the State proves by the preponderance of the evidence that an offense classified as either a misdemeanor or a felony in the other jurisdiction is substantially similar to an offense in North Carolina that is classified as a Class I felony or higher, the conviction is treated as that class of felony for assigning delinquency history level points. If the State proves by the preponderance of the evidence that an offense classified as a misdemeanor in the other jurisdiction is substantially similar to an offense classified as a Class A1 misdemeanor in North Carolina, the adjudication is treated as a Class A1 misdemeanor for assigning delinquency history level points.

(f) Proof of Prior Adjudications. – A prior adjudication shall be proved by any of the following methods:

- (1) Stipulation of the parties.
- (2) An original or copy of the court record of the prior adjudication.

- (3) A copy of records maintained by the Division of Criminal Information or by the Department.
- (4) Any other method found by the court to be reliable.

The State bears the burden of proving, by a preponderance of the evidence, that a prior adjudication exists and that the juvenile before the court is the same person as the juvenile named in the prior adjudication. The original or a copy of the court records or a copy of the records maintained by the Division of Criminal Information or of the Department, bearing the same name as that by which the juvenile is charged, is prima facie evidence that the juvenile named is the same person as the juvenile before the court, and that the facts set out in the record are true. For purposes of this subsection, “a copy” includes a paper writing containing a reproduction of a record maintained electronically on a computer or other data processing equipment, and a document produced by a facsimile machine. The prosecutor shall make all feasible efforts to obtain and present to the court the juvenile’s full record. Evidence presented by either party at trial may be utilized to prove prior adjudications. If asked by the juvenile, the prosecutor shall furnish the juvenile’s prior adjudications to the juvenile within a reasonable time sufficient to allow the juvenile to determine if the record available to the prosecutor is accurate.

**§ 7B-2508. Dispositional limits for each class of offense and delinquency history level.**

- (a) Offense Classification. – The offense classifications are as follows:
  - (1) Violent – Adjudication of a Class A through E felony offense;
  - (2) Serious – Adjudication of a Class F through I felony offense or a Class A1 misdemeanor;
  - (3) Minor – Adjudication of a Class 1, 2, or 3 misdemeanor or adjudication of indirect contempt by a juvenile.
- (b) Delinquency History Levels. – A delinquency history level shall be determined for each delinquent juvenile as provided in G.S. 7B-2507.
- (c) Level 1 – Community Disposition. – A court exercising jurisdiction over a juvenile who has been adjudicated delinquent and for whom the dispositional chart in subsection (f) of this section prescribes a Level 1 disposition may provide for evaluation and treatment under G.S. 7B-2502 and for any of the dispositional alternatives contained in subdivisions (1) through (13) and (16) of G.S. 7B-2506. In determining which dispositional alternative is appropriate, the court shall consider the needs of the juvenile as indicated by the risk and needs assessment contained in the predisposition report, the appropriate community resources available to meet those needs, and the protection of the public.
- (d) Level 2 – Intermediate Disposition. – A court exercising jurisdiction over a juvenile who has been adjudicated delinquent and for whom the dispositional chart in subsection (f) of this section prescribes a Level 2 disposition may provide for evaluation and treatment under G.S. 7B-2502 and for any of the dispositional alternatives contained in subdivisions (1) through (23) of G.S. 7B-2506, but shall provide for at least one of the intermediate dispositions authorized in subdivisions (13) through (23) of G.S. 7B-2506. However, notwithstanding any other provision of this section, a court may impose a Level 3 disposition if the juvenile has previously received a Level 3 disposition in a prior juvenile action. In determining which dispositional alternative is appropriate, the court shall consider the needs of the juvenile as indicated by the risk and needs assessment contained in the predisposition report, the appropriate community resources available to meet those needs, and the protection of the public.

(e) Level 3 – Commitment. – A court exercising jurisdiction over a juvenile who has been adjudicated delinquent and for whom the dispositional chart in subsection (f) of this section prescribes a Level 3 disposition shall commit the juvenile to the Department for placement in a youth development center in accordance with G.S. 7B-2506(24). However, a court may impose a Level 2 disposition rather than a Level 3 disposition if the court submits written findings on the record that substantiate extraordinary needs on the part of the offending juvenile.

(f) Dispositions for Each Class of Offense and Delinquency History Level; Disposition Chart Described. – The authorized disposition for each class of offense and delinquency history level is as specified in the chart below. Delinquency history levels are indicated horizontally on the top of the chart. Classes of offense are indicated vertically on the left side of the chart. Each cell on the chart indicates which of the dispositional levels described in subsections (c) through (e) of this section are prescribed for that combination of offense classification and delinquency history level:

	DELINQUENCY HISTORY OFFENSE		
	LOW	MEDIUM	HIGH
VIOLENT	Level 2 or 3	Level 3	Level 3
SERIOUS	Level 1 or 2	Level 2	Level 2 or 3
MINOR	Level 1	Level 1 or 2	Level 2.

(g) Notwithstanding subsection (f) of this section, a juvenile who has been adjudicated for a minor offense may be committed to a Level 3 disposition if the juvenile has been adjudicated of four or more prior offenses. For purposes of determining the number of prior offenses under this subsection, each successive offense is one that was committed after adjudication of the preceding offense.

(h) If a juvenile is adjudicated of more than one offense during a session of juvenile court, the court shall consolidate the offenses for disposition and impose a single disposition for the consolidated offenses. The disposition shall be specified for the class of offense and delinquency history level of the most serious offense.

**§ 7B-2509. Registration of certain delinquent juveniles.**

In any case in which a juvenile, who was at least 11 years of age at the time of the offense, is adjudicated delinquent for committing a violation of G.S. 14-27.2 (first-degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first-degree sexual offense), G.S. 14-27.5 (second degree sexual offense), or G.S. 14-27.6 (attempted rape or sexual offense), the judge, upon a finding that the juvenile is a danger to the community, may order that the juvenile register in accordance with Part 4 of Article 27A of Chapter 14 of the General Statutes.

**§ 7B-2510. Conditions of probation; violation of probation.**

(a) In any case where a juvenile is placed on probation pursuant to G.S. 7B-2506(8) or (15), the juvenile court counselor shall have the authority to visit the juvenile where the juvenile resides. The court may impose conditions of probation that are related to the needs of the juvenile and that are reasonably necessary to ensure that the juvenile will lead a law-abiding life, including:

- (1) That the juvenile shall remain on good behavior.

- (2) That the juvenile shall not violate any laws.
- (3) That the juvenile shall not violate any reasonable and lawful rules of a parent, guardian, or custodian.
- (4) That the juvenile attend school regularly.
- (5) That the juvenile maintain passing grades in up to four courses during each grading period and meet with the juvenile court counselor and a representative of the school to make a plan for how to maintain those passing grades.
- (6) That the juvenile not associate with specified persons or be in specified places.
- (7) That the juvenile:
  - a. Refrain from use or possession of any controlled substance included in any schedule of Article 5 of Chapter 90 of the General Statutes, the Controlled Substances Act;
  - b. Refrain from use or possession of any alcoholic beverage regulated under Chapter 18B of the General Statutes; and
  - c. Submit to random drug testing.
- (8) That the juvenile abide by a prescribed curfew.
- (9) That the juvenile submit to a warrantless search at reasonable times.
- (10) That the juvenile possess no firearm, explosive device, or other deadly weapon.
- (11) That the juvenile report to a juvenile court counselor as often as required by the juvenile court counselor.
- (12) That the juvenile make specified financial restitution or pay a fine in accordance with G.S. 7B-2506(4), (5), and (22).
- (13) That the juvenile be employed regularly if not attending school.
- (14) That the juvenile satisfy any other conditions determined appropriate by the court.

(b) In addition to the regular conditions of probation specified in subsection (a) of this section, the court may, at a dispositional hearing or any subsequent hearing, order the juvenile to comply, if directed to comply by the chief court counselor, with one or more of the following conditions:

- (1) Perform up to 20 hours of community service;
- (2) Submit to substance abuse monitoring and treatment;
- (3) Participate in a life skills or an educational skills program administered by the Department;
- (4) Cooperate with electronic monitoring; and
- (5) Cooperate with intensive supervision.

However, the court shall not give the chief court counselor discretion to impose the conditions of either subsection (4) or (5) of this section unless the juvenile is subject to Level 2 dispositions pursuant to G.S. 7B-2508 or subsection (d) of this section.

*Note: In subsections (a) and (b), should any authorized conditions of probation be amended or added to reflect the circumstances of older juveniles?*

(c) An order of probation shall remain in force for a period not to exceed one year from the date entered. Prior to expiration of an order of probation, the court may extend it for an additional period of one year after a hearing, if the court finds that the extension is necessary to protect the community or to safeguard the welfare of the juvenile.

(d) On motion of the juvenile court counselor or the juvenile, or on the court's own motion, the court may review the progress of any juvenile on probation at any time during the period of probation or at the end of probation. The conditions or duration of probation may be modified only as provided in this Subchapter and only after notice and a hearing.

(e) If the court, after notice and a hearing, finds by the greater weight of the evidence that the juvenile has violated the conditions of probation set by the court, the court may continue the original conditions of probation, modify the conditions of probation, or, except as provided in subsection (f) of this section, order a new disposition at the next higher level on the disposition chart in G.S. 7B-2508. In the court's discretion, part of the new disposition may include an order of confinement in a secure juvenile detention facility for up to twice the term authorized by G.S. 7B-2508.

(f) A court shall not order a Level 3 disposition for violation of the conditions of probation by a juvenile adjudicated delinquent for an offense classified as minor under G.S. 7B-2508.

#### **§ 7B-2511. Termination of probation.**

At the end of or at any time during probation, the court may terminate probation by written order upon finding that there is no further need for supervision. The finding and order terminating probation may be entered in chambers in the absence of the juvenile and may be based on a report from the juvenile court counselor or, at the election of the court, the order may be entered with the juvenile present after notice and a hearing.

#### **§ 7B-2512. Dispositional order.**

The dispositional order shall be in writing and shall contain appropriate findings of fact and conclusions of law. The court shall state with particularity, both orally and in the written order of disposition, the precise terms of the disposition including the kind, duration, and the person who is responsible for carrying out the disposition and the person or agency in whom custody is vested.

#### **§ 7B-2513. Commitment of delinquent juvenile to Department.**

(a) Pursuant to G.S. 7B-2506 and G.S. 7B-2508, the court may commit a delinquent juvenile who is at least 10 years of age to the Department for placement in a youth development center.

