**Collateral Consequences of Juvenile Delinquency in North Carolina**

***Reference Manual***

*Juvenile delinquency proceedings are not criminal prosecutions, therefore juvenile delinquency adjudications do not constitute criminal convictions. However, these adjudications have indirect (“collateral”) consequences that can adversely impact many aspects of the juvenile’s future. Under North Carolina law, there is currently no legal requirement for a judge to discuss collateral consequences with the juvenile, the juvenile’s parents, or the juvenile’s attorney as part of the plea or admission colloquy; thus, providing juvenile clients with information regarding these consequences is tremendously important. This document provides an overview of various collateral consequences of juvenile delinquency in North Carolina.*

 **Elementary/Secondary Education and Extra-Curricular Activities**

Notification TO PRINCIPAL

Juvenile court counselors are required to notify the juvenile’s school principal when: (1) a delinquency petition alleges that the juvenile committed a felony other than a motor vehicle offense, (2) the juvenile is transferred to adult court, (3) the petition is dismissed, or (4) any order/disposition is modified or vacated. [§ 7B-3101(a)](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_7B/GS_7B-3101.html).

SUSPENSION AND EXPULSION

Juvenile records received by schools pursuant to statutory notice requirements may only be used for improvement of educational opportunities or for safety purposes, and should not be the sole basis for a decision to suspend or expel a student. [§ 115C-404(b)](http://www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter_115c/gs_115c-404.html).

However, state school board policies authorize the suspension/expulsion of a student based on a pending delinquency petition if the alleged act violates school rules OR if the student is considered to be a danger to himself or others, regardless of whether or not the alleged act occurred on school grounds. [§ 115C-390.2](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_115C/Article_27.html).

Expelled students and students suspended for 365 days (“long-term suspension”) may petition for readmission after 180 calendar days, and the student shall be readmitted if he/she demonstrates that his/her presence in school no longer constitutes a threat to the safety of other students and staff. [§ 115C-390.12](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_115C/GS_115C-390.12.html).

PARTICIPATION IN EXTRA-CURRICULAR ACTIVITIES

Member schools of the North Carolina High School Athletic Association are required to prohibit students adjudicated delinquent for a felony offense from participating in extracurricular sports. *See* [NCHSAA Student Athlete Eligibility Checklist](http://www.nchsaa.org/sites/default/files/attachments/NCHSAA%20Eligibility%20Checklist%207.15.2014.pdf).

 **Post-Secondary Education and Federal Financial Aid**

COLLEGE APPLICATIONS

Most colleges and universities seem to be more focused on criminal convictions rather than juvenile adjudications. However, some application questions may require disclosure (ex: "have you ever in your life been arrested for a violation of a law other than a traffic violation?”). Beware of questions that do not explicitly ask about *convictions*, these answers may lead to disclosure of juvenile adjudications!

ELIGIBILITY FOR FEDERAL FINANCIAL AID

When applying for financial aid for college, applicants are asked to disclose drug convictions that occurred while receiving federal student aid (these types of convictions may render the applicant ineligible for financial aid for a specified length of time based on offense history and severity). However, convictions won’t be considered if they were removed from the applicant’s record OR if they occurred before the applicant’s 18th birthday (unless tried as an adult). *See* [FAFSA Application](https://www.edvisors.com/media/files/fafsa-forms/2015-2016-fafsa-form.pdf).

Because convictions are not considered in the application process if they occurred before the applicant’s 18th birthday and the applicant was not tried as an adult (i.e. applicant was tried in juvenile court, in which case there is no conviction to disclose because adjudication ≠ conviction), disclosure of juvenile adjudications is not required. Further, the question is not likely applicable anyway, as the majority of offenders under age 18 would not have been receiving federal financial aid for college at the time of adjudication (especially in NC, as an offender must be under 16 to be tried in juvenile court).

**Use of Juvenile Record in Subsequent Juvenile Proceedings**

SUBSEQUENT JUVENILE PROCEEDINGS

Prior juvenile adjudications may be used in subsequent juvenile proceedings, and may enhance dispositions in such proceedings. Prosecutors may share information in a juvenile’s record with law enforcement, magistrates, and the courts. [§ 7B-3000(b)](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_7B/GS_7B-3000.html).

