

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 89*
Committee Substitute Favorable 3/10/97

Short Title: Juv. Probation/School Notification.

(Public)

Sponsors:

Referred to:

February 10, 1997

A BILL TO BE ENTITLED

AN ACT TO REQUIRE JUVENILE COURT COUNSELORS TO NOTIFY BUILDING PRINCIPAL IN CERTAIN CASES WHEN A JUVENILE IS ADJUDICATED DELINQUENT AND IS ORDERED TO ATTEND SCHOOL AS A CONDITION OF PROBATION, TO PROVIDE FOR THE MAINTENANCE OF THE NOTIFICATIONS, AND TO ENCOURAGE THE ASSIGNMENT OF COURT COUNSELORS TO INDIVIDUAL SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-649 reads as rewritten:

"§ 7A-649. Dispositional alternatives for delinquent juvenile.

In the case of any juvenile who is delinquent, the judge ~~may~~ may do one or more of the following:

(1) Suspend imposition of a more severe, statutorily permissible disposition with the provision that the juvenile meet certain conditions agreed to by ~~him~~ the juvenile and specified in the dispositional order. The conditions shall not exceed the maximum criminal sanction permissible for the ~~offense~~ offense.

(2) Require restitution, full or partial, payable within a 12-month period to any person who has suffered loss or damage as a result of the offense

1 committed by the juvenile. The judge may determine the amount, terms,
2 and conditions of the restitution. If the juvenile participated with another
3 person or persons, all participants should be jointly and severally
4 responsible for the payment of restitution; however, the judge shall not
5 require the juvenile to make restitution if the juvenile satisfies the court
6 that ~~he~~the juvenile does not have, and could not reasonably acquire, the
7 means to make ~~restitution;~~restitution.

8 (3) Impose a fine related to the seriousness of the juvenile's offense. If the
9 juvenile has the ability to pay the fine, it shall not exceed the maximum
10 fine for the offense if committed by an ~~adult;~~adult.

11 (4) Order the juvenile to perform supervised community service consistent
12 with the juvenile's age, skill, and ability, specifying the nature of the
13 work and the number of hours required. The work shall be related to the
14 seriousness of the juvenile's offense and in no event may the obligation
15 to work exceed 12 ~~months;~~months.

16 (5) Order the juvenile to a supervised day program, requiring ~~him~~the
17 juvenile to be present at a specified place for all or part of every day or
18 of certain days. The judge also may require the juvenile to comply with
19 any other reasonable conditions specified in the dispositional order that
20 are designed to facilitate ~~supervision;~~supervision.

21 (6) Order the juvenile to a community-based program of academic or
22 vocational education or to a professional residential or nonresidential
23 treatment program. Participation in the programs shall not exceed 12
24 ~~months;~~months.

25 (7) Impose confinement on an intermittent basis in an approved detention
26 facility. Confinement shall be limited to not more than five 24-hour
27 periods, the timing of which is determined by the court in its discretion.
28 Confinement in such a case shall be completed within a period of 90
29 days from the date of ~~disposition;~~disposition.

30 (8) Place the juvenile on probation under the supervision of a court
31 counselor. When assigning a juvenile to a court counselor under this
32 subsection, the Chief Court Counselor or his designee shall take into
33 consideration whether it is practicable to assign individual court
34 counselors to individual schools and whether it is practicable and in the
35 juvenile's best interest to assign the juvenile to the court counselor
36 assigned to the school the juvenile is required to attend. In any case
37 where a juvenile is placed on probation, the court counselor shall have
38 the authority to visit the juvenile where ~~he~~the juvenile resides. The
39 judge shall specify conditions of probation that are related to the needs
40 of the juvenile including any of the following:

41 a. That the juvenile shall remain on good behavior and not violate
42 any ~~laws;~~laws.

- 1 b. That the juvenile attend school ~~regularly;~~ regularly. If the
2 adjudication of delinquency is for an offense involving a threat to
3 the safety of the juvenile or others and school attendance is a
4 condition of probation, the judge shall order the juvenile court
5 counselor to notify the principal of the juvenile's school within
6 five days or before the juvenile begins to attend school,
7 whichever occurs first. This notification shall be in writing and
8 shall describe the nature of the offense and the probation
9 requirements related to school attendance. The principal shall
10 handle the notification from the court in accordance with G.S.
11 115C-404.
- 12 b1. That the juvenile maintain passing grades in up to four courses
13 during each grading period and meet with the court counselor
14 and a representative of the school to make a plan for how to
15 maintain those passing ~~grades;~~ grades.
- 16 c. That the juvenile not associate with specified persons or be in
17 specified ~~places;~~ places.
- 18 d. That the juvenile report to a court counselor as often as required
19 by a court ~~counselor;~~ counselor.
- 20 e. That the juvenile make specified financial restitution or pay a
21 fine in accordance with subdivisions (2) and ~~(3);~~ (3) of this
22 section.
- 23 f. That the juvenile be employed regularly if not attending school.
24 An order of probation shall remain in force for a period not to exceed
25 one year from the date entered. Prior to expiration of an order of
26 probation, the judge may extend it for an additional period of one year
27 after a hearing if he finds that the extension is necessary to protect the
28 community or to safeguard the welfare of the ~~juvenile;~~ juvenile.
- 29 (9) Order that the juvenile shall not be licensed to operate a motor vehicle
30 in the State of North Carolina for as long as the court retains jurisdiction
31 over the juvenile or for any shorter period of ~~time;~~ time.
- 32 (10) Commit the juvenile to the Division of Youth Services in accordance
33 with G.S. 7A-652."

34 Section 2. Article 29 of Chapter 115C of the General Statutes is amended by
35 adding a new section to read:

36 "**§ 115C-404. Use of juvenile court information.**

37 The written notification of a student's probation received from a juvenile court
38 counselor in accordance with G.S. 7A-649(8) is a confidential record, is not a public
39 record as defined under G.S. 132-1, and shall not be made part of the student's official
40 record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain this
41 notification in a safe, locked record storage that is separate from the student's other
42 school records. The principal shall maintain this notification for the period of the
43 student's probation, after which the principal shall shred or burn the notification to protect

1 the confidentiality of this information. In no case shall the principal make a copy of the
2 notification.

3 Upon receipt of this notification, the principal shall share the notification with
4 appropriate staff members in a conference at which the staff members shall indicate in
5 writing that they have read the notification and that they agree to maintain its
6 confidentiality. For the purposes of this section, 'appropriate staff members' are those
7 individuals who have direct guidance, teaching, or supervisory responsibility for the
8 student, or who have a specific need to know in order to protect the safety of the student
9 or others.

10 Any information received by a principal and any other appropriate staff member
11 under this section shall be received in confidence for the purposes of rehabilitating the
12 student and protecting students and staff and shall not be further disseminated by the
13 principal or staff member, except when communication with the student, the student's
14 parents or guardians, law enforcement personnel, or court counselor is necessary to
15 effectuate the student's rehabilitation or to protect students and staff.

16 If the student withdraws from school, is suspended for 10 or more days, is expelled, or
17 transfers to another school, the principal shall return the notification to the juvenile court
18 counselor and, if applicable, shall provide the counselor with the name and address of the
19 school to which the student is transferring."

20 Section 3. This act is effective when it becomes law.