

Creative Sentencing in Juvenile Court

Enhancing Probation as an Alternative to Commitment

Children's Law Office
University of South Carolina School of Law

Blanche Richey, Resource Attorney
(803) 576-5575

Creative Sentencing in Juvenile Court

Enhancing Probation as an Alternative to Commitment

This information pack was developed to assist family court judges, attorneys and court personnel who are constantly faced with the arduous task of ordering or recommending meaningful sentences for juveniles while working with limited community services and resources.

The following topics are included:

- I. Probationary options;
- II. Offense-specific sanctions; and
- III. Sentencing options outlined by the South Carolina Code of Laws.

This is not an exhaustive list, but is meant to encourage a creative approach to sentencing juveniles in family court.

I. Probationary Options

In certain cases involving minor, non-violent offenses, a short probationary sentence with the standard terms of probation (e.g., obey all laws, attend school with no unexcused absences, obey the rules of the home...) is sufficient. In most cases, however, the judge will likely determine that while probation is the appropriate sentence, additional terms are needed. These terms should be tailored to meet the needs of the individual child and reflect the nature of the offense. The end result should be a sentence that reduces the likelihood of recidivism.

The following is a list of probationary options that can be used when appropriate:

A. House Arrest

A judge may order that a child be placed on home detention or house arrest. There are a number of ways this can be done and several options for monitoring compliance by the child.

1. Optional house arrest terms:

- a) The child is restricted from leaving his or her home under any circumstances.
- b) The child is allowed to leave home only to attend school and church services.
- c) The child is allowed to attend all school and church related activities approved by the parent/guardian or probation officer.
- d) The child is to be on house arrest unless accompanied by a responsible adult approved by the court.
- e) The child is allowed to go to work during the hours that have been approved by the court or probation officer.
- f) The child is under house arrest from a certain time in the afternoon/evening until a certain time in the morning.

2. Monitoring options:

- a) The parent / guardian may be placed under an order to report any violations of house arrest. (The judge may ask the parent if he or she is willing to be placed under an order to establish jurisdiction over the parent.)
- b) The child may be required to call in and report to his or her probation officer at certain times.
- c) The probation officer may make random calls to the home or home visits to check on the child's whereabouts.
- d) Electronic monitoring may be used to monitor the child's presence in the home 24 hours a day. There must be a phone in the home to use this option.

B. Community Service

The two main goals of community service are: (1) to give back to the community or pay a debt owed to society, and (2) to enable the child to learn new skills while enhancing self-esteem. If a child is ordered to perform community service that he or she finds meaningful, it may lead to continued volunteer work even after the community service hours are completed or possibly even a paid position.

Types of community service that might be appropriate include picking up trash along roadsides, cleaning up local parks, cleaning publicly owned vehicles, painting little league football bleachers, and helping at animal shelters. Other options include unskilled work for private nonprofit organizations such as churches or cemeteries, Goodwill, DSS, DJJ, libraries and schools.

C. Restitution

Restitution may involve the child paying the victim for any damages caused by the child's behavior. Alternatively, the child may be ordered to work directly for the victim(s) by performing tasks such as mowing lawns, sweeping driveways, washing cars, raking leaves, or picking up trash in the victim's neighborhood.

D. Fines

E. Counseling

The child and family may be ordered to participate in individual, group and family counseling through the child's school, DMH, DSS or DDSN; drug and alcohol counseling through DAODAS; or parenting classes for teen parents.

F. Random Drug and Alcohol Testing

If the juvenile is 16 and employed, the juvenile can be ordered to pay for his or her own testing.

G. Letters of Apology

The child may be ordered to write a letter of apology to the victim(s) and others affected by the child's negative behavior. If the offense is a "victimless crime" the child could be ordered to write an apology letter to the taxpayers who are paying for his or her involvement in the court system. (The letter to the tax payers would be an exercise to help the child realize the far

reaching impact his or her behavior has on the community and should be turned into the probation officer.)

H. Essays

The child may be ordered to write an essay on a topic that requires the child to think about the impact his or her behavior has had on others.

1. Potential topics

- a) “Why what I did was wrong”
- b) “Why I am sorry for what I did”
- c) “Consequences of my negative behavior”
- d) “How I plan to stay out of the juvenile justice system”
- e) “What will happen if I break the law again”
- f) “What I want to do with my life (with regards to job, family, home...) and how my behavior needs to change in order to meet my goals”
- g) “My goals for my future are...”
- h) “How I would feel if I were the victim and why I am sorry for what I did”
- i) “What it takes to be a good parent” or “How to be a good parent” (for pregnant teens or teen parents)
- j) “What my freedom means to me”

I. Book Reports

The court may require the child to read a book and write a book report. Librarians at the child’s school or the public library are good resources for book recommendations, and there are usually pamphlets available at the public library listing recommended books for specific age groups.

Another option is to order that the child’s parent take the child to the local public library, get a library card for the child, and have the child read a book a week and report on each one.

