

§ 7B-2513. Commitment of delinquent juvenile to Division.

(a) Pursuant to G.S. 7B-2506 and G.S. 7B-2508, the court may commit a delinquent juvenile who is at least 10 years of age to the Division for placement in a youth development center. Commitment shall be for an indefinite term of at least six months.

(a1) For an offense the juvenile committed prior to reaching the age of 16 years, the term shall not exceed:

- (1) The twenty-first birthday of the juvenile if the juvenile has been committed to the Division for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree forcible rape pursuant to G.S. 14-27.21, first-degree statutory rape pursuant to G.S. 14-27.24, first-degree forcible sexual offense pursuant to G.S. 14-27.26, or first-degree statutory sexual offense pursuant to G.S. 14-27.29 if committed by an adult;
- (2) The nineteenth birthday of the juvenile if the juvenile has been committed to the Division for an offense that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in subdivision (1) of this subsection; or
- (3) The eighteenth birthday of the juvenile if the juvenile has been committed to the Division for an offense other than an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

(a2) For an offense the juvenile committed while the juvenile was at least 16 years of age but less than 17 years of age, the term shall not exceed the juvenile's nineteenth birthday.

(a3) For an offense the juvenile committed while the juvenile was at least 17 years of age, the term shall not exceed the juvenile's twentieth birthday.

(a4) No juvenile shall be committed to a youth development center beyond the minimum six-month commitment for a period of time in excess of the maximum term of imprisonment for which an adult in prior record level VI for felonies or in prior conviction level III for misdemeanors could be sentenced for the same offense, except when the Division pursuant to G.S. 7B-2515 determines that the juvenile's commitment needs to be continued for an additional period of time to continue care or treatment under the plan of care or treatment developed under subsection (f) of this section. At the time of commitment to a youth development center, the court shall determine the maximum period of time the juvenile may remain committed before a determination must be made by the Division pursuant to G.S. 7B-2515 and shall notify the juvenile of that determination.

(b) The court may commit a juvenile to a definite term of not less than six months and not more than two years if the court finds that the juvenile is 14 years of age or older, has been previously adjudicated delinquent for two or more felony offenses, and has been previously committed to a youth development center.

(c) The chief court counselor shall have the responsibility for transporting the juvenile to the youth development center designated by the Division. The juvenile shall be accompanied to the youth development center by a person of the same sex.

(d) The chief court counselor shall ensure that the records requested by the Division accompany the juvenile upon transportation for admittance to a youth development center or, if not obtainable at the time of admission, are sent to the youth development center within 15 days of the admission. If records requested by the Division for admission do not exist, to the best knowledge of the chief court counselor, the chief court counselor shall so stipulate in writing to the youth development center. If such records do exist, but the chief court counselor is unable to obtain copies of them, a district court may order that the records from public agencies be made available to the youth development center. Records that are confidential by law shall remain confidential and the Division shall be bound by the specific laws governing the confidentiality

of these records. All records shall be used in a manner consistent with the best interests of the juvenile.

(e) A commitment order accompanied by information requested by the Division shall be forwarded to the Division. The Division shall place the juvenile in the youth development center that would best provide for the juvenile's needs and shall notify the committing court. The Division may assign a juvenile committed for delinquency to any institution of the Division or licensed by the Division, which program is appropriate to the needs of the juvenile.

The Division, after assessment of the juvenile, may provide commitment services to the juvenile in a program not located in a youth development center or detention facility. If the Division recommends that commitment services for the juvenile are to be provided in a setting that is not located in a youth development center or detention facility, the Division shall file a motion, along with information about the recommended services for the juvenile, with the committing court prior to placing the juvenile in the identified commitment program. The Division shall send notice of the motion to the District Attorney, the juvenile, and the juvenile's attorney. Upon receipt of the motion filed by the Division, the court may enter an order without the appearance of witnesses and without hearing if the court determines that the identified commitment program is appropriate and a hearing is not necessary. The court must hold a hearing if the juvenile or the juvenile's attorney requests a hearing. If the court notifies the Division of its intent to hold a hearing, the date for that hearing shall be set by the court and the Division shall place the juvenile in a youth development center or detention facility until the determination of the court at that hearing.

(f) When the court commits a juvenile to the Division for placement in a youth development center, the Division shall prepare a plan for care or treatment within 30 days after assuming custody of the juvenile.

(g) Commitment of a juvenile to the Division for placement in a youth development center does not terminate the court's continuing jurisdiction over the juvenile and the juvenile's parent, guardian, or custodian. Commitment of a juvenile to the Division for placement in a youth development center transfers only physical custody of the juvenile. Legal custody remains with the parent, guardian, custodian, agency, or institution in whom it was vested.

(h) Pending placement of a juvenile with the Division, the court may house a juvenile who has been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult in a holdover facility up to 72 hours if the court, based on the information provided by the juvenile court counselor, determines that no acceptable alternative placement is available and the protection of the public requires that the juvenile be housed in a holdover facility.

(i) A juvenile who is committed to the Division for placement in a youth development center shall be tested for the use of controlled substances or alcohol. The results of this initial test shall be incorporated into the plan of care as provided in subsection (f) of this section and used for evaluation and treatment purposes only.

(j) Repealed by Session Laws 2019-216, s. 15, effective August 31, 2019, and applicable to offenses and acts of delinquency committed on or after that date. (1979, c. 815, s. 1; 1983, c. 133, s. 2; 1987, c. 100; c. 372; 1991, c. 434, ss. 2, 3; 1995 (Reg. Sess., 1996), c. 609, s. 2; 1997-443, s. 11A.118(a); 1998-202, s. 6; 1999-423, s. 1; 2000-137, s. 3; 2001-95, s. 5; 2001-490, s. 2.26; 2003-53, s. 1; 2011-145, s. 19.1(l); 2015-181, s. 27; 2017-57, s. 16D.4(i); 2018-142, s. 23(b); 2019-216, s. 15.)