Commitment shall be for an indefinite term of at least six months. In no event shall the term exceed:

- (1) The ~~twenty-first~~ \_\_\_\_\_ birthday of the juvenile if the juvenile has been committed to the Department for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree rape pursuant to G.S. 14-27.2, or first-degree sexual offense pursuant to G.S. 14-27.4 if committed by an adult;
- (2) The ~~nineteenth~~ \_\_\_\_\_ birthday of the juvenile if the juvenile has been committed to the Department for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in subdivision (1) of this subsection; or
- (3) The ~~eighteenth~~ twentieth birthday of the juvenile if the juvenile has been committed to the Department for an offense other than an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

*Note: Subdivisions (1) and (2) would need to be rewritten to conform to earlier provisions about extended jurisdiction. The change to subdivision (3) reflects an increase in the court's general dispositional jurisdiction.*

No juvenile shall be committed to a youth development center beyond the minimum six-month commitment for a period of time in excess of 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, except when the Department pursuant to G.S. 7B-2515 determines that the juvenile's commitment needs to be continued for an additional period of time to continue care or treatment under the plan of care or treatment developed under subsection (f) of this section. At the time of commitment to a youth development center, the court shall determine the maximum period of time the juvenile may remain committed before a determination must be made by the Department pursuant to G.S. 7B-2515 and shall notify the juvenile of that determination.

(b) The court may commit a juvenile to a definite term of not less than six months and not more than two years if the court finds that the juvenile is 14 years of age or older, has been previously adjudicated delinquent for two or more felony offenses, and has been previously committed to a youth development center.

(c) The chief court counselor shall have the responsibility for transporting the juvenile to the youth development center designated by the Department. The juvenile shall be accompanied to the youth development center by a person of the same sex.

(d) The chief court counselor shall ensure that the records requested by the Department accompany the juvenile upon transportation for admittance to a youth development center or, if not obtainable at the time of admission, are sent to the youth development center within 15 days of the admission. If records requested by the Department for admission do not exist, to the best knowledge of the chief court counselor, the chief court counselor shall so stipulate in writing to the youth development center. If such records do exist, but the chief court counselor is unable to obtain copies of them, a district court may order that the records from public agencies be made available to the youth development center. Records that are confidential by law shall remain confidential and the Department shall be bound by the specific laws governing the confidentiality of these records. All records shall be used in a manner consistent with the best interests of the juvenile.

(e) A commitment order accompanied by information requested by the Department shall be forwarded to the Department. The Department shall place the juvenile in the youth development center that would best provide for the juvenile's needs and shall notify the committing court. The Department may assign a juvenile committed for delinquency to any institution of the Department or licensed by the Department, which program is appropriate to the needs of the juvenile.

The Department, after assessment of the juvenile, may provide commitment services to the juvenile in a program not located in a youth development center or detention facility. If the Department recommends that commitment services for the juvenile are to be provided in a setting that is not located in a youth development center or detention facility, the Department shall file a motion, along with information about the recommended services for the juvenile, with the committing court prior to placing the juvenile in the identified commitment program. The Department shall send notice of the motion to the District Attorney, the juvenile, and the juvenile's attorney. Upon receipt of the motion filed by the Department, the court may enter an order without the appearance of witnesses and without hearing if the court determines that the

identified commitment program is appropriate and a hearing is not necessary. The court must hold a hearing if the juvenile or the juvenile's attorney requests a hearing. If the court notifies the Department of its intent to hold a hearing, the date for that hearing shall be set by the court and the Department shall place the juvenile in a youth development center or detention facility until the determination of the court at that hearing.

(f) When the court commits a juvenile to the Department for placement in a youth development center, the Department shall prepare a plan for care or treatment within 30 days after assuming custody of the juvenile.

(g) Commitment of a juvenile to the Department for placement in a youth development center does not terminate the court's continuing jurisdiction over the juvenile and the juvenile's parent, guardian, or custodian. Commitment of a juvenile to the Department for placement in a youth development center transfers only physical custody of the juvenile. Legal custody remains with the parent, guardian, custodian, agency, or institution in whom it was vested.

(h) Pending placement of a juvenile with the Department, the court may house a juvenile who has been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult in a holdover facility up to 72 hours if the court, based on the information provided by the juvenile court counselor, determines that no acceptable alternative placement is available and the protection of the public requires that the juvenile be housed in a holdover facility.

(i) A juvenile who is committed to the Department for placement in a youth development center shall be tested for the use of controlled substances or alcohol. The results of this initial test shall be incorporated into the plan of care as provided in subsection (f) of this section and used for evaluation and treatment purposes only.

(j) When a juvenile is committed to the Department for placement in a youth development center for an offense that would have been a Class A or B1 felony if committed by an adult, the chief court counselor shall notify the victim and members of the victim's immediate family that the victim, or the victim's immediate family members may request in writing to be notified in advance of the juvenile's scheduled release date in accordance with G.S. 7B-2514(d).

#### **§ 7B-2514. Post-release supervision planning; release.**

(a) The Department shall be responsible for evaluation of the progress of each juvenile at least once every six months as long as the juvenile remains in the care of the Department. Any determination that the juvenile should remain in the care of the Department for an additional period of time shall be based on the Department's determination that the juvenile requires additional treatment or rehabilitation pursuant to G.S. 7B-2515. If the Department determines that a juvenile is ready for release, the Department shall initiate a post-release supervision planning process. The post-release supervision planning process shall be defined by rules and regulations of the Department, but shall include the following:

- (1) Written notification shall be given to the court that ordered commitment.
- (2) A post-release supervision planning conference shall be held involving as many as possible of the following: the juvenile, the juvenile's parent, guardian, or custodian, juvenile court counselors who have supervised the juvenile on probation or will supervise the juvenile on post-release supervision, and staff of the facility that found the juvenile ready for release. The planning conference shall include personal contact and evaluation rather than telephonic notification.

(3) The planning conference participants shall consider, based on the individual needs of the juvenile and pursuant to rules adopted by the Department, placement of the juvenile in any program under the auspices of the Department, including the juvenile court services programs that, in the judgment of the Department, would be appropriate transitional placement, pending release under G.S. 7B-2513.

(b) The Department shall develop the plan in writing and base the terms on the needs of the juvenile and the protection of the public. Every plan shall require the juvenile to complete at least 90 days, but not more than one year, of post-release supervision.

(c) The Department shall release a juvenile under a plan of post-release supervision at least 90 days prior to:

(1) Completion of the juvenile's definite term of commitment; or

(2) The juvenile's **twenty-first birthday** if the juvenile has been committed to the Department for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree rape pursuant to G.S. 14-27.2, or first-degree sexual offense pursuant to G.S. 14-27.4 if committed by an adult.

(3) The juvenile's **nineteenth birthday** if the juvenile has been committed to the Department for an offense that would be a Class **A**, B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in G.S. 7B-1602(a).

(4) The juvenile's ~~eighteenth~~ **twentieth** birthday if the juvenile has been committed to the Department for an offense other than an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

*Note: Subdivisions (2) and (3) would need to be rewritten to conform to earlier provisions about extended jurisdiction. The change to subdivision (4) reflects an increase in the court's general dispositional jurisdiction.*

(d) Notwithstanding Articles 30 and 31 of Subchapter III of this Chapter, at least 45 days before releasing to post-release supervision a juvenile who was committed for a Class A or B1 felony, the Department shall notify, by first-class mail at the last known address:

(1) The juvenile;

(2) The juvenile's parent, guardian, or custodian;

(3) The district attorney of the district where the juvenile was adjudicated;

(4) The head of the enforcement agency that took the juvenile into custody; and

(5) The victim and any of the victim's immediate family members who have requested in writing to be notified.

The notification shall include only the juvenile's name, offense, date of commitment, and date proposed for release. A copy of the notice shall be sent to the appropriate clerk of superior court for placement in the juvenile's court file.

(e) The Department may release a juvenile under an indefinite commitment to post-release supervision only after the juvenile has been committed to the Department for placement in a youth development center for a period of at least six months.

(f) A juvenile committed to the Department for placement in a youth development center for a definite term shall receive credit toward that term for the time the juvenile spends on post-release supervision.

(g) A juvenile on post-release supervision shall be supervised by a juvenile court counselor. Post-release supervision shall be terminated by order of the court.



**§ 7B-2515. Notification of extended commitment; plan of treatment.**

(a) In determining whether a juvenile should be released before the juvenile's ~~18th~~ 20th birthday, the Department shall consider the protection of the public and the likelihood that continued placement will lead to further rehabilitation. If the Department does not intend to release the juvenile prior to the juvenile's ~~eighteenth~~ twentieth birthday, or if the Department determines that the juvenile's commitment should be continued beyond the maximum commitment period as set forth in G.S. 7B-2513(a), the Department shall notify the juvenile and the juvenile's parent, guardian, or custodian in writing at least 30 days in advance of the juvenile's ~~eighteenth~~ twentieth birthday or the end of the maximum commitment period, of the additional specific commitment period proposed by the Department, the basis for extending the commitment period, and the plan for future care or treatment.

(b) The Department shall modify the plan of care or treatment developed pursuant to G.S. 7B-2513(f) to specify (i) the specific goals and outcomes that require additional time for care or treatment of the juvenile; (ii) the specific course of treatment or care that will be implemented to achieve the established goals and outcomes; and (iii) the efforts that will be taken to assist the juvenile's family in creating an environment that will increase the likelihood that the efforts to treat and rehabilitate the juvenile will be successful upon release. If appropriate, the Department may place the juvenile in a setting other than a youth development center.

(c) The juvenile and the juvenile's parent, guardian, or custodian may request a review by the court of the Department's decision to extend the juvenile's commitment beyond the juvenile's ~~eighteenth~~ twentieth birthday or maximum commitment period, in which case the court shall conduct a review hearing. The court may modify the Department's decision and the juvenile's maximum commitment period. If the juvenile or the juvenile's parent, guardian, or custodian does not request a review of the Department's decision, the Department's decision shall become the juvenile's new maximum commitment period.

**§ 7B-2516. Revocation of post-release supervision.**

(a) On motion of the juvenile court counselor providing post-release supervision or motion of the juvenile, or on the court's own motion, and after notice, the court may hold a hearing to review the progress of any juvenile on post-release supervision at any time during the period of post-release supervision. With respect to any hearing involving allegations that the juvenile has violated the terms of post-release supervision, the juvenile:

- (1) Shall have reasonable notice in writing of the nature and content of the allegations in the motion, including notice that the purpose of the hearing is to determine whether the juvenile has violated the terms of post-release supervision to the extent that post-release supervision should be revoked;
- (2) Shall be represented by an attorney at the hearing;

*Note: Should there be an age at which the juvenile may waive the right to an attorney?*

- (3) Shall have the right to confront and cross-examine witnesses; and
- (4) May admit, deny, or explain the violation alleged and may present proof, including affidavits or other evidence, in support of the juvenile's contentions. A record of the proceeding shall be made and preserved in the juvenile's record.

