

## Structuring Individualized Delinquency Dispositions

The Juvenile Code requires the court to select the most appropriate disposition for the delinquent juvenile. [G.S. 7B-2501\(c\)](#). Under this statute, the disposition must be designed to protect the public and to meet the needs and best interests of the juvenile based on offense severity, the need for accountability, the importance of protecting public safety, the juvenile's degree of culpability, and the rehabilitative and treatment needs of the juvenile. There are many different statutory pathways available to the court to structure individualized dispositions targeted to meet the needs of the juvenile and reduce their risk of reoffending. This post explores some of those options, with an emphasis on alternatives outside of standard terms and conditions for probation or placement in out-of-home settings.

### Two Alternatives Outside of the List of Alternatives

[G.S. 7B-2506](#) is titled, "Dispositional alternatives for delinquent juvenile" and identifies 24 options. However, there are two dispositional alternatives available in delinquency cases that are not contained in that statute. Instead, [G.S. 7B-2501\(d\)](#) contains the following two dispositional alternatives:

1. Dismissal
2. Continue the case for no more than six months to allow the family an opportunity to meet the needs of the juvenile through more adequate home supervision, placement in a private or specialized school or agency, placement with a relative, or *some other plan approved by the court* (emphasis added).

This statute provides the court ultimate flexibility to approve a plan created and implemented by the family. While the delinquency system is not traditionally rooted in the idea that the family will develop and implement a plan to address their child's behavior, such a family-generated plan offers opportunity for family buy-in and the resolution of cases with minimal use of government resources. A wide range of options, from moving the juvenile to the home of a relative in a new and safe environment to youth engagement in community-based activities may offer promising resolution in some matters.

Dismissal is also available under this statute. I often hear practitioners refer to this as "no disposition." The court may dismiss a delinquency matter following adjudication without entering any disposition.

### Alternatives on the List of Alternatives—The Road Less Traveled

[G.S. 7B-2506](#) offers a list of 24 dispositional alternatives, including some with multiple alternatives embedded in them. The court has significant latitude in selecting from these dispositional options when entering Level 1 or Level 2 dispositions. [G.S. 7B-2508\(c\)](#), [-2508\(d\)](#). The court may order any

of dispositional alternatives 1 – 13 or 16 when entering a Level 1 disposition (or any combination thereof). The court may order any of dispositional alternatives 1 – 23 (or any combination thereof) when entering a Level 2 disposition. Each Level 2 disposition must include at least one intermediate alternative (alternatives 13 – 23).

The list of dispositional alternatives includes many of the dispositions traditionally used in juvenile court—probation and out-of-home placement. But, it also includes some less frequently utilized options that the court may want to consider for a juvenile, such as

- Suspending imposition of a more severe, statutorily permissible disposition with the provision that the juvenile meets certain conditions agreed to by the juvenile and specified in the dispositional order. Any conditions entered under this alternative cannot exceed the allowable dispositions for the level under which the disposition is being imposed. G.S. 7B-2506(19).
- Placement in the custody of a suitable person. G.S. 7B-2506(1)b.
- Participation in a victim-offender reconciliation program. G.S. 7B-2506(7).
- Performance of community service that is consistent with the juvenile's age, skill, and ability and that is related to the seriousness of the offense. G.S. 7B-2506(6), -2506(23).
- Payment of restitution that is fair and reasonable, related to the juvenile's needs, and calculated to promote the best interest of the juvenile. Restitution must be based on the juvenile's own ability to pay and cannot be ordered if the juvenile satisfies the court that they do not have and could not reasonably acquire the means to make restitution. G.S. 7B-2506(4), -(22), [In re Schrimpsheer, 143 N.C. App. 461 \(2001\)](#).

Each of these alternatives can be ordered without placing the juvenile on probation. They stand alone as discreet dispositional alternatives.

### **Individualized Probation Conditions**

If probation is ordered as a dispositional alternative, the Juvenile Code allows the court to order conditions “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.” [G.S. 7B-2510\(a\)](#). The plain language of this statute contemplates an individualized determination of probation conditions that must be related to the needs of the specific juvenile and reasonably necessary to ensure that this particular juvenile will not reoffend.

The statute gives the court the authority to order the juvenile to satisfy any conditions “determined appropriate by the court.” G.S. 7B-2510(a)(14). This offers the court broad authority to order probation conditions that meet the goal of addressing the needs of the individual juvenile and ensuring that the juvenile will lead a law-abiding life without limiting the court to the potential conditions that are enumerated in the statute.

## **Out of the Box Disposition Ideas**

I recently had the opportunity to teach about these lesser-known dispositional alternatives at the advanced juvenile defender conference coordinated by my colleague, Timothy Heinle. I asked participants to share some of their creative dispositional ideas. They came up with a long list of possibilities including:

- Shadow a professional for a day,
- Limit the standard terms of probation to focus on one specific area,
- Change “pass all classes” to “improve attendance,”
- Ask to be reconsidered for teen court if they missed an intake,
- Read an inspiring book and write a book report,
- Attend a camp or do something else that’s within the juvenile’s scope of interest; require DJJ to provide funding and transportation,
- Continue disposition to show improvements in grades and school attendance,
- Initiate contact with a community college - look at vocational training, soft skills, interview skills,
- Prepare a creative art piece (poetry, rhymes, artwork) about the juvenile’s experience,
- Engage in prosocial activities - sports, scouts, martial arts, swimming lessons; require DJJ to provide funding and transportation,
- Use the child’s IEP to meet their needs in place of probation,
- Have the juvenile make a PowerPoint for the judge regarding their disposition argument,
- Create a “dream board.”

The court’s ability to

- order any condition of probation deemed appropriate by the court;
- suspend imposition of a more severe, statutorily permissible disposition with the provision that the juvenile meets certain conditions agreed to by the juvenile and specified in the dispositional order; and
- continue the matter for up to six months in order for the family to meet the needs of the juvenile through some other plan approved by the court

are all potential avenues for ordering these kinds of creative dispositional alternatives.

The defenders who participated in this session would likely find this post remiss if I did not also note that simply layering creative approaches on top of a long list of usual dispositional requirements may not lay the groundwork for success. The statutory requirements demand that the court structure dispositions to meet the specific needs of the juvenile and to protect the public. Creating a disposition that is realistic in its scope and targeted in approach may be the most promising path to achieving those requirements. There are many statutory avenues to do just that.