

The Juvenile Court Process

DISPOSITIONAL HEARING

