

## When Parents Call The Police

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### How To Handle Undisciplined Juveniles

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Before we get into this week's legal issue, let me wish everyone a happy new year. Here in the legal office, we have determined that our new year's resolution will be to stop trying to be funny and just give you the legal information you need without a lot of footnotes and wisecracks. After all, the law is serious stuff and should be treated with the utmost dignity and respect.<sup>1</sup>

Alright, with that out of the way, let's get to our hypothetical situation:

It is a dark and stormy night. Windy, too. You are approaching the end of your shift and you are called upon to respond to a house where a mother and father are asking<sup>2</sup> you to go retrieve their sixteen year old daughter who has run away from home to go live with her sexually active 18 year old boyfriend who has no job, no prospects, no education, no future, and no redeeming social qualities except the fact that he can text his buddies, smoke a cigarette, and play Grand Theft Auto on his PS3 while simultaneously scratching himself in inappropriate places. In any event, she is refusing to come home no matter how loud how parents scream empty threats about taking away her trust fund money. What are your options here?

A minor is a minor in North Carolina until turning 18 years old.<sup>3</sup> We know from N.C. Gen. Stat. 7B-3400 that a minor is "subject to the supervision and control of his or her parents" unless the minor is (1) married, (2) judicially emancipated, OR (3) in the armed services. We'll talk about these situations a little later, but at this point we can be pretty sure that none of them apply to our hypothetical situation. The fact that our little girl is flagrantly ignoring 7B-3400 means we should check to see if she is an "undisciplined juvenile" under the law.

An undisciplined juvenile is a minor who is at least six but not yet 18 who fits one of the following four categories:

1. Is regularly disobedient to and beyond the disciplinary control of his or her parent, guardian, or custodian. (or)
2. Is regularly found in places where it is unlawful for a juvenile to be. (or)
3. Has run away from home for more than 24 hours. (or)

<sup>1</sup> Of course, I am not being serious – I am fully aware that you only read these updates for two reasons. (1) To see who I am making fun of this time, and (2) To make sure I'm not making fun of you. I am just hoping the law slips into your brain unnoticed. By the way, this resolution lasted about as long as the one I keep making about going on a diet. Pass the potato chips.

<sup>2</sup> Actually, they are telling you. Asking requires a question mark at the end of the sentence. In real life, the father would be telling you not only what to do, but how to do it, and throw in the comment that he knows a good lawyer and pays your salary through his taxes.

<sup>3</sup> At which time I guess they would become "majors." I knew it couldn't be that hard to become a Major. Just kidding, guys.

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4. While younger than 16, is unlawfully absent from school.

If our runaway has been gone for less than 24 hours, she is not yet “undisciplined” unless she fits one of the other categories above. Assuming for the sake of our hypothetical that she has been staying with “Snake” for more than a day, she is now an undisciplined juvenile under N.C.G.S. 7B-1501(27).<sup>4</sup> That gives you at least three options.

### Option #1: Bring The Child Home To Her Parents

N.C.G.S. 7B-1900 gives you the authority to take a juvenile into temporary custody when you have reasonable grounds (probable cause) to believe that the juvenile is an undisciplined juvenile. The law gives you four duties upon taking a juvenile into temporary custody:

1. You must notify the juvenile’s parent, guardian, or custodian.
2. You must release the juvenile to a parent, guardian, or custodian<sup>5</sup> if continued custody is not necessary.
3. If the juvenile is unlawfully absent from school, you may take the juvenile to his or her school.<sup>6</sup>
4. And you (here comes the temporary part) must either (1) file a petition and obtain a court order for secure<sup>7</sup> or nonsecure custody or (2) release the juvenile within 12 hours (24 if a weekend or holiday is involved.)

So you are well within your rights to go get the child and bring her home. There may be reasons you don’t wish to do this, including the dangers (both physical and liability dangers) of having to take a 16 year old girl into custody (watch those fingernails!) or the odds that once you return her to her happy home she will have run away again before you finish the first report.

### Option #2: Start Juvenile Proceedings

This is the same as option #1 except instead of taking the child straight home, you get a court counselor involved who will decide whether a juvenile petition is appropriate. The only tricky thing here is that you will be requesting a juvenile petition on a 16 or 17 year old even though you would be in adult court if you were charging them with a crime. This would be a good option if it appears to you that the parents and child are not going to be able to work things out without court intervention.

