

Juvenile Justice in NC: A Historical Perspective

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The first Juvenile court in North Carolina was established during the administration of Thomas W. Bickett, Governor from 1917 to 1921.



Image source: N.C. Office of Archives and History

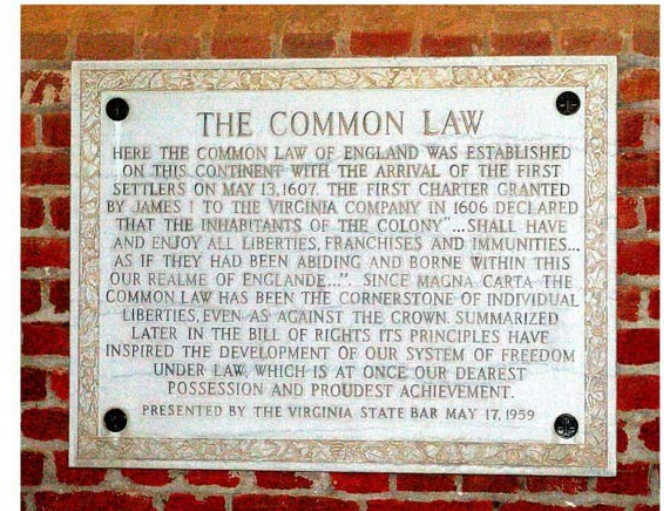
Treatment of Juveniles in Early America

- no separate court for children
- children treated much like adults
- prisoners not classified
- concerns about housing children with older serious offenders
- governors often pardoned young offenders



Early practice followed English common law:

- up to age 7 –
conclusive presumption that child was incapable of criminal intent
- age 7 to 14 –
rebuttable presumption that child incapable of criminal intent
- over age 14 –
always prosecuted and punished as adult



First special attention was in corrections:

- houses of refuge
- apprenticeship
- rehabilitation and discipline
- industrial and reform schools
- continued use of prisons



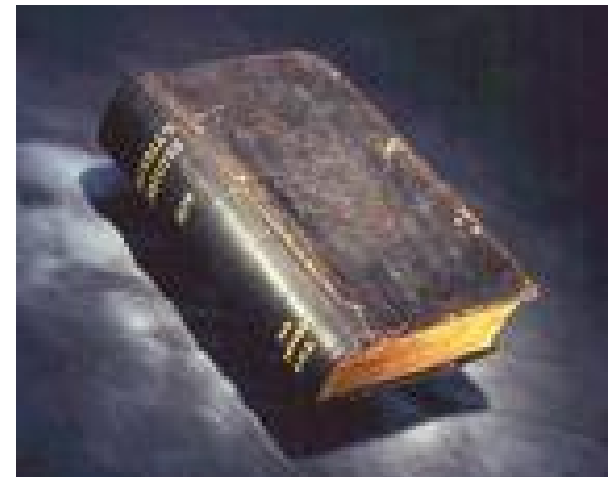
1907 legislation authorized Stonewall Jackson Manual Training and Industrial School

- youth still were tried in criminal court
- judge could commit those under 16 for indefinite period of time



1915 – Probation Courts Act

- created special jurisdiction for “delinquent” and “dependent” children under 18
- separated juvenile and adult probation and detention
- relied on counties for funding
- not implemented uniformly
- repealed in 1919



1919 – N.C. Juvenile Court Act

- National Child Labor Committee study
- proposed legislation included children age 18 or younger
- legislature changed to under age 16
- jurisdiction could continue to age of majority
- court could transfer felony case of 14- or 15-year-old to superior court



The 1919 Juvenile Court Act applied to children who were

- delinquent
- neglected
- dependent
- truant
- unruly
- wayward
- abandoned
- misdirected
- disobedient to parents or beyond their control
- destitute or homeless
- in danger of becoming so

1919 Juvenile Court Act

- in every case, the issue before the court was:
“Is the child in need of the care, protection, or discipline of the state?”
- procedures were informal
- in many other respects, resembled later juvenile codes



1919 to 1969: *Parens Patriae* Ruled

- laws held constitutional
- juveniles viewed as wards of state
- cases recognized as “civil,” not “criminal”
- benevolent purposes used to justify informality and broad judicial discretion
- lawyers rarely involved
- variety of studies and proposals about raising the age, but no changes



