Jurisdiction Over Parents in Delinquency Cases When the Juvenile is 18 or Older

Does the court have authority over parents of juveniles who are respondents in delinquency matters once the juvenile turns 18? This question has come up repeatedly as practitioners across North Carolina continue to implement the Juvenile Jurisdiction Reinvestment Act (JJRA), the law that brought the vast majority of youth who commit offenses at ages 16 and 17 under juvenile court jurisdiction. The short answer is—yes. However, that fact does not mean that this jurisdictional law is without complications. This blog explains why the new jurisdictional laws have led to increased numbers of 18- and 19-year-olds under juvenile court jurisdiction, the court's authority over the parents of those youth, and complications related to this jurisdictional authority over parents of people who are legally adults.

Delinquency Jurisdiction Over 18- and 19-Year-Olds

Prior to implementation of the JJRA, juvenile court jurisdiction generally ended once a youth turned 18. G.S. 7B-1601(b). Jurisdiction could only be extended past a juvenile's 18th birthday if the juvenile was committed to a Youth Development Center (YDC) for a Class A – E felony offense. G.S. 7B-1602. This meant that jurisdiction extended past 18 for a very small number of juveniles and only for juveniles who were committed to the YDC.

The JJRA created new laws regarding the length of juvenile court jurisdiction for offenses committed at ages 16 and 17. Per G.S. 7B-1601(b1), the court can retain jurisdiction over a juvenile who is adjudicated delinquent for an offense committed at age 16 until the juvenile reaches their 19th birthday, and the court can retain jurisdiction over a juvenile who is adjudicated delinquent for an offense committed at age 17 until their 20th birthday. These longer jurisdictional time limits apply regardless of the disposition. For example, a juvenile placed on probation for an offense committed at age 17 can continue to be under the jurisdiction of the court until their 20th birthday.

These new jurisdictional laws have resulted in a new phenomenon in juvenile delinquency matters—juveniles who have reached the legal age of majority (18) and are now legal adults continue to be respondents in delinquency matters while they are subject to community-based dispositions.

The Legal Effect of Turning 18

There are several ways the law acknowledges that young people shift from the legal status of a child to the legal status of an adult when they turn 18. G.S. 48A-2 provides that "[a] minor is any person who has not reached the age of 18 years." The Supreme Court of North Carolina acknowledged that "[t]he age of emancipation is precisely fixed—eighteen." *Shoaf v. Shoaf*, 282 NC 287, 291 (1972). The statute that requires a child to be under the supervision and control of

their parent applies until that child turns 18. G.S. 7B-3400. Child support is generally required until the child reaches the age of 18 (although there is an exception for children who remain in primary or secondary school). G.S. 50-13.4(c).

The shift out of the legal category of being a minor has several practical implications, including that young people are no longer in the custody of a parent, guardian, or custodian once they turn 18. Parents are no longer required to support their children once they turn 18 and children, in turn, are no longer required to comply with the supervision and control of their parents.

Jurisdiction over Parents, Guardians, and Custodians

G.S. 7B-1601(g) provides that the court has jurisdiction over a parent, guardian, or custodian of a juvenile who is under the jurisdiction of the court when they are served with the summons. This jurisdictional law was not amended in any way as part of the JJRA. Therefore, any parent, guardian, or custodian who has been served with the summons is a party to the delinquency proceeding for as long as the juvenile is under the jurisdiction of the court instead of for the period that the juvenile is under the age of majority. The court maintains jurisdiction over parents of juveniles who are 18- and 19-year-olds in exactly the same way it maintains jurisdiction over parents of younger juveniles. However, it is unclear whether the court maintains jurisdiction over the guardian or custodian who no longer serves in that capacity since the juvenile is no longer a minor subject to the court order of guardianship or custody.

The Role of the Parent, Guardian, or Custodian Subject to Delinquency Jurisdiction

Once the parent, guardian, or custodian has been served with the summons and is under the jurisdiction of the court, that person has the right to notice of all scheduled hearings (G.S. 7B-1807) and, once provided that notice, they must attend all hearings unless excused by the court. G.S. 7B-2700. In addition, parents, guardians, and custodians can be ordered to do a range of things as part of the delinquency proceedings, including to

- Attend available parental responsibility classes following adjudication of child (S. 7B-2701),
- Provide transportation for the juvenile to keep an appointment with a juvenile court counselor or to comply with other court orders (S. 7B-2703(a)), and
- Cooperate with and assist the juvenile in complying with the terms and conditions of probation or other court orders (S. 7B-2703(b)).