### Option #3: Let The Parents Handle It

The parents have two avenues for judicially enforcing parental control over their little princess. They may contact the juvenile court counselors’ office<sup>8</sup> directly to request a petition for an undisciplined juvenile. Juvenile court counselors also have the authority to take an undisciplined juvenile into custody. This is probably the easiest way for parents to do it themselves.

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<sup>4</sup> I try to put the statute numbers in my updates as often as possible for three reasons. (1) It makes me sound smarter, (2) It makes you think I know what I’m talking about, and (3) It gives you a starting point on where to look if you have a related question that isn’t answered here.

<sup>5</sup> To be thorough, I want to say custodian is the person or agency that has been awarded legal custody of the juvenile by a court. Please do not release juveniles to a janitor absent a court order or established paternity. That is not the custodian I’m talking about.

<sup>6</sup> You are hereby bestowed the authority to be a truancy officer. If you run across a child younger than 16 who is unlawfully absent from school, you may take the child directly to school. Do not pass go, do not collect \$200.

<sup>7</sup> The criteria for getting a secure custody order are listed in 7B-1903(b).

<sup>8</sup> Monday through Friday, 8 to 5. I think they go to lunch between 12 and 1.

Parents may also file a civil lawsuit under N.C.G.S. 7B-3404 by filing a complaint with the clerk's office that the juvenile has left home and refuses to return and comply with the direction and control of the plaintiff. The court may then take the following actions:

1. Enter an order directing the juvenile to appear.
2. Order the sheriff "to enter any house, building, structure, or conveyance<sup>9</sup> for the purpose of searching for the juvenile and serving the order and for the purpose of taking custody of the person of the juvenile in order to bring the juvenile before the court."<sup>10</sup>
3. Order a named defendant other than the juvenile ("Snake" in our hypothetical) not to harbor, keep, or allow the juvenile to remain on the person's premises or in the person's home.

The court will enforce these orders with its contempt power until the juvenile reaches 18 years of age.

Obviously this option should only be considered when there are no safety concerns about the juvenile and where she is currently residing. In fact, I should point out that I designed this hypothetical so that the ages of the hypothetical persons did not give rise to any kind of statutory rape situation. In those cases, our enforcement actions should be much more, shall we say, "aggressive."

But what of "Angel," our 16 year old hellion? Doesn't she have rights too? I mean, like, gosh...it isn't fair! I'm glad you asked.

"Angel" has four options. She can wait until she turns 18 at which time she can do whatever she wants (unless she's my child.) She can enlist in the armed services, because after all, we're looking for a few good problem children in our military. She can sue her parents in civil court to become emancipated.<sup>11</sup> For a judge to enter a decree of emancipation there would have to be a better reason than our "Angel" wanting to shack up with "Snake." Or she could get married. At age 16 or 17, a juvenile can only get married with the written consent of a parent (who has custody) or other legal custodian or guardian, so Angel is probably out of luck. If she was 14 or 15, she would have to obtain a court order by filing an action in civil court which would only be granted if she was pregnant or had given birth, the marriage was between the parents of the born or unborn child, the plaintiff was capable of assuming the responsibilities of marriage, and the marriage would be in the plaintiff's best interests. No one under 14 can ever get married in this state. Who says we don't have standards!?<sup>12</sup>



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<sup>9</sup> Reminds me of Tommy Lee Jones in The Fugitive: "What I want out of everyone of you is a hard-target search, of every gas station, residence, warehouse, farmhouse, henhouse, outhouse and doghouse in that area!" Good movie.

<sup>10</sup> There is a concern that this provision of N.C.G.S. 7B-3404 would be held to be unconstitutional as a type of "wandering search warrant" appearing to allow an officer to go to various unspecified addresses and make entry without probable cause. Sheriff's offices should exercise legal caution with respect to such orders.

<sup>11</sup> I've never heard of this actually happening in North Carolina. How many 16 or 17 year olds do you know that can afford to hire an attorney to sue their parents?

<sup>12</sup> Before you answer that, consider that first cousins can marry each other in our great state so long as they are not double first cousins, whatever that means.

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