Emergence of Juvenile Rights in Delinquency Cases

U.S. Supreme Court

- 1966 Kent v. U.S.
- 1967 In re Gault
- 1970 In re Winship

recognized juveniles' constitutional
due process rights



1970: New N.C. Juvenile Code

- juvenile cases began to look more like criminal cases
- distinguished undisciplined and delinquent
- still addressed all categories of juveniles
- added due process protections for delinquency cases



1980: New N.C. Juvenile Code

- concern about growth in juvenile crime and serious and chronic offenders
- focused on dispositions, “corrections,” and need for community resources
- continued to address all categories of juveniles together
- expanded due process protections
- expanded dispositional options
- lowered undisciplined age to 16
- added emancipation and expungement

1994: Special Crime Session

1. lowered from 14 to 13 the age at which
 - court must conduct probable cause hearings in felony cases
 - juvenile's case may be transferred to superior court
 - transfer mandatory for first degree murder
2. first provision for use of delinquency adjudication as aggravating factor in criminal case



1997–1998: Governor's Commission on Juvenile Crime and Justice

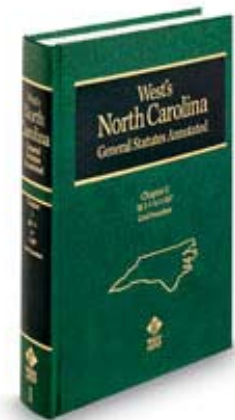
- developed recommendations for most recent rewrite of Juvenile Code.
- recommended that age of delinquency jurisdiction remain 16 and age of dispositional jurisdiction increase, noting:
 - impact on overburdened juvenile system
 - public opinion in light of serious juvenile crimes
 - exorbitant budgetary projections



The 1999 Juvenile Code

G.S. Chapter 7B

- separate subchapter for “delinquent and undisciplined”
- no change in initial jurisdiction age
- no change in transfer for ages 13, 14, 15
 - mandatory for first degree murder
 - permissible all other felonies
- raised undisciplined age back to 18
- expanded dispositional jurisdiction age
- restructured dispositional options
- retained ‘reverse’ transfer authority of governor



Initial jurisdiction

- age at time of offense
 - minimum age: at least 6
 - **maximum age: not yet 16**
- felony by juvenile age 13, 14, or 15:
 - can be initiated indefinitely, regardless of age (but only for probable cause and transfer after 18)
- any other delinquent offense:
 - can be initiated only before juvenile is 18

Maximum Age of Dispositional Jurisdiction

After adjudication, jurisdiction continues:

- a. to age 18,
- b. to age 19 or 21 if extended (only most serious cases), or
- c. until terminated by court order earlier than a or b.

Variety of Age Distinctions in Juvenile Code

- 6 youngest age of jurisdiction
- 10 youngest age for some fingerprinting, photographs, and commitment to YDC
- 13 transfer possible; probable cause hearings
- 14 youngest age to waive right to have parent present during interrogation
- 16 treated as adult for criminal conduct
- 18 maximum age for undisciplined jurisdiction
- 18 max. disp. jurisdiction for less than E felony
- 19 max. disp. jurisdiction for B-E felonies
- 21 max. disp. jurisdiction for few most serious felonies

Other Age Designations

- compulsory school attendance
- abuse, neglect, dependency
- motor vehicle
- alcoholic beverages
- certain criminal offenses
- victims of certain crimes
- marriage
- child support

North Carolina

and Juvenile Age Jurisdiction

1. almost unique position among states
2. less flexibility than many states
 - no blended sentencing
 - no real reverse transfer
 - limited appeal procedures in transfer
 - no ‘youthful offender’ category
3. ambivalence
 - open hearings, closed files
 - changing access to juvenile information
4. history of studying but not changing age of jurisdiction

Nationally

- Other states, most recently CT, have increased ages
- U.S. Supreme Court
 - **1989: Stanford v. Kentucky**

“Imposition of capital punishment for crime committed at age 16 or 17 did not violate evolving standards of decency and thus did not constitute cruel and unusual punishment under the Eighth Amendment.”
 - **2005: Roper v. Simmons**

“Execution of individuals who were under 18 years of age at the time of their capital crimes is prohibited by Eighth and Fourteenth Amendments.”

Resources

- Birckhead, Tamar R., *North Carolina, Juvenile Court Jurisdiction, and the Resistance to Reform*. North Carolina Law Review, Vol. 86, No. 6, 2008. <http://ssrn.com/abstract=1183022>
- Final Report of the Governor's Commission on Juvenile Crime and Justice. March 10, 1998.
- 1979 Report of the Juvenile Code Revision Committee.