**Use of Juvenile Record in Adult Criminal Court**

ENHANCED PENALTIES

An offender’s juvenile record may potentially be used in adult criminal proceedings, and may enhance penalties in such proceedings. Adjudication of a felony/A1 misdemeanor offense at age 13 or older is admissible in adult criminal court for a person under 21 for the purpose of determining pretrial release, plea negotiations, and plea acceptance decisions. [§ 7B-3000(e)](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_7B/GS_7B-3000.html). Further, adjudication of an A-E felony offense is admissible against the offender in adult court as character evidence under Rule 404(b) and as an aggravator for felony or capital cases. [§ 7B-3000(f)](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_7B/GS_7B-3000.html). However, note that adjudication for a lower-level misdemeanor offense cannot be used against the offender in adult criminal court.

PROBATION

If the offender is later placed on adult probation before age 25, the offender’s assigned parole officer is authorized to look at the offender’s juvenile record for the adjudication of a felony offense in order to assess risk related to supervision. [§ 7B-3000(e1)](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_7B/GS_7B-3000.html).

**Sex Offender Registry**

A juvenile offender may be ordered to register as a sex offender if the offender is: (1) 11+ years old, (2) adjudicated guilty of committing or attempting to commit 1st/2nd degree rape or sex offense, and (3) found to be a danger to society. [§ 7B-2509](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_7B/GS_7B-2509.html); [§ 14-208.26](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_14/Article_27A.html).

Juvenile registration requirements: (1) initial registration with county sheriff, (2) notification to sheriff of any address change, and (3) semiannual verification of the juvenile’s residence[. §§ 14-208.26, 14-208.27, 14-208.28](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_14/Article_27A.html)

The registration requirement automatically terminates on the juvenile’s 18th birthday, or when juvenile jurisdiction ends (whichever occurs sooner). [§ 14-208.30](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_14/Article_27A.html).

Juvenile registration information is not public record; access to information is only available to law enforcement agencies and local boards of education. [§ 14-208.29](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_14/Article_27A.html).

If tried and convicted as an adult for committing/attempting a sexually violent offense or an offense against a minor, the offender is subject to adult registration requirements. [§ 14-208.32](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_14/Article_27A.html).

North Carolina does not comply with the federal Sex Offender Registration and Notification Act (SORNA) with regard to juvenile sex offenders. However, defenders must be aware of, and notify a client about the possible need for sex offender registration for serious sex offense adjudications. This situation may arise if the client moves to a state that is SORNA compliant. http://www.smart.gov/sorna.htm

**Employment Applications and Military Enlistment**

EMPLOYMENT APPLICATIONS

Applicants are not required to disclose juvenile proceedings/adjudications on employment applications if asked about criminal convictions (because juvenile proceedings ≠ criminal prosecutions, and juvenile adjudications ≠ criminal convictions).

MILITARY ENLISTMENT

As a general rule, a person cannot enlist in the armed forces if they have ever been convicted of a felony, and recruiters ask specifically about juvenile adjudications; however, the secretary may authorize exceptions “in meritious cases” and the applicant may request a moral waiver. [U.S.C.S. § 10-504(a)](http://www.gpo.gov/fdsys/pkg/USCODE-2010-title10/pdf/USCODE-2010-title10-subtitleA-partII-chap31-sec504.pdf). Note that each branch has separate waiver procedures.

**Immigration Proceedings**

A juvenile delinquency adjudication does not automatically constitute a conviction for immigration purposes (unless under 18 and charged as adult), and therefore may not result in deportation or serve as a bar to obtaining U.S. citizenship. *See* [U.S.C.I.S. Policy Manual](http://www.uscis.gov/policymanual/HTML/PolicyManual-Volume12-PartF-Chapter2.html#S-C).

However, adjudications may affect the naturalization process in other ways (ex: preventing requisite finding of “[good moral character](http://www.uscis.gov/policymanual/HTML/PolicyManual-Volume12-PartD-Chapter9.html)”). Consultation with an immigration attorney is recommended.

**Public Benefits and Privileges**

PUBLIC HOUSING

The housing authority has broad discretion to evict (or deny the application of) an entire household based on the action of any one tenant, or any guest of any one tenant. Grounds to evict include: engaging in criminal activity that threatens the health/safety of others, threatening others’ peaceful enjoyment of the premises, and activity involving illegal drugs. [§ 157-29(e)](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_157/GS_157-29.html). Arrests that do not result in conviction are valid considerations in the admission and eviction processes, therefore juvenile records may be considered.

DRIVING PRIVILEGES

A delinquency adjudication is sufficient grounds for a juvenile court to prevent an offender from obtaining a driver’s license for as long as the court has jurisdiction over the juvenile (or shorter; in discretion of the court). [§ 7B-2506(9)](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_7B/GS_7B-2506.html).