J. Participation in After-school Activities

1. After-school tutoring program
2. Sports
3. School Mentor Program

K. Participation in Non-school Related Activities

1. Neighborhood park activities, such as sports, camps, and tutoring programs
2. Big Brothers, Big Sisters
3. Youth Group
4. Mentor Program
5. Alcoholics Anonymous (when appropriate)
6. Narcotics Anonymous (when appropriate)
7. Parenting classes for teen parents

L. Restrictions of Important Privileges

1. Restrict or suspend the child’s driver’s license. The child may be restricted from driving anywhere except to and from school....

2. Prohibit watching TV during the week and no TV in the child's bedroom.
3. Prohibit playing any computer games during the week.
4. Take away the child's cell phone or beeper.

M. Additional Restrictions

1. Place child under a restraining order that keeps the child away from the victim(s).
2. Prohibit the child from going to certain locations.
3. Prohibit the child from associating with negative peers such as co-defendants, other people known to have been adjudicated or convicted of crimes, or individuals the parent/guardian does not want the child associating with.
4. Prohibit gang association - place in the order that the child is prohibited from associating with any known gang members; going to any known gathering area of gangs; wearing gang colors, clothing or emblems associated with gang membership; or attending court proceedings for which they were not a party, victim or witness.

N. Additional Probationary Terms

1. Place the child under a strict or stricter curfew or order that the child must be at home from 8:00 pm until 7:00 am.
2. Order the child to spend at least 2 hours a day on homework and if finished with homework before the two hours lapse, read books for the duration.
3. Order the child to tour DJJ or the Juvenile Detention Center.
4. Require the child to write a paper on personal goals to include goals regarding school/education, future job, future home, family, etc....
5. Have the child write a description of his or her heroes (or people the child admires) and why they are heroes.
6. Order additional chores at home
7. Require the child to seek or maintain employment.
8. Order the child to read a copy of Kid's Law (can be accessed on the Children's Law Office web site) and write a report each week on one of the chapters.
9. Order the child to write a list of everyone the child or someone in the child's family knows who has been injured or killed by guns / knives...or is on jail because of guns / knives.
10. Require the child to write 1,000 times "I will not steal other people's property" or "I will not be a thief anymore."
11. Order a dress code for the child during school hours, such as keeping his shirt tucked in at all times and no "gang colors" if there is any suspicion of gang involvement.

II. Offense-Specific Sanctions

A. Habitual Truancy

Order the child to:

1. Attend school regularly.
2. Cooperate with any intervention plan developed by the child's school.
3. Cooperate with a psychoeducational evaluation or other testing to determine if the child has any learning disabilities or should be placed in special classes.

4. Develop a written plan with the assistance of the probation officer of how he/she will attend school with no unexcused absences in the future.
5. Participate in a mentoring program.
6. Attend after-school tutoring program if needed.
7. Attend individual counseling, especially if the child has been diagnosed with depression or some type of mental illness that is likely contributing to the child's truancy.
8. Attend family counseling.
9. Receive family assistance from appropriate agency.
10. If the child indicates that he or she is afraid to go to school because of threats or harassment by other students, this should not be taken lightly. The child should be ordered to report any bullying or threats made by other students towards the child, to the school resource officer, who should in turn report to the child's probation officer for further investigation and action.

B. Shoplifting

Order the child to:

1. Write a letter of apology to the store owner.
2. Participate in an Educational Shoplifting Program.
 - Shoplifters Alternatives, a division of Shoplifters Anonymous has a Home Study Program for juveniles that you can learn more about at www.shoplifters.org/courts/main.html.
3. Refrain from using the types of items stolen (i.e., if a child attempted to steal a Tommy Hilfiger shirt, include in the order that the child is not to wear any Tommy Hilfiger clothing for the duration of probation.)
4. Write an essay on the effects of shoplifting on the store owner and the public in general.
5. Make restitution / Pay the store owner back.
6. Perform community service.
7. Avoid the store location as well as other connected stores if it is a chain.

C. Disorderly Conduct / Simple Assault and Battery

Order the child to:

1. Write a letter of apology to the victim(s).
2. Write a paper on better ways to resolve conflict and deal with anger.
3. Attend anger management counseling.
4. Perform community service.

D. Smoking (Though not a crime in SC, still a great concern with juveniles.)

Order the child to:

1. Write an essay on the negative effects of smoking.
2. Participate in a smoking cessation or education program.
3. Tour the cancer ward of a local hospital.

E. Drug / Alcohol Related Offenses

Order the child to:

1. Undergo an assessment for treatment needs.
2. Submit to random drug and alcohol tests.
3. Participate in drug and alcohol counseling.
4. Participate in school or other education programs.
5. Write a paper on the negative effects of drugs and alcohol abuse.
6. Attend AA or NA meetings.
7. When the drug or alcohol abuse is serious, consider in-patient treatment.
8. Make a list of all the people he or she has known who have suffered because of alcohol or drug use and how they have hurt others with their substance abuse.

