

Extra! Extra! Read All About It! New Juvenile Law Bulletin – Delinquency and DSS Custody without Abuse, Neglect, or Dependency: How Does that Work?

Did you know that in a juvenile delinquency court case the juvenile may be placed in the custody of a county's child welfare department (usually a department of social services (DSS))? A DSS placement through a delinquency action may happen in one of three ways:

- a nonsecure custody order ([G.S. 7B-1902 through -1907](#)),
- a dispositional order after the juvenile has been adjudicated delinquent ([G.S. 7B-2506\(1\)c.](#)), and/or
- an order appointing DSS as the juvenile's guardian of the person ([G.S. 7B-2001](#)).

With each of these types of delinquency orders, there is not an allegation, substantiation, or adjudication that the juvenile is abused, neglected, or dependent (see my last blog post, [here](#), discussing delinquency as it relates to abuse, neglect, or dependency). Instead, the juvenile's court involvement is a result of his or her alleged acts of delinquency rather than circumstances created by a parent, guardian, custodian, or caretaker. Each of these three custody orders is a type of delinquency order and not an order related to a juvenile's abuse, neglect, or dependency. However, at times, as a result of the order placing the juvenile in DSS custody, pieces of abuse, neglect, and dependency law apply in the delinquency case.

The legal implications of placing a juvenile into DSS custody and resulting foster care as part of a delinquency matter are complex – so complex, that a blog post will not do. Instead, my colleague, Jacquelyn (Jacqui) Greene and I wrote a new extensive juvenile law bulletin discussing these orders and the issues that arise with each type of order. You can access the bulletin, *Delinquency and DSS Custody without Abuse, Neglect, or Dependency: How Does that Work?* [here](#).

So many questions to answer...

If you didn't know DSS custody could happen through a delinquency order, this bulletin is for you. This bulletin is also for you if you did know but had questions like

- What does it mean for parents' constitutional rights to care, custody, and control of their child?
- Does custody mean physical custody, legal custody, or both?
- When, if ever, does a parent attorney get appointed?
- Is the juvenile represented by the juvenile defender or the guardian ad litem program?
- Is DSS entitled to receive notice before and have an opportunity to participate in a hearing in a delinquency matter that may result in an order that places the juvenile in DSS custody?
- When and what statutes applying to abuse, neglect, or dependency apply in the

delinquency action?

- What is required for the placement to be eligible for federal foster care funding?
- Is permanency planning required such that the child's adoption may become a permanent plan?
- When the Juvenile Justice Reinvestment Act takes effect so that juvenile court jurisdiction includes 16- and 17-year olds and may continue to the youth's 19th or 20th birthday, can a DSS custody order survive the age of majority?
- Does DSS placement automatically end when the juvenile's probation terminates?

The answers to some of these and other questions may surprise you. Know that some questions are unresolved in the law but are analyzed in a way that enables the reader to craft a reasoned argument or decision.

Authors' Suggestions for the Reader

This new juvenile law bulletin is long – 51 pages long. In an effort to be reader-friendly, we've organized this bulletin into Six Parts: prevalence of these types of orders, parents' constitutional rights, nonsecure custody orders, dispositional orders, guardianship orders, and federal foster care financing. The bulletin starts with a Table of Contents (with internal hyperlinks for the online version). Still, we recognize this is a long bulletin that discusses many complicated issues.

Our suggestions are

- Do not sit down and read it straight through because you are likely to miss key points if you do.
- Take it one Part at time. In other words, read one part or section and put it down. Come back to it later and read a new section.
- Take notes, underline, highlight, tab. When an issue arises in your case, come back to the applicable section.

We hope you find this new resource to be helpful.