(b) If the court determines by the greater weight of the evidence that the juvenile has violated the terms of post-release supervision, the court may revoke the post-release supervision or make any other disposition authorized by this Subchapter.

(c) If the court revokes post-release supervision, the juvenile shall be returned to the Department for placement in a youth development center for an indefinite term of at least 90 days, provided, however, that no juvenile shall remain committed to the Department for placement in a youth development center past:

- (1) The juvenile's **twenty-first birthday** if the juvenile has been committed to the Department for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree rape pursuant to G.S. 14-27.2, or first-degree sexual offense pursuant to G.S. 14-27.4 if committed by an adult.
- (2) The juvenile's **nineteenth birthday** if the juvenile has been committed to the Department for an offense that would be a Class **A**, B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in G.S. 7B-1602(a).
- (3) The juvenile's ~~eighteenth~~ **twentieth** birthday if the juvenile has been committed to the Department for an offense other than an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

*Note: Subdivisions (1) and (2) would need to be rewritten to conform to earlier provisions about extended jurisdiction. The change to subdivision (3) reflects an increase in the court's general dispositional jurisdiction.*

#### **§ 7B-2517. Transfer authority of Governor.**

The Governor may order transfer of any person less than ~~18~~ **20** years of age from any jail or penal facility of the State to one of the residential facilities operated by the Department in appropriate circumstances, provided the Governor shall consult with the Department concerning the feasibility of the transfer in terms of available space, staff, and suitability of program.

When an inmate, committed to the Department of Correction, is transferred by the Governor to a residential program operated by the Department, the Department may release the juvenile based on the needs of the juvenile and the best interests of the State. Transfer shall not divest the probation or parole officer of the officer's responsibility to supervise the inmate on release.

### Article 26.

#### Modification and Enforcement of Dispositional Orders; Appeals.

#### **§ 7B-2600. Authority to modify or vacate.**

(a) Upon motion in the cause or petition, and after notice, the court may conduct a review hearing to determine whether the order of the court is in the best interests of the juvenile, and the court may modify or vacate the order in light of changes in circumstances or the needs of the juvenile.

(b) In a case of delinquency, the court may reduce the nature or the duration of the disposition on the basis that it was imposed in an illegal manner or is unduly severe with reference to the seriousness of the offense, the culpability of the juvenile, or the dispositions given to juveniles convicted of similar offenses.

(c) In any case where the court finds the juvenile to be ~~delinquent or~~ undisciplined, the jurisdiction of the court to modify any order or disposition made in the case shall continue (i)

during the minority of the juvenile, until the juvenile reaches the age of 18 years or is otherwise emancipated, or (ii) until terminated by order of the court.

(d) In any case where the court finds the juvenile to be delinquent, the jurisdiction of the court to modify any order or disposition made in the case shall continue (i) until the juvenile reaches the age of 20 years, (ii) until the juvenile reaches the age of ~~19~~ \_\_\_ years if the juvenile has been adjudicated delinquent and committed to the Department for an offense that would be a Class ~~A~~, B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in G.S. 7B-1602(a), (iii) until the juvenile reaches the age of ~~21~~ \_\_\_ years if the juvenile has been adjudicated delinquent and committed for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree rape pursuant to G.S. 14-27.2, or first-degree sexual offense pursuant to G.S. 14-27.4 if committed by an adult, or (iv) until terminated by order of the court.

*Note: The blank spaces in subsection (d) would need to conform to whatever earlier provisions say about extended jurisdiction.*

#### **§ 7B-2601. Request for modification for lack of suitable services.**

If the Department finds that any juvenile committed to the Department's care is not suitable for its program, the Department may make a motion in the cause so that the court may make an alternative disposition that is consistent with G.S. 7B-2508.

#### **§ 7B-2602. Right to appeal.**

Upon motion of a proper party as defined in G.S. 7B-2604, review of any final order of the court in a juvenile matter under this Article shall be before the Court of Appeals. Notice of appeal shall be given in open court at the time of the hearing or in writing within 10 days after entry of the order. However, if no disposition is made within 60 days after entry of the order, written notice of appeal may be given within 70 days after such entry. A final order shall include:

- (1) Any order finding absence of jurisdiction;
- (2) Any order which in effect determines the action and prevents a judgment from which appeal might be taken;
- (3) Any order of disposition after an adjudication that a juvenile is delinquent or undisciplined; or
- (4) Any order modifying custodial rights.

#### **§ 7B-2603. Right to appeal transfer decision.**

(a) Notwithstanding G.S. 7B-2602, any order transferring jurisdiction of the district court in a juvenile matter to the superior court may be appealed to the superior court for a hearing on the record. Notice of the appeal must be given in open court or in writing within 10 days after entry of the order of transfer in district court. Entry of an order shall be treated in the same manner as entry of a judgment under G.S. 1A-1, Rule 58 of the North Carolina Rules of Civil Procedure. The clerk of superior court shall provide the district attorney with a copy of any written notice of appeal filed by the attorney for the juvenile. Upon expiration of the 10 day period in which an appeal may be entered, if an appeal has been entered and not withdrawn, the clerk shall transfer the case to the superior court docket. The superior court shall, within a reasonable time, review the record of the transfer hearing for abuse of discretion by the juvenile court in the issue of transfer. The superior court shall not review the findings as to probable cause for the underlying offense.

(b) Once an order of transfer has been entered by the district court, the juvenile has the right to be considered for pretrial release as provided in G.S. 15A-533 and G.S. 15A-534. The release order shall specify the person or persons to whom the juvenile may be released. Pending release, the court shall order that the juvenile be detained in a detention facility while awaiting trial. The court may order the juvenile to be held in a holdover facility as defined by G.S. 7B-1501 at any time the presence of the juvenile is required in court for pretrial hearings or trial, if the court finds that it would be inconvenient to return the juvenile to the detention facility.

*Note: There is no upper age limit for persons who may be subject to probable cause and transfer proceedings for offenses they are alleged to have committed while juveniles. Is there an age after which someone whose case has been transferred to superior court should not be held in a juvenile detention facility?*

(c) If an appeal of the transfer order is taken, the superior court shall enter an order either (i) remanding the case to the juvenile court for adjudication or (ii) upholding the transfer order. If the superior court remands the case to juvenile court for adjudication and the juvenile has been granted pretrial release provided in G.S. 15A-533 and G.S. 15A-534, the obligor shall be released from the juvenile's bond upon the district court's review of whether the juvenile shall be placed in secure or nonsecure custody as provided in G.S. 7B-1903.

(d) The superior court order shall be an interlocutory order, and the issue of transfer may be appealed to the Court of Appeals only after the juvenile has been convicted in superior court.

#### **§ 7B-2604. Proper parties for appeal.**

(a) An appeal may be taken by the juvenile, the juvenile's parent, guardian, or custodian, a county, or the State.

(b) The State's appeal is limited to the following orders in delinquency or undisciplined cases:

- (1) An order finding a State statute to be unconstitutional; and
- (2) Any order which terminates the prosecution of a petition by upholding the defense of double jeopardy, by holding that a cause of action is not stated under a statute, or by granting a motion to suppress.

(c) A county's appeal is limited to orders in which the county has been ordered to pay for medical, surgical, psychiatric, psychological, or other evaluation or treatment of a juvenile pursuant to G.S. 7B-2502, or other medical, psychiatric, psychological, or other evaluation or treatment of a parent pursuant to G.S. 7B-2702.

#### **§ 7B-2605. Disposition pending appeal.**

Pending disposition of an appeal, the release of the juvenile, with or without conditions, should issue in every case unless the court orders otherwise. For compelling reasons which must be stated in writing, the court may enter a temporary order affecting the custody or placement of the juvenile as the court finds to be in the best interests of the juvenile or the State.

#### **§ 7B-2606. Disposition after appeal.**

Upon the affirmation of the order of adjudication or disposition of the court by the Court of Appeals or by the Supreme Court in the event of an appeal, the court shall have authority to modify or alter the original order of adjudication or disposition as the court finds to be in the best interests of the juvenile to reflect any adjustment made by the juvenile or change in circumstances during the period of time the appeal was pending. If the modifying order is

entered ex parte, the court shall give notice to interested parties to show cause within 10 days thereafter as to why the modifying order should be vacated or altered.

#### Article 27.

Authority over Parents of Juveniles Adjudicated Delinquent or Undisciplined.

*Note: This Article needs to be reviewed and decisions need to be made about any exceptions to or differences in these provisions relating to parents, for cases in which a juvenile has reached age 18 or is otherwise emancipated.*

#### **§ 7B-2700. Appearance in court.**

The parent, guardian, or custodian of a juvenile under the jurisdiction of the juvenile court shall attend the hearings of which the parent, guardian, or custodian receives notice. The court may excuse the appearance of either or both parents or the guardian or custodian at a particular hearing or all hearings. Unless so excused, the willful failure of a parent, guardian, or custodian to attend a hearing of which the parent, guardian, or custodian has notice shall be grounds for contempt.

#### **§ 7B-2701. Parental responsibility classes.**

The court may order the parent, guardian, or custodian of a juvenile who has been adjudicated undisciplined or delinquent to attend parental responsibility classes if those classes are available in the judicial district in which the parent, guardian, or custodian resides.

#### **§ 7B-2702. Medical, surgical, psychiatric, or psychological evaluation or treatment of juvenile or parent.**

(a) If the court orders medical, surgical, psychiatric, psychological, or other evaluation or treatment pursuant to G.S. 7B-2502, the court may order the parent or other responsible parties to pay the cost of the treatment or care ordered.

(b) At the dispositional hearing or a subsequent hearing, if the court finds that it is in the best interests of the juvenile for the parent to be directly involved in the juvenile's evaluation or treatment, the court may order that person to participate in medical, psychiatric, psychological, or other evaluation or treatment of the juvenile. The cost of the evaluation or treatment shall be paid pursuant to G.S. 7B-2502.

(c) At the dispositional hearing or a subsequent hearing, the court may determine whether the best interests of the juvenile require that the parent undergo psychiatric, psychological, or other evaluation or treatment or counseling directed toward 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 interests of the juvenile require the parent undergo evaluation or treatment, it may order that person to comply with a plan of evaluation or treatment approved by the court or condition legal custody or physical placement of the juvenile with the parent upon that person's compliance with the plan of evaluation or treatment.

