

When Can Juveniles Be Held in Contempt?

Juveniles, like adults, may be held in contempt for disrespecting the court or interfering with the proper administration of justice. Consider the actions of the juveniles in the following cases: (1) Evan, age 14, was adjudicated delinquent for simple possession of marijuana. At the disposition hearing, the judge asked Evan, “Where do you get your marijuana?” and he refused to answer. Although the judge repeated this question several times, he still refused to answer. (2) Kim, age 15, was adjudicated as an undisciplined juvenile for habitual, unlawful absences from school. The terms of her protective supervision order required her to attend school every day, but she has repeatedly skipped school, since the disposition hearing. May either juvenile be held in contempt? The short answer is yes.

Contempt by a Juvenile. The following acts constitute “contempt by a juvenile” when committed by unemancipated minors between the ages of 6 and 15 (see statute for complete list): (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; and (3) Willful disobedience of, resistance to, or interference with a court’s lawful process, order, directive, or instruction or its execution. [G.S. 5A-31\(a\)](#). Accordingly, a juvenile’s willful refusal to answer a judge’s question or willful noncompliance with a court order may constitute contempt by a juvenile.

Direct Contempt. Contempt may be direct or indirect. Pursuant to [G.S. 5A-31\(b\)](#), contempt is *direct contempt by a juvenile* when all of the following conditions are 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; and
3. The act is likely to interrupt or interfere with matters then before the court.

That is, the contemptuous behavior must occur in the judge’s immediate presence or hearing, while court is in session. Some examples of direct contempt might include a willful refusal to answer a judge’s question, using profanity in court, fighting directly outside the courtroom, or refusing to be sworn or testify as a witness.

Direct Contempt Procedures. Direct contempt by a juvenile may be punished summarily (meaning immediately) to restore order in the court. See *In re Hennis*, 6 N.C. App. 683, 690 (1969). However, before proceeding summarily in response to direct contempt, the court must first follow the procedures outlined in [G.S. 5A-32](#), which include:

1. Giving the juvenile summary notice and an opportunity to respond;
2. Appointing an attorney for the juvenile and allowing time for them to confer; and

3. Finding facts supporting the summary imposition of measures, which “shall be established beyond a reasonable doubt.”

Before imposing sanctions for direct contempt, the court must also find that the juvenile’s act was “willfully contemptuous or was preceded by a clear warning by the court that the conduct is improper.” G.S. 5A-32(c).

In Evan’s hypothetical, which is based on an actual NC case, the court of appeals vacated the contempt order because the trial court failed to give the juvenile summary notice and a summary opportunity to respond before holding him in direct contempt. See [In re E.M.](#), __ N.C. App. __, 745 S.E.2d 374 (2013) (unpublished). Although a formal hearing is not required, the juvenile must be provided some prior notice of the contempt allegations and an opportunity to present reasons why the court should not impose a sanction.

As an alternative to summary proceedings, the court may appoint counsel for the juvenile and order the juvenile to appear for a show cause hearing to be held in juvenile court within a reasonable time specified in the order.

Indirect Contempt. Contempt that is not direct contempt is *indirect contempt by a juvenile*, which “may be adjudged and sanctioned only pursuant to the procedures in Subchapter II of Chapter 7B of the General Statutes.” [G.S. 5A-33](#). That is, indirect contempt by a juvenile is a delinquent act, subject to the same filing requirements and hearing procedures as any other allegation of delinquency. See [G.S. 7B-1501\(7\)](#). And, a juvenile who is adjudicated delinquent for committing indirect contempt by a juvenile would be subject to the dispositional alternatives for delinquent juveniles.

The hypothetical involving Kim poses the question of whether an undisciplined juvenile may be charged with indirect contempt for willfully disobeying a court order. According to G.S. 5A-31(a)(3), the answer is yes. However, there are a couple reasons why discretion should be exercised in applying this statute to undisciplined juveniles.

First, the Juvenile Code has a specific statutory procedure to address violations of protective supervision by undisciplined juveniles, which aims to treat undisciplined juveniles differently than delinquent juveniles. [G.S. 7B-2505](#). Also, the Juvenile Code previously authorized “contempt of court for undisciplined juveniles” in G.S. 7B-2505, but eliminated this sanction in 2012 when the statute was rewritten. [S.L. 2012-172, s. 5](#).

So, how can the changes to G.S. 7B-2505 be reconciled with G.S. 5A-31? Apparently, while contempt of court is no longer authorized as an *immediate* sanction for a violation of protective supervision by an undisciplined juvenile, a juvenile delinquency petition for indirect contempt by a juvenile can be filed. Ultimately, lawmakers may need to address whether non-criminal, undisciplined behavior should result in a delinquency charge.