F. Malicious Injury to Property

Order the child to:

1. Write a letter of apology to victim(s).
2. Fix or clean up the damaged property.
3. Pay restitution.
4. Perform community service such as cleaning up a local building, park or roadside.
5. If the offense involved graffiti, have the child guard the area he or she caused damage to and clean it if anyone else tries to deface it.

G. Bomb Threats

Order the child to:

1. Write a letter of apology to the school officials.
2. Write an essay on the impact of calling in a bomb threat (on the students, danger to disabled students...).
3. Perform community service such as picking up trash at the school.

H. Burglary

Order the child to:

1. Work with a crew such as Habitat for Humanity building homes for the disadvantaged.
2. Make repairs to the homes of neighbors in need.
3. Write an essay on how he/she would feel if someone broke into his home / room.

I. Possession of Weapon

Order the child to:

1. Plan his own funeral by meeting with a local funeral director, writing his own obituary, and choosing the clothes he would wear to be buried in. Also have the juvenile write a paper about what he would say to his family and friends if he were to die tomorrow.
2. Read the newspaper every day for a month or longer, cut out stories about shootings or stabbings or acts of violence and put them in a scrap book to include as much information about the victims and the families of the victims as possible.
3. Perform community service at a cemetery helping with upkeep.

J. Failure to Stop for a Blue Light.

1. Order the child to build a relationship with school resource officer by reporting in with the officer twice a week.

III. Sentencing Options Specifically Authorized by the S.C. Code of Laws

- A. Once the family court establishes jurisdiction over the child, the court may:
1. order that the child be “**examined or treated by a physician, psychiatrist, or psychologist** and for that purpose, can place the child in a hospital or other suitable facility”. (20-7-7805 (A)(1))
 2. “**order care and treatment as it considers best**, except as otherwise provided in §20-7-7805 and **may designate a state agency as the lead agency to provide a family assessment to the court.**” (20-7-7805 (A)(2))
 - “The assessment shall at least include the strengths and weaknesses of the family, problems interfering with the functioning of the family and with the best interests of the child, and recommendations for a comprehensive service plan to strengthen the family and assist in resolving these issues.” (20-7-7805 (A)(2))
 - “The lead agency shall provide the family assessment to the court in a timely manner, and the court shall conduct a hearing to review the proposed plan and adopt a plan as part of its order that will best meet the needs and best interest of the child. In arriving at a comprehensive plan, the court shall consider:
 - (a) additional testing or evaluation that may be needed;
 - (b) economic services including, but not limited to, employment services, job training, food stamps, and aid to families with dependent children;
 - (c) counseling services including, but not limited to, marital counseling, parenting skills, and alcohol and drug abuse counseling; and
 - (d) any other programs or services appropriate to the child's and family's needs.”
 - “The lead agency is responsible for monitoring compliance with the court-ordered plan and shall report to the court as the court requires. In support of an order, the court may require the parents or other persons having custody of the child or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the child within the purview of this chapter to do or omit to do acts required or forbidden by law, when the judge considers the requirement necessary for the welfare of the child. In case of failure to comply with the requirement, the court may proceed against those persons for contempt of court.” (§20-7-7805(2))
- B. As a condition of probation, the court may:
1. order participation in a **community mentor program** per § 20-7-7808. (20-7-7805 (A)(3))
 2. impose **monetary restitution** (20-7-7805 (A)(3))
 3. **order participation in supervised work or community service** (20-7-7805 (A)(3))
 4. “**impose upon the child a fine not exceeding \$200** when the offense is one in which a magistrate, municipal, or circuit court judge has the authority to impose a fine. A fine may be imposed when commitment is suspended but not in addition to commitment.” (20-7-7805 (A)(3))
- C. The court may “**commit the child to the custody or to the guardianship of a public or private institution or agency** authorized to care for children or to place them in family homes or under the guardianship of a suitable person.” (20-7-7805 (A)(5))

D. The court may **suspend or restrict the child's driver's license**

1. until the child's 17th birthday, if the child is adjudicated delinquent for a status offense or is found in violation of a court order relating to a status offense, (20-7-7807(A)); or
2. until the child's 18th birthday if the child is adjudicated delinquent for violation of a criminal offense or is found in violation of a court order relating to a criminal offense or is found in violation of a term or condition of probation. (20-7-7807(B))



CHILDREN'S LAW OFFICE

*1600 Hampton Street, Suite 502
Columbia, SC 29208*

*Phone: (803)777-1646
Fax: (803) 777-8686*

*Special thanks to retired Family Court Judge Robert Burnside
for reviewing these materials before they were published.*

*The Children's Law Office is partially funded
by the South Carolina Bar Foundation*



This project was supported by Federal Formula Grant #IJS03019 awarded by the Bureau of Justice Assistance, U. S. Department of Justice through the South Carolina Department of Public Safety. The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program offices and bureaus: Bureau of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions contained within this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.