(d) In cases in which the court has ordered the parent of the juvenile to comply with or undergo evaluation or treatment, the court may order the parent to pay the cost of evaluation or 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 evaluation or treatment, the court may charge the cost of the evaluation or treatment to

the county of the juvenile's residence if the court finds the parent is unable to pay the cost of the evaluation or treatment. In all other cases, if the court finds the parent is unable to pay the cost of the evaluation or treatment ordered pursuant to this subsection, the court may order the parent to receive evaluation or treatment currently available from the area mental health program that serves the parent's catchment area.

**§ 7B-2703. Compliance with orders of court.**

(a) The court may order the parent, guardian, or custodian, to the extent that person is able to do so, to provide transportation for a juvenile to keep an appointment with a juvenile court counselor or to comply with other orders of the court.

(b) The court may order a parent, guardian, or custodian to cooperate with and assist the juvenile in complying with the terms and conditions of probation or other orders of the court.

**§ 7B-2704. Payment of support or other expenses; assignment of insurance coverage.**

At the dispositional hearing or a subsequent hearing, if the court finds that the parent is able to do so, the court may order the parent to:

- (1) Pay a reasonable sum that will cover in whole or in part the support of the juvenile. 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;
- (2) Pay a fee for probation supervision or residential facility costs;
- (3) Assign private insurance coverage to cover medical costs while the juvenile is in secure detention, youth development center, or other out-of-home placement; and
- (4) Pay appointed attorneys' fees.

All money paid by a parent pursuant to this section shall be paid into the office of the clerk of superior court.

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.

**§ 7B-2705. Employment discrimination unlawful.**

No employer may discharge, demote, or deny a promotion or other benefit of employment to any employee because the employee complies with the provisions of this Article. The Commissioner of Labor shall enforce the provisions of this section according to Article 21 of Chapter 95 of the General Statutes, including the rules and regulations issued pursuant to that Article.

**§ 7B-2706. Contempt for failure to comply.**

Upon motion of the juvenile court counselor or prosecutor or upon the court's own motion, the court may issue an order directing the parent, guardian, or custodian to appear and show cause why the parent, guardian, or custodian should not be found or held in civil or criminal contempt for willfully failing to comply with an order of the court. Chapter 5A of the General Statutes shall govern contempt proceedings initiated pursuant to this Article.

Article 28.

Interstate Compact on Juveniles.

*Note: This compact provides for cooperative arrangements among states for the return of runaways or escapees, and for the supervision of juveniles who are subject to court orders in other states. No change in the compact would be required in order to accommodate the increase in the age of juvenile court jurisdiction, because the compact defines “delinquent juvenile” in relation to each state’s definition.*

**APPENDIX B: DRAFT CHANGES TO STATUTES OTHER THAN JUVENILE CODE**

*Changes that would be required or that seem likely as a result of raising the juvenile age are shown with underlining and strike-through. Italicized notes after some sections explain the changes or identify issues that could affect the wording of the statute. Shaded areas represent issues for consideration; language in the shaded area is unchanged from the original source.*

Chapter 5A. Contempt.  
Article 3. Contempt by Juveniles.

Chapter 14. Criminal Law  
Article 2A. Habitual Felons.  
Article 4A. Prohibited Secret Societies and Activities.  
Article 10. Kidnapping and Abduction.  
Article 13A. North Carolina Street Gang Suppression Act.  
Article 16. Larceny.  
Article 18. Embezzlement.  
Article 26. Offenses against Public Morality and Decency.  
Article 27A. Sex Offender and Public Protection Registration Programs.  
Article 39. Protection of Minors.  
Article 54. Sale, etc., of Pyrotechnics.

Chapter 15A. Criminal Procedure Act.  
Article 5. Expunction of Records.  
Article 23. Police Processing and Duties upon Arrest.  
Article 81B. Structured Sentencing of Persons Convicted of Crimes.

Chapter 50B. Domestic Violence.

Chapter 90. Medicine and Allied Occupations.

Article 5. North Carolina Controlled Substances Act.

Chapter 143B. Executive Organization.

Article 3. Department of Health and Human Services

Part 4A. Family Preservation Act.

Chapter 148. State Prison System

Article 3. Labor of Prisoners.

Article 4B. Interstate Compact for Adult Offender Supervision.



## Chapter 5A.

### Contempt.

#### 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~~ 18 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.
- (6) Willful refusal to testify or produce other information upon the order of a judge acting pursuant to Article 61 of Chapter 15A of the General Statutes, Granting of Immunity to Witnesses.
- (7) Willful communication with a juror in an improper attempt to influence the juror's deliberations.
- (8) Any other act or omission specified in another Chapter of the General Statutes as grounds for criminal contempt.

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

- (1) The act is committed within the sight or hearing of a presiding judicial official.
- (2) The act is committed in, or in the immediate proximity to, the room where proceedings are being held before the court.
- (3) The act is likely to interrupt or interfere with matters then before the court.

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

##### § 5A-32. Direct contempt by a juvenile.

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

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

- (2) Appoint an attorney to represent the juvenile and allow time for the juvenile and attorney to confer.
- (3) Find facts supporting the summary imposition of measures in response to contempt by a juvenile. The facts shall be established beyond a reasonable doubt.

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

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

- (1) That the juvenile be detained in a juvenile detention facility for up to five days.
- (2) That the juvenile perform up to 30 hours of supervised community service as arranged by a juvenile court counselor.
- (3) That the juvenile be required to undergo any evaluation necessary for the court to determine the needs of the juvenile.

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

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

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

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

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

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

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

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

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

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

~~(1) — Is 16 years of age or older;~~

(~~2~~ 1) Is married or otherwise emancipated; or

(~~3~~ 2) Before the act or omission, was convicted in superior court of any criminal offense.

**Chapter 14.**  
**Criminal Law.**  
Article 2A.  
Habitual Felons.

**§ 14-7.1. Persons defined as habitual felons.**

Any person who has been convicted of or pled guilty to three felony offenses in any federal court or state court in the United States or combination thereof is declared to be an habitual felon. For the purpose of this Article, a felony offense is defined as an offense which is a felony under the laws of the State or other sovereign wherein a plea of guilty was entered or a conviction was returned regardless of the sentence actually imposed. Provided, however, that federal offenses relating to the manufacture, possession, sale and kindred offenses involving intoxicating liquors shall not be considered felonies for the purposes of this Article. For the purposes of this Article, felonies committed before a person attains the age of 18 years shall not constitute more than one felony. The commission of a second felony shall not fall within the purview of this Article unless it is committed after the conviction of or plea of guilty to the first felony. The commission of a third felony shall not fall within the purview of this Article unless it is committed after the conviction of or plea of guilty to the second felony. Pleas of guilty to or convictions of felony offenses prior to July 6, 1967, shall not be felony offenses within the meaning of this Article. Any felony offense to which a pardon has been extended shall not for the purpose of this Article constitute a felony. The burden of proving such pardon shall rest with the defendant and the State shall not be required to disprove a pardon.

Article 4A.

Prohibited Secret Societies and Activities.

**§ 14-12.7. Wearing of masks, hoods, etc., on public ways.**

No person or persons at least 16 years of age shall, while wearing any mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, enter, be or appear upon any lane, walkway, alley, street, road, highway or other public way in this State.

**§ 14-12.9. Entry, etc., upon premises of another while wearing mask, hood or other disguise.**

No person or persons at least 16 years of age shall, while wearing a mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, demand entrance or admission, enter or come upon or into, or be upon or in the premises, enclosure or house of any other person in any municipality or county of this State.

**§ 14-12.10. Holding meetings or demonstrations while wearing masks, hoods, etc.**

No person or persons at least 16 years of age shall while wearing a mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, hold any manner of meeting, or make any demonstration upon the private property of another unless such person or persons shall first obtain from the owner or occupier of the property his or her written permission to do so, which said written permission shall be recorded in the office of the

register of deeds of the county in which said property is located before the beginning of such meeting or demonstration.

Article 10.

Kidnapping and Abduction.

**§ 14-39. Kidnapping.**

(a) Any person who shall unlawfully confine, restrain, or remove from one place to another, any other person 16 years of age or over without the consent of such person, or any other person under the age of 16 years without the consent of a parent or legal custodian of such person, shall be guilty of kidnapping if such confinement, restraint or removal is for the purpose of:

- (1) Holding such other person for a ransom or as a hostage or using such other person as a shield; or
- (2) Facilitating the commission of any felony or facilitating flight of any person following the commission of a felony; or
- (3) Doing serious bodily harm to or terrorizing the person so confined, restrained or removed or any other person; or
- (4) Holding such other person in involuntary servitude in violation of G.S. 14-43.12.
- (5) Trafficking another person with the intent that the other person be held in involuntary servitude or sexual servitude in violation of G.S. 14-43.11.
- (6) Subjecting or maintaining such other person for sexual servitude in violation of G.S. 14-43.13.

...

**§ 14-43.3. Felonious restraint.**

A person commits the offense of felonious restraint if he unlawfully restrains another person without that person's consent, or the consent of the person's parent or legal custodian if the person is less than 16 years old, and moves the person from the place of the initial restraint by transporting him in a motor vehicle or other conveyance. Violation of this section is a Class F felony. Felonious restraint is considered a lesser included offense of kidnapping.

Article 13A.

North Carolina Street Gang Suppression Act.

**§ 14-50.17. Soliciting; encouraging participation.**

(a) It is unlawful for any person to cause, encourage, solicit, or coerce a person 16 years of age or older to participate in criminal street gang activity.

(b) A violation of this section is a Class H felony.

**§ 14-50.18. Soliciting; encouraging participation; minor.**

(a) It is unlawful for any person to cause, encourage, solicit, or coerce a person under 16 years of age to participate in criminal street gang activity.

(b) A violation of this section is a Class F felony.

(c) Nothing in this section shall preclude a person who commits a violation of this section from criminal culpability for the underlying offense committed by the minor under any other provision of law.

**§ 14-50.22. Enhanced offense for criminal gang activity.**

A person **age 15 or older** who is convicted of a misdemeanor offense **or adjudicated delinquent for a misdemeanor offense** that is committed for the benefit of, at the direction of, or in association with, any criminal street gang is guilty of **or is delinquent for** an offense that is one class higher than the offense committed. A Class A1 misdemeanor shall be enhanced to a Class I felony under this section.