The Juvenile Code also provides that parents, but not guardians or custodians, can be ordered to do the following:

- Pay the cost of medical, surgical, psychiatric, psychological, or other treatment ordered for the juvenile (S. 7B-2702(a)) or for the parent (G.S. 7B-2702(d));
- At or after the dispositional hearing, if the court finds parental participation in evaluation or

treatment of the juvenile is in best interests of the juvenile, participate in medical, psychiatric, psychological, or other evaluation and treatment of the juvenile (S. 7B 2702(b));
- At or after the dispositional hearing, if it is in the best interests of the juvenile to require the parent to 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 the court's decision to remove custody of the juvenile from the parent, comply with a plan of evaluation or treatment for the parent that is approved by the court or condition legal custody or physical placement of the juvenile with the parent on that person's compliance with the plan of evaluation or treatment (S. 7B-2702);
- At or after the dispositional hearing, if the court finds the parent is able,
    1. Pay a reasonable sum that will cover in whole or in part the support of the juvenile (S. 7B-2704(1)),
    2. Pay a fee for probation supervision or residential facility costs (S. 7B-2704(2)),
    3. Assign private insurance coverage to cover medical costs while the juvenile is in secure detention, YDC, or other out-of-home placement (S. 7B-2704(3)), or
    4. Pay appointed attorneys' fees (S. 7B-2704(4)).

If a parent, guardian, or custodian fails to comply with a court order, the court can issue a show cause order and hold that person in contempt for willful noncompliance. G.S. 7B-2706. The court may want to consider the shifting legal relationship between parents and their children when issuing these kinds of orders in cases where the juvenile has reached the age of majority.

Appointment of a Guardian when Parent, Guardian, or Custodian Does Not Appear: Not After Age 18

The court can appoint a guardian of the person for a juvenile in a delinquency proceeding when no parent, guardian, or custodian appears at a hearing or when the court finds it would be in the best interests of the juvenile. G.S. 7B-2001. The guardian must have the care, custody, and control of the juvenile or may arrange for a suitable placement for the juvenile. In addition, the guardian may be allowed to represent the juvenile in legal actions before any court; consent to certain actions of the juvenile including marriage, enlisting in Armed Forces, and school enrollment; and consent to any necessary remedial, psychological, medical, or surgical treatment for the juvenile.

The court's authority to appoint a guardian of the person for the juvenile lasts only until that juvenile turns 18. G.S. 7B-2001. This age limitation was not increased when the JJRA expanded juvenile jurisdiction to cover 18- and 19-year-olds. The court therefore has no capacity to appoint a guardian of a juvenile who is 18 or 19 and whose parent, guardian, or custodian fails to appear at a hearing. This leaves the court forced to choose between potentially lengthy delays while efforts are made to force compliance among parents, guardians, and custodians who are no longer legally responsible for their child in other ways or to proceed without a party to the proceeding.

Dispositional Limitation with a Juvenile's Legal Adulthood

As a result of these various laws, legal adults (age 18 and 19) and their parents, guardians, or custodians sometimes remain under the jurisdiction of the court in delinquency matters. This reality raises a complication related to disposition.

Placement of a juvenile in the custody of another person or the Department of Social Services is a dispositional alternative that is available for all Level 1 and Level 2 delinquency dispositions. G.S. 7B-2506(1), -2508. The JJRA seemingly acknowledged the fact that youth are not in the custody of an adult once they turn 18 by limiting the court's authority to order a custodial arrangement under this dispositional alternative to juveniles who are under the age of 18. However, this limitation may leave juveniles who remain under juvenile court jurisdiction at ages 18 and 19 and who lack safe and stable housing without a community-based placement resource.

The Absence of a Parent, Guardian, or Custodian

Some young people have no legal parent, guardian, or custodian once they turn 18. If the parental rights of a young person's parents have been terminated and the youth then ages out of the foster care system at age 18, that young person has no legal parent. G.S. 7B-1112. Any order of guardianship or custody entered in the abuse, neglect, and dependency case automatically terminates. G.S. 7B-201. The juvenile and the court are left without any parent, guardian, or custodian in the case.

Key Takeaways

The expansion of juvenile jurisdiction to include juveniles at ages 18 and 19 and the existing role of parents, guardians, and custodians as parties in delinquency proceedings creates cases in which the court has jurisdiction over parents, guardians, and custodians of juveniles who are otherwise legal adults. The Juvenile Code gives the court authority over those parents, guardians, and custodians in the same way that the court has authority over parents, guardian, and custodians of juveniles who are minors. These parents, guardians, and custodians remain parties to the proceeding and can be ordered to do the same things as parents, guardians, and custodians of younger children. However, the Juvenile Code does not recognize the change in legal status between the juvenile, who is now a young adult, and the parent, guardian, or custodian. I welcome your feedback about how this impacts cases as the new jurisdictional landscape of the JJRA becomes engrained across North Carolina.