*Note: Because this section provides for an enhanced offense, not an enhanced sentence, the changes would make that enhancement clear in juvenile cases. It is not clear why age 15 is specified or whether it should change.*

**§ 14-50.28. Applicability to juveniles under the age of ~~16~~ 18.**

Except as provided in G.S. 14-50.22, ~~14-50.29, and 14-50.30~~, the provisions of this Article shall not apply to juveniles under the age of ~~16~~ 18.

**§ 14-50.29. Conditional discharge for first offenders under the age of ~~18~~ 20.**

(a) Whenever any person who has not yet attained the age of ~~18~~ 20 years, and has not previously been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state, pleads guilty to or is guilty of (i) a Class H felony under this Article or (ii) an enhanced offense under G.S. 14-50.22, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place the defendant on probation upon such reasonable terms and conditions as the court may require.

(b) If the court, in its discretion, defers proceedings pursuant to this section, it shall place the defendant on supervised probation for not less than one year, in addition to any other conditions. Prior to taking any action to discharge and dismiss under this section, the court shall make a finding that the defendant has no previous criminal convictions. Upon fulfillment of the terms and conditions of the probation provided for in this section, the court shall discharge the defendant and dismiss the proceedings against the defendant.

(c) Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this section may occur only once with respect to any person. Disposition of a case to determine discharge and dismissal under this section at the district court division of the General Court of Justice shall be final for the purpose of appeal. Upon violation of a term or condition of the probation provided for in this section, the court may enter an adjudication of guilt and proceed as otherwise provided.

(d) Upon discharge and dismissal pursuant to this section, the person may apply for an order to expunge the complete record of the proceedings resulting in the dismissal and discharge, pursuant to the procedures and requirements set forth in G.S. 14-50.30(a). If the court determines, after hearing, that such person was dismissed and the proceedings against the person discharged and that the person had not yet attained ~~18~~ 20 years of age at the time of the offense, it shall enter such order. The effect of such order shall be to restore such person in the

contemplation of the law to the status the person occupied before such arrest or indictment or information.

(e) The clerk of superior court in each county in North Carolina shall, as soon as practicable after each term of court in his county, file with the Administrative Office of the Courts the names of those persons granted a discharge under the provisions of this section, and the Administrative Office of the Courts shall maintain a confidential file containing the names of persons granted conditional discharges. The information contained in such file shall be disclosed only to judges of the General Court of Justice of North Carolina for the purpose of ascertaining whether any person charged with an offense has been previously granted a discharge.

### **§ 14-50.30. Expunction of records.**

(a) Whenever any person who has not yet attained the age of ~~18~~ 20 years and has not previously been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state, pleads guilty to or is guilty of (i) a Class H felony under this Article or (ii) an enhanced offense under G.S. 14-50.22, the person may file a petition in the court where the person was convicted for expunction of the offense from the person's criminal record. Except as provided in G.S. 14-50.29 upon discharge and dismissal, the petition cannot be filed earlier than (i) two years after the date of the conviction or (ii) the completion of any period of probation, whichever occurs later. The petition shall contain, but not be limited to, the following:

- (1) An affidavit by the petitioner that the petitioner has been of good behavior (i) during the period of probation since the decision to defer further proceedings on the offense in question pursuant to G.S. 14-50.29 or (ii) during the two-year period since the date of conviction of the offense in question, whichever applies, and has not been convicted of any felony, or misdemeanor other than a traffic violation, under the laws of the United States or the laws of this State or any other state.
- (2) Verified affidavits of two persons who are not related to the petitioner or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which the petitioner lives, and that the petitioner's character and reputation are good.
- (3) If the petition is filed subsequent to conviction of the offense in question, a statement that the petition is a motion in the cause in the case wherein the petitioner was convicted.
- (4) Affidavits of the clerk of superior court, chief of police, where appropriate, and sheriff of the county in which the petitioner was convicted and, if different, the county of which the petitioner is a resident, showing that the petitioner has not been convicted of a felony or misdemeanor other than a traffic violation under the laws of this State (i) during the period of probation since the decision to defer further proceedings on the offense in question pursuant to G.S. 14-50.29 or (ii) at any time prior to the conviction for the offense in question or during the two-year period following that conviction, whichever applies.
- (5) An affidavit by the petitioner that no restitution orders or civil judgments representing amounts ordered for restitution entered against the petitioner are outstanding.



The petition shall be served upon the district attorney of the court wherein the case was tried resulting in conviction. The district attorney shall have 10 days thereafter in which to file any objection thereto and shall be duly notified as to the date of the hearing of the petition.

The judge to whom the petition is presented is authorized to call upon a probation officer for any additional investigation or verification of the petitioner's conduct during the probationary period or during the two-year period after conviction.

(b) If the court, after hearing, finds that the petitioner has remained of good behavior and been free of conviction of any felony or misdemeanor, other than a traffic violation, for two years from the date of conviction of the offense in question, the petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution entered against him, and the petitioner had not attained the age of ~~18~~ 20 years at the time of the conviction in question, it shall order that such person be restored, in the contemplation of the law, to the status occupied by the petitioner before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge such arrest, or indictment, information, or trial, or response to any inquiry made of the person for any purpose. The court shall also order that the said conviction be expunged from the records of the court, and direct all law enforcement agencies bearing record of the same to expunge their records of the conviction as the result of a criminal charge. The clerk shall forward a certified copy of the order to the sheriff, chief of police, or other arresting agency. The sheriff, chief, or head of such other arresting agency shall then transmit the copy of the order with a form supplied by the State Bureau of Investigation to the State Bureau of Investigation, and the State Bureau of Investigation shall forward the order to the Federal Bureau of Investigation.

(c) This section is supplemental and in addition to existing law and shall not be construed so as to repeal any existing provision contained in the General Statutes of North Carolina.

## Article 16.

### Larceny.

#### **§ 14-74. Larceny by servants and other employees.**

If any servant or other employee, to whom any money, goods or other chattels, or any of the articles, securities or choses in action mentioned in G.S. 14-75, by his master shall be delivered safely to be kept to the use of his master, shall withdraw himself from his master and go away with such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, with intent to steal the same and defraud his master thereof, contrary to the trust and confidence in him reposed by his said master; or if any servant, being in the service of his master, without the assent of his master, shall embezzle such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, or otherwise convert the same to his own use, with like purpose to steal them, or to defraud his master thereof, the servant so offending shall be guilty of a felony:

**Provided, that nothing contained in this section shall extend to apprentices or servants within the age of 16 years.** If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is one hundred thousand dollars (\$100,000) or more, the person is guilty of a Class C felony. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is less than one hundred thousand dollars (\$100,000), the person is guilty of a Class H felony.

Article 18.

Embezzlement.

**§ 14-90. Embezzlement of property received by virtue of office or employment.**

If any person exercising a public trust or holding a public office, or any guardian, administrator, executor, trustee, or any receiver, or any other fiduciary, or any officer or agent of a corporation, or any agent, consignee, clerk, bailee or servant, **except persons under the age of 16 years**, of any person, shall embezzle or fraudulently or knowingly and willfully misapply or convert to his own use, or shall take, make away with or secrete, with intent to embezzle or fraudulently or knowingly and willfully misapply or convert to his own use any money, goods or other chattels, bank note, check or order for the payment of money issued by or drawn on any bank or other corporation, or any treasury warrant, treasury note, bond or obligation for the payment of money issued by the United States or by any state, or any other valuable security whatsoever belonging to any other person or corporation, unincorporated association or organization which shall have come into his possession or under his care, he shall be guilty of a felony. If the value of the property is one hundred thousand dollars (\$100,000) or more, the person is guilty of a Class C felony. If the value of the property is less than one hundred thousand dollars (\$100,000), the person is guilty of a Class H felony.

Article 26.

Offenses against Public Morality and Decency.

**§ 14-178. Incest.**

(a) Offense. – A person commits the offense of incest if the person engages in carnal intercourse with the person's (i) grandparent or grandchild, (ii) parent or child or stepchild or legally adopted child, (iii) brother or sister of the half or whole blood, or (iv) uncle, aunt, nephew, or niece.

(b) Punishment and Sentencing. –

(1) A person is guilty of a Class B1 felony if either of the following occurs:

- a. The person commits incest against a child under the age of 13 and the person is at least 12 years old and is at least four years older than the child when the incest occurred.
- b. The person commits incest against a child who is 13, 14, or 15 years old and the person is at least six years older than the child when the incest occurred.

(2) A person is guilty of a Class C felony if the person commits incest against a child who is 13, 14, or 15 and the person is more than four but less than six years older than the child when the incest occurred.

(3) In all other cases of incest, the parties are guilty of a Class F felony.

(c) **No Liability for Children Under 16. – No child under the age of 16 is liable under this section if the other person is at least four years older when the incest occurred.**

**§ 14-190.6. Employing or permitting minor to assist in offense under Article.**

Every person 18 years of age or older who intentionally, in any manner, hires, employs, uses or permits **any minor under the age of 16 years** to do or assist in doing any act or thing constituting an offense under this Article and involving any material, act or thing he knows or



reasonably should know to be obscene within the meaning of G.S. 14-190.1, shall be guilty of a Class I felony.

**§ 14-190.7. Dissemination to minors under the age of 16 years.**

Every person 18 years of age or older who knowingly disseminates to any minor under the age of 16 years any material which he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1 shall be guilty of a Class I felony.

**§ 14-190.9. Indecent exposure.**

(a) Unless the conduct is punishable under subsection (a1) of this section, any person who shall willfully expose the private parts of his or her person in any public place and in the presence of any other person or persons, except for those places designated for a public purpose where the same sex exposure is incidental to a permitted activity, or aids or abets in any such act, or who procures another to perform such act; or any person, who as owner, manager, lessee, director, promoter or agent, or in any other capacity knowingly hires, leases or permits the land, building, or premises of which he is owner, lessee or tenant, or over which he has control, to be used for purposes of any such act, shall be guilty of a Class 2 misdemeanor.

(a1) Unless the conduct is prohibited by another law providing greater punishment, any person at least 18 years of age who shall willfully expose the private parts of his or her person in any public place in the presence of any other person less than 16 years of age for the purpose of arousing or gratifying sexual desire shall be guilty of a Class H felony. An offense committed under this subsection shall not be considered to be a lesser included offense under G.S. 14-202.1.

(b) Notwithstanding any other provision of law, a woman may breast feed in any public or private location where she is otherwise authorized to be, irrespective of whether the nipple of the mother's breast is uncovered during or incidental to the breast feeding.

(c) Notwithstanding any other provision of law, a local government may regulate the location and operation of sexually oriented businesses. Such local regulation may restrict or prohibit nude, seminude, or topless dancing to the extent consistent with the constitutional protection afforded free speech.

**§ 14-202.1. Taking indecent liberties with children.**

(a) A person is guilty of taking indecent liberties with children if, being 16 years of age or more and at least five years older than the child in question, he either:

- (1) Willfully takes or attempts to take any immoral, improper, or indecent liberties with any child of either sex under the age of 16 years for the purpose of arousing or gratifying sexual desire; or
- (2) Willfully commits or attempts to commit any lewd or lascivious act upon or with the body or any part or member of the body of any child of either sex under the age of 16 years.

(b) Taking indecent liberties with children is punishable as a Class F felony.

**§ 14-202.2. Indecent liberties between children.**

(a) A person who is under the age of 16 years is guilty of taking indecent liberties with children if the person either:

- (1) Willfully takes or attempts to take any immoral, improper, or indecent liberties with any child of either sex who is at least three years younger than the defendant for the purpose of arousing or gratifying sexual desire; or
  - (2) Willfully commits or attempts to commit any lewd or lascivious act upon or with the body or any part or member of the body of any child of either sex who is at least three years younger than the defendant for the purpose of arousing or gratifying sexual desire.
- (b) A violation of this section is punishable as a Class 1 misdemeanor.

**§ 14-202.3. Solicitation of child by computer to commit an unlawful sex act.**

(a) Offense. – A person is guilty of solicitation of a child by a computer if the person is 16 years of age or older and the person knowingly, with the intent to commit an unlawful sex act, entices, advises, coerces, orders, or commands, by means of a computer, a child who is less than 16 years of age and at least 3 years younger than the defendant, or a person the defendant believes to be a child who is less than 16 years of age and who the defendant believes to be at least 3 years younger than the defendant, to meet with the defendant or any other person for the purpose of committing an unlawful sex act. Consent is not a defense to a charge under this section.

(b) Jurisdiction. – The offense is committed in the State for purposes of determining jurisdiction, if the transmission that constitutes the offense either originates in the State or is received in the State.

(c) Punishment. – A violation of this section is punishable as follows:

- (1) A violation is a Class H felony except as provided by subdivision (2) of this subsection.
- (2) If either the defendant, or any other person for whom the defendant was arranging the meeting in violation of this section, actually appears at the meeting location, then the violation is a Class G felony.

Article 27A.

Sex Offender and Public Protection Registration Programs.

Part 4. Registration of Certain Juveniles Adjudicated for Committing Certain Offenses.

*Note: Does raising the juvenile age require any changes in the sex offender registration provisions relating to juveniles?*

**§ 14-208.26. Registration of certain juveniles adjudicated delinquent for committing certain offenses.**

(a) When a juvenile is adjudicated delinquent for a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.5 (second degree sexual offense), or G.S. 14-27.6 (attempted rape or sexual offense), and the juvenile was at least eleven years of age at the time of the commission of the offense, the court shall consider whether the juvenile is a danger to the community. If the court finds that the juvenile is a danger to the community, then the court shall consider whether the juvenile should be required to register with the county sheriff in accordance with this Part. The determination as to whether the juvenile is a danger to the community and whether the juvenile shall be ordered to register shall be made by the presiding judge at the dispositional hearing. If the judge rules that the juvenile is a danger to the community and that the juvenile shall register, then an order shall

be entered requiring the juvenile to register. The court's findings regarding whether the juvenile is a danger to the community and whether the juvenile shall register shall be entered into the court record. No juvenile may be required to register under this Part unless the court first finds that the juvenile is a danger to the community.

A juvenile ordered to register under this Part shall register and maintain that registration as provided by this Part.

(a1) For purposes of this section, a violation of any of the offenses listed in subsection (a) of this section includes all of the following: (i) the commission of any of those offenses, (ii) the attempt, conspiracy, or solicitation of another to commit any of those offenses, (iii) aiding and abetting any of those offenses.

(b) If the court finds that the juvenile is a danger to the community and must register, the presiding judge shall conduct the notification procedures specified in G.S. 14-208.8. The chief court counselor of that district shall file the registration information for the juvenile with the appropriate sheriff.

#### **§ 14-208.27. Change of address.**

If a juvenile who is adjudicated delinquent and required to register changes address, the juvenile court counselor for the juvenile shall provide written notice of the new address not later than the third business day after the change to the sheriff of the county with whom the juvenile had last registered. Upon receipt of the notice, the sheriff shall immediately forward this information to the Division. If the juvenile moves to another county in this State, the Division shall inform the sheriff of the new county of the juvenile's new residence.

#### **§ 14-208.28. Verification of registration information.**

The information provided to the sheriff shall be verified semiannually for each juvenile registrant as follows:

- (1) Every year on the anniversary of a juvenile's initial registration date and six months after that date, the sheriff shall mail a verification form to the juvenile court counselor assigned to the juvenile.
- (2) The juvenile court counselor for the juvenile shall return the verification form to the sheriff within three business days after the receipt of the form.
- (3) The verification form shall be signed by the juvenile court counselor and the juvenile and shall indicate whether the juvenile still resides at the address last reported to the sheriff. If the juvenile has a different address, then that fact and the new address shall be indicated on the form.

#### **§ 14-208.29. Registration information is not public record; access to registration information available only to law enforcement agencies and local boards of education.**

(a) Notwithstanding any other provision of law, the information regarding a juvenile required to register under this Part is not public record and is not available for public inspection.

(b) The registration information of a juvenile adjudicated delinquent and required to register under this Part shall be maintained separately by the sheriff and released only to law enforcement agencies and local boards of education. Registry information for any juvenile enrolled in the local school administrative unit shall be forwarded to the local board of education.

Under no circumstances shall the registration of a juvenile adjudicated delinquent be included in the county or statewide registries, or be made available to the public via internet.

**§ 14-208.30. Termination of registration requirement.**

The requirement that a juvenile adjudicated delinquent register under this Part automatically terminates on the juvenile's ~~eighteenth~~ twentieth birthday or when the jurisdiction of the juvenile court with regard to the juvenile ends, whichever occurs first.

**§ 14-208.31. File with Police Information Network.**

(a) The Division shall include the registration information in the Police Information Network as set forth in G.S. 114-10.1.

(b) The Division shall maintain the registration information permanently even after the registrant's reporting requirement expires; however, the records shall remain confidential in accordance with Article 32 of Chapter 7B of the General Statutes.

Article 39.

Protection of Minors.

**§ 14-316.1. Contributing to delinquency and neglect by parents and others.**

Any person who is at least ~~16~~ 18 years old who knowingly or willfully causes, encourages, or aids any juvenile within the jurisdiction of the court to be in a place or condition, or to commit an act whereby the juvenile could be adjudicated delinquent, undisciplined, abused, or neglected as defined by G.S. 7B-101 and G.S. 7B-1501 shall be guilty of a Class 1 misdemeanor.

It is not necessary for the district court exercising juvenile jurisdiction to make an adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order to prosecute a parent or any person, including an employee of the Department of Juvenile Justice and Delinquency Prevention under this section. An adjudication that a juvenile is delinquent, undisciplined, abused, or neglected shall not preclude a subsequent prosecution of a parent or any other person including an employee of the Department of Juvenile Justice and Delinquency Prevention, who contributes to the delinquent, undisciplined, abused, or neglected condition of any juvenile.

**§ 14-318.4. Child abuse a felony.**

(a) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious physical injury upon or to the child or who intentionally commits an assault upon the child which results in any serious physical injury to the child is guilty of a Class E felony, except as otherwise provided in subsection (a3) of this section.

(a1) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of the child, who commits, permits, or encourages any act of prostitution with or by the child is guilty of child abuse and shall be punished as a Class E felon.

(a2) Any parent or legal guardian of a child less than 16 years of age who commits or allows the commission of any sexual act upon the child is guilty of a Class E felony.

(a3) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious bodily injury to the child or who intentionally commits an assault upon the child which results in any serious bodily injury to the child, or which results in permanent or protracted loss or impairment of any mental or emotional function of the child, is guilty of a Class C felony.

(a4) A parent or any other person providing care to or supervision of a **child less than 16 years of age** whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class E felony if the act or omission results in serious bodily injury to the child.

(a5) A parent or any other person providing care to or supervision of a **child less than 16 years of age** whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class H felony if the act or omission results in serious physical injury to the child.

...

**§ 14-320.1. Transporting child outside the State with intent to violate custody order.**

When any federal court or state court in the United States shall have awarded **custody of a child under the age of 16 years**, it shall be a felony for any person with the intent to violate the court order to take or transport, or cause to be taken or transported, any such child from any point within this State to any point outside the limits of this State or to keep any such child outside the limits of this State. Such crime shall be punishable as a Class I felony. Provided that keeping a child outside the limits of the State in violation of a court order for a period in excess of 72 hours shall be prima facie evidence that the person charged intended to violate the order at the time of taking.

Article 54.

Sale, etc., of Pyrotechnics.

**§ 14-410. Manufacture, sale and use of pyrotechnics prohibited; exceptions; **sale to persons under the age of 16** prohibited.**

...

(b) Notwithstanding the provisions of G.S. 14-414, it shall be unlawful for any individual, firm, partnership, or corporation to sell pyrotechnics as defined in G.S. 14-414(2), (3), (4)c., (5), or (6) to **persons under the age of 16**.

**Chapter 15A.**

**Criminal Procedure Act.**

Article 5.

Expunction of Records.

**§ 15A-145. Expunction of records for first offenders under the age of 18 at the time of conviction of misdemeanor; expunction of certain other misdemeanors.**

(a) Whenever any person who has (i) not yet attained the age of ~~18~~ 20 years and has not previously been convicted of any felony, or misdemeanor other than a traffic violation, under the laws of the United States, the laws of this State or any other state, pleads guilty to or is guilty of a misdemeanor other than a traffic violation, or (ii) not yet attained the age of 21 years and has not previously been convicted of any felony, or misdemeanor other than a traffic violation, under the laws of the United States, the laws of this State or any other state, pleads guilty to or is guilty of a misdemeanor possession of alcohol pursuant to G.S. 18B-302(b)(1), he may file a petition in the court where he was convicted for expunction of the misdemeanor from his criminal record. The petition cannot be filed earlier than: (i) two years after the date of the conviction, or (ii) the completion of any period of probation, whichever occurs later, and the petition shall contain, but not be limited to, the following:

.....

(b) If the court, after hearing, finds that the petitioner had remained of good behavior and been free of conviction of any felony or misdemeanor, other than a traffic violation, for two years from the date of conviction of the misdemeanor in question, the petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution entered against him, and (i) petitioner was not ~~18~~ 20 years old at the time of the conviction in question, or (ii) petitioner was not 21 years old at the time of the conviction of possession of alcohol pursuant to G.S. 18B-302(b)(1), it shall order that such person be restored, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge such arrest, or indictment, information, or trial, or response to any inquiry made of him for any purpose.

.....

Article 23.

Police Processing and Duties upon Arrest.

**§ 15A-505. Notification of parent and school.**

*Note:*

- *With the extension of the juvenile age, subsections (a) and (b) would apply in very few cases. The only minors who would be charged initially as adults would be those who have already been convicted of a criminal offense in superior court.*
- *Because subsection (c) refers to “persons” and not “minors,” it would apply to those who are 18 or older and still in secondary school.*

(a) A law enforcement officer who charges a minor with a criminal offense shall notify the minor’s parent or guardian of the charge, as soon as practicable, in person or by telephone. If

the minor is taken into custody, the law enforcement officer or the officer's immediate superior shall notify a parent or guardian in writing that the minor is in custody within 24 hours of the minor's arrest. If the parent or guardian of the minor cannot be found, then the officer or the officer's immediate superior shall notify the minor's next-of-kin of the minor's arrest as soon as practicable.

- (b) The notification provided for by subsection (a) of this section shall not be required if:
- (1) The minor is emancipated;
  - (2) The minor is not taken into custody and has been charged with a motor vehicle moving violation for which three or fewer points are assessed under G.S. 20-16(c), except an offense involving impaired driving, as defined in G.S. 20-4.01(24a); or
  - (3) The minor has been charged with a motor vehicle offense that is not a moving violation.

(c) A law enforcement officer who charges a person with a criminal offense that is a felony, except for a criminal offense under Chapter 20 of the General Statutes, shall notify the principal of any school the person attends of the charge as soon as practicable but at least within five days. The notification may be made in person or by telephone. If the person is taken into custody, the law enforcement officer or the officer's immediate supervisor shall notify the principal of any school the person attends. This notification shall be in writing and shall be made within five days of the person's arrest. If a principal receives notification under this subsection, a representative from the district attorney's office shall notify that principal of the final disposition at the trial court level. This notification shall be in writing and shall be made within five days of the disposition. As used in this subsection, the term "school" means any public or private school in the State that is authorized under Chapter 115C of the General Statutes.

## Article 81B.

### Structured Sentencing of Persons Convicted of Crimes.

#### § 15A-1340.16. Aggravated and mitigated sentences.

*Note: Should the ages highlighted below relating to aggravating and mitigating factors in sentencing be changed from 16 to 18?*

- ....
- (d) Aggravating Factors. – The following are aggravating factors:
- ....
- (13) The defendant **involved a person under the age of 16** in the commission of the crime.
- ....
- (e) Mitigating Factors. – The following are mitigating factors:
- ....
- (6) **The victim was more than 16 years of age** and was a voluntary participant in the defendant's conduct or consented to it.



**Chapter 50B.**  
**Domestic Violence.**

**§ 50B-1. Domestic violence; definition.**

(a) Domestic violence means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a personal relationship, but does not include acts of self-defense:

- (1) Attempting to cause bodily injury, or intentionally causing bodily injury; or
- (2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3, that rises to such a level as to inflict substantial emotional distress; or
- (3) Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7.

(b) For purposes of this section, the term "personal relationship" means a relationship wherein the parties involved:

- (1) Are current or former spouses;
- (2) Are persons of opposite sex who live together or have lived together;
- (3) Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16;

*Note: Is this age related to the age of juvenile court jurisdiction? Should it be changed to 18?*

- (4) Have a child in common;
- (5) Are current or former household members;
- (6) Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship. For purposes of this subdivision, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship.

(c) As used in this Chapter, the term "protective order" includes any order entered pursuant to this Chapter upon hearing by the court or consent of the parties.



**Chapter 90.**

**Medicine and Allied Occupations.**

Article 5.

North Carolina Controlled Substances Act.

**§ 90-95. Violations; penalties.**

....  
(e) The prescribed punishment and degree of any offense under this Article shall be subject to the following conditions, but the punishment for an offense may be increased only by the maximum authorized under any one of the applicable conditions:

- ....  
(5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by selling or delivering a controlled substance to a person under 16 years of age but more than 13 years of age or a pregnant female shall be punished as a Class D felon. Any person 18 years of age or over who violates G.S. 90-95(a)(1) by selling or delivering a controlled substance to a person who is 13 years of age or younger shall be punished as a Class C felon. Mistake of age is not a defense to a prosecution under this section. It shall not be a defense that the defendant did not know that the recipient was pregnant.

**Chapter 143B.**  
**Executive Organization.**

Article 3.

Department of Health and Human Services

Part 4A. Family Preservation Act.

**§ 143B-150.5. Family Preservation Services Program established; purpose.**

(a) There is established the Family Preservation Services Program of the Department of Health and Human Services. To the extent that funds are made available, locally-based family preservation services shall be available to all 100 counties. The Secretary of the Department of Health and Human Services shall be responsible for the development and implementation of the Family Preservation Services Program as established in this Part.

(b) The purpose of the Family Preservation Services Program is, where feasible and in the best interests of the child and the family, to keep the family unit intact by providing intensive family-centered services that help create, within the family, positive, long-term changes in the home environment.

(c) Family preservation services shall be financed in part through grants to local agencies for the development and implementation of locally-based family preservation services. Grants to local agencies shall be made in accordance with the provisions of G.S. 143B-150.6.

(d) The Secretary of the Department of Health and Human Services shall ensure the cooperation of the Division of Social Services, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Division of Medical Assistance, in carrying out the provisions of this Part.

**§ 143B-150.6. Program services; eligibility; grants for local projects; fund transfers.**

(a) Services: Services to be provided under the Family Preservation Services Program shall include but are not limited to: family assessment, intensive family and individual counseling, client advocacy, case management, development and enhancement of parenting skills, and referral for other services as appropriate.

(b) Eligibility: Families eligible for services under the Family Preservation Services Program are those with **children ages 0-17 years** who are at risk of imminent separation through placement in public welfare, mental health, or juvenile justice systems.

*Note: Should the age range of children in eligible families reflect the increased ages at which children may be subject to placement in the juvenile justice system?*

(c) Service Delivery: Services delivered to eligible families under the Family Preservation Services Program shall be provided in accordance with the following requirements:

- (1) Each eligible family shall receive intensive family preservation services, beginning with identification of an imminent risk of out-of-home placement for an average of four weeks but not more than six weeks;
- (2) At least one-half of a caseworker's time spent providing family preservation services to each eligible family shall be provided in the family's home and community;
- (3) Family preservation caseworkers shall be available to each eligible family by telephone and on call for visits 24 hours a day, seven days a week.

- (4) Each family preservation caseworker shall provide services to a maximum of four families at any given time.

.....

**Chapter 148.**  
**State Prison System**  
Article 3.  
Labor of Prisoners.

**§ 148-28. Sentencing prisoners to Central Prison; youthful offenders.**

When a sentenced offender is to be taken to the Central Prison at Raleigh, a sheriff or other appropriate officer of the county shall cause such prisoner to be delivered with the proper commitment papers to the warden of the Central Prison. A person under ~~16~~ 18 years of age convicted of a felony shall not be imprisoned in the Central Prison at Raleigh unless:

- (1) The person was convicted of a capital felony; or
- (2) He has previously been imprisoned in a county jail or under the authority of the Department of Correction upon conviction of a felony.

This provision shall not limit the authority of the Secretary of Correction from transferring a person under ~~16~~ 18 years of age to Central Prison when in the Secretary's determination this person would not benefit from confinement in separate facilities for youthful offenders or when it has been determined that his presence would be detrimental to the implementation of programs designed for the benefit of other youthful offenders. Nor shall this provision limit the authority of the judges of the superior courts of this State or the Secretary of Correction from committing or transferring a person under ~~16~~ 18 years of age to Central Prison for medical or psychiatric treatment.

*Note: These changes are consistent with but not required by an increase in the age of juvenile court jurisdiction.*

Article 4B.

Interstate Compact for Adult Offender Supervision.

**§ 148-65.5. Governor to execute compact; form of compact.**

The Governor of North Carolina is authorized and directed to execute a compact on behalf of the State of North Carolina with any state of the United States legally joining therein in the form substantially as follows:

....

Article II.

Definitions.

- (a) As used in this compact, unless the context clearly requires a different construction:
  - (1) "Adult" means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

....

- (9) "Offender" means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities,

corrections, or other criminal justice agencies. “Offender” does not include a person placed under, or subject to, supervision solely as the result of the commission of a delinquent act.

## **APPENDIX C. ALTERNATIVE TREATMENT OF MOTOR VEHICLE OFFENSES**

*The amendments shown below illustrate one alternative to including all motor vehicle offenses committed by 16- and 17-year-olds in the juvenile justice system. It rewrites the definition of “delinquent juvenile” to exclude infractions and motor vehicle offenses committed by 16- and 17-year-olds. It amends G.S. 7B-1604, to (1) make those offenses subject to prosecution in adult court and (2) authorize the prosecutor or judge in the proceeding to transfer those cases (except infractions) to juvenile court. New subsection (d) attempts to give the adult court and juvenile court concurrent jurisdiction, so that cases mistakenly filed in the wrong court are not subject to dismissal for lack of jurisdiction.*

### **Chapter 7B.**

#### **Juvenile Code.**

#### **SUBCHAPTER II. UNDISCIPLINED AND DELINQUENT JUVENILES.**

##### **§ 7B-1501. Definitions.**

In this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings. The singular includes the plural, unless otherwise specified.

••••

- (7) Delinquent juvenile. – Any juvenile who,
- a. while less than 18 years of age but at least 6 years of age, commits a crime, other than a violation of Chapter 20 of the General Statutes, under State law or under an ordinance of local government, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31, or
  - b. while less than 16 years of age but at least 6 years of age, commits an infraction or a violation of Chapter 20 of the General Statutes.

••••

##### **§ 7B-1604. Limitations on juvenile court jurisdiction.**

(a) Any individual, including one who is under the jurisdiction of the court, who commits a criminal offense on or after the individual’s eighteenth birthday is subject to prosecution as an adult. A juvenile who is emancipated shall be prosecuted as an adult for the commission of a criminal offense.

(b) A juvenile who is transferred to and convicted in superior court shall be prosecuted as an adult for any criminal offense the juvenile commits after the superior court conviction.

(c) Any juvenile who commits an infraction or a violation of Chapter 20 of the General Statutes on or after the juvenile’s sixteenth birthday but before the juvenile’s eighteenth birthday, is subject to prosecution as an adult; provided, in the case of a violation of Chapter 20 of the General Statutes,

- (1) the prosecutor, in his or her discretion, may waive jurisdiction and authorize the juvenile court counselor to file a juvenile petition in the matter, and
  - (2) the court, in its discretion, may waive jurisdiction and transfer the matter to juvenile court
    - a. for adjudication and disposition or,
    - b. following a conviction, for entry of a juvenile disposition rather than a sentence, in which case the conviction shall be treated as an adjudication of delinquency.
- (d) For purposes of subsection (c), initiation of the case in the wrong court does not deprive the court of jurisdiction. The court in which the matter was filed may transfer the case to the proper court or the parties may agree to proceed in the court in which the matter was filed.

# OVERVIEW OF LAWS RELATING TO THE SHARING OF JUVENILE INFORMATION WITH STATE DEPARTMENTS AND AGENCIES

## Confidentiality of Records and Information

Records and information relating to juveniles involved in the juvenile justice system generally are considered confidential.<sup>29</sup> The clerk of superior court maintains a record for each juvenile involved in the juvenile justice system. Within a single county, a juvenile will have one record, (with one file number) that contains all juvenile court documents relating to that juvenile. Thus, a juvenile record is not a record of a particular offense, but a record of all of the juvenile's current and previous involvement with the juvenile court in that county. This record may be viewed and copied by:

- the juvenile or the juvenile's attorney;
- the juvenile's parent, guardian, or custodian;
- an authorized representative of the juvenile's parent, guardian, or custodian;
- the prosecutor; and
- juvenile court counselors.<sup>30</sup>

When the Juvenile Code was rewritten in 1999, there was discussion about whether law enforcement officers should be added to that list. They were not. Instead, a provision was added authorizing a prosecutor, in his or her discretion, to share information from a juvenile's record with sworn N.C. law enforcement officers. A prosecutor may not, however, allow a law enforcement officer to photocopy any part of the record.<sup>31</sup>

Others may view or obtain copies of a juvenile record only when authorized by a court order to do so. The Juvenile Code does not specify procedures for seeking such an order. Nor does it provide any criteria to guide the court in determining whether to enter such an order.

Although it is clear that the prosecutor may view and copy the unsealed portions of a juvenile record without a court order, it is not altogether clear whether that refers to all prosecutors or just the district attorney or prosecutor involved in the juvenile's case. The Juvenile Code defines "prosecutor," unless the context clearly requires otherwise, as the "district attorney or assistant district attorney assigned by the district attorney to juvenile proceedings."<sup>32</sup> It seems unlikely that the narrower reading was intended, given that

1. the definition of "prosecutor" includes the district attorney as well as an assistant district attorney assigned to juvenile court; and

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<sup>29</sup> See "Confidentiality in Juvenile Delinquency Proceedings," Special Series No. 19 (Institute of Government, October 2004). Available at <http://www.sog.unc.edu/pubs/electronicversions/pdfs/ss19.pdf>.

<sup>30</sup> G.S. 7B-3000(b). If the court has ordered any portion of the record "sealed," no one may view that part of the record without a court order. G.S. 7B-3000(c).

<sup>31</sup> G.S. 7B-3000(b).

<sup>32</sup> G.S. 7B-1501(23).



2. the statute that authorizes the prosecutor to examine the juvenile record includes two subsections, G.S. 7B-3000(e) and (f), that use “prosecutor” in contexts that clearly are referring to criminal, not juvenile, proceedings.<sup>33</sup>

The Juvenile Code also restricts access to other records of juveniles in the juvenile justice system. Law enforcement records relating to a juvenile may be viewed and copied without a court order only by

- the juvenile or the juvenile’s attorney;
- the juvenile’s parent, guardian, or custodian;
- the authorized representative of the juvenile’s parent, guardian, or custodian;
- the district attorney or prosecutor;
- juvenile court counselors; and
- law enforcement officers sworn in this State.<sup>34</sup>

Records maintained by juvenile court counselors or others in the Department of Juvenile Justice and Delinquency Prevention may be viewed and copied without a court order only by

- the juvenile and the juvenile’s attorney;
- the juvenile’s parent, guardian, custodian;
- the authorized representative of the juvenile’s parent, guardian, or custodian;
- professionals in the agency who are directly involved in the juvenile’s case; and
- juvenile court counselors.

The Juvenile Code limits the dissemination of information about juveniles as well as the disclosure of court and agency records. G.S. 7B-3100(b) states that “[d]isclosure of information concerning any juvenile under investigation or alleged to be within the jurisdiction of the court that would reveal the identity of that juvenile is prohibited . . . .” The statute does not address consequences of disclosures that violate the prohibition.

#### Authorized or Required Sharing of Records or Information

The Juvenile Code includes several major exceptions to the restrictions it imposes on the sharing of information about juveniles. Specific exceptions to the general prohibition described just above are that

1. pictures of runaways may be published with the permission of the juveniles’ parents, and
2. when a juvenile escapes from custody, the Department of Juvenile Justice and Delinquency Prevention is required in some cases and authorized in others to disclose specified information about the juvenile.<sup>35</sup>

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<sup>33</sup> G.S. 7B-3000(e) allows the prosecutor to use a juvenile’s record of certain adjudications for “plea negotiating decisions.” G.S. 7B-3000(e) refers specifically to a motion by the prosecutor in a subsequent criminal proceeding.

<sup>34</sup> G.S. 7B-3001(b).

<sup>35</sup> G.S. 7B-3100(b) and 7B-3102.

The Department of Juvenile Justice and Delinquency Prevention, in consultation with the Conference of Chief District Court Judges, is required to adopt rules designating agencies that are required to share information about court-involved juveniles in response to requests by other designated agencies.<sup>36</sup> Those rules are in the North Carolina Administrative Code at 28 NCAC 01A .0301 and .0302.<sup>37</sup> With respect to juveniles in the juvenile justice system, the statute and the rules require listed agencies to share information that is relevant to any case in which a petition has been filed alleging that a juvenile is delinquent. That duty continues until the juvenile is no longer subject to the juvenile court’s jurisdiction.

The designated agencies are

- (a) the Department of Juvenile Justice & Delinquency Prevention
- (b) the Office of Guardian Ad Litem Services of the Administrative Office of the Courts
- (c) county departments of social services
- (d) area mental health developmental disability and substance abuse authorities
- (e) local law enforcement agencies
- (f) district attorneys’ offices – however, a district attorney is not required to disclose or release any information
- (g) county mental health facilities, developmental disabilities and substance abuse programs
- (h) local school administrative units
- (i) local health departments
- (j) any local agency designated by an administrative order entered by the chief district court judge of the district in which the agency is located<sup>38</sup>

On one level these information-sharing provisions are quite broad. They are limited, however, by any restrictions imposed by federal law – primarily with respect to school, health, and substance abuse records and information. In addition, the statute provides that any information shared pursuant to the rules *may be used* “only for the protection of the juvenile and others or to improve the educational opportunities of the juvenile.”<sup>39</sup>

A second major exception requires the disclosure of certain information to the school a juvenile attends when the juvenile is alleged or has been found to be delinquent for an offense that would be a felony if committed by an adult.<sup>40</sup> In those cases, the juvenile court counselor is responsible for communicating to the principal, both verbally and in writing, when a petition is filed, the court transfers the case to superior court, the petition is dismissed, or the court enters, modifies, or vacates a disposition order. The principal may not copy the documents and may share them only with those who (1) have direct guidance, teaching, or supervisory responsibilities for the juvenile and (2) have a specific need to know in order to protect the safety of the juvenile or others.

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<sup>36</sup> G.S. 7B-3100(a).

<sup>37</sup> The Administrative Code can be found at <http://reports.oah.state.nc.us/ncac.asp>.

<sup>38</sup> 28 NCAC 01A .0301.

<sup>39</sup> G.S. 7B-3100(a).

<sup>40</sup> G.S. 7B-3101 and 115C-404.

### Use of Records or Information

As noted above, schools that obtain information from the juvenile court counselor, and designated agencies that receive confidential information from other designated agencies, may use that information only for specified purposes. In some instances Juvenile Code provisions for accessing information and using it are not well aligned. For example, G.S. 7B-3000(e) says that the record of a juvenile's delinquency adjudication for a felony offense "may be used by law enforcement, the magistrate, and the prosecutor for pretrial release and plea negotiating decisions."

The prosecutor, as discussed above, probably has access to juvenile records, so using a juvenile's record of felony adjudications for plea negotiating in a criminal case would be feasible. Law enforcement officers, though, cannot access juvenile records, and they have information from the records only if the prosecutor has shared it. The Juvenile Code does not authorize magistrates to access juvenile records. It is not likely, therefore, that a magistrate is capable of using a defendant's record of felony delinquency adjudications in making decisions about pretrial release.

In an adult prosecution, a defendant's juvenile record of a delinquency adjudication for a Class A, B1, B2, C, D, or E felony may be used for these purposes:

- to prove other crimes, wrongs, or acts, under G.S. 8C-1, Rule 404(b)
- as an aggravating factor at sentencing in a non-capital case, under G.S. 15A-1340.16(d)(18a)
- as an aggravating factor at sentencing in a capital case, under G.S. 15A-2000(e)

However, it may be used only by order of the court in the criminal case, on motion of the prosecutor and after an in camera hearing to determine whether the record is admissible.<sup>41</sup>

In a criminal case, the delinquency adjudication of a witness other than the defendant may be used to impeach the witness under G.S. 8C-1, Rule 609, but only if

1. a conviction of the same offense could be used to impeach an adult, and
2. the court is satisfied that admission in evidence is necessary for a fair determination of guilt or innocence.<sup>42</sup>

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<sup>41</sup> G.S. 7B-3000(f).

<sup>42</sup> G.S. 8C-1, Rule 609(d). The only provision relating specifically to witnesses in delinquency cases requires that the notice the clerk sends a juvenile whose juvenile record has been expunged inform the juvenile that "upon testifying in a delinquency proceeding, the juvenile may be required by a court to disclose that the juvenile was adjudicated delinquent." G.S. 7B-3202. Under G.S. 7B-3200, only adjudications for offenses other than Class A, B1, B2, C, D, and E felonies are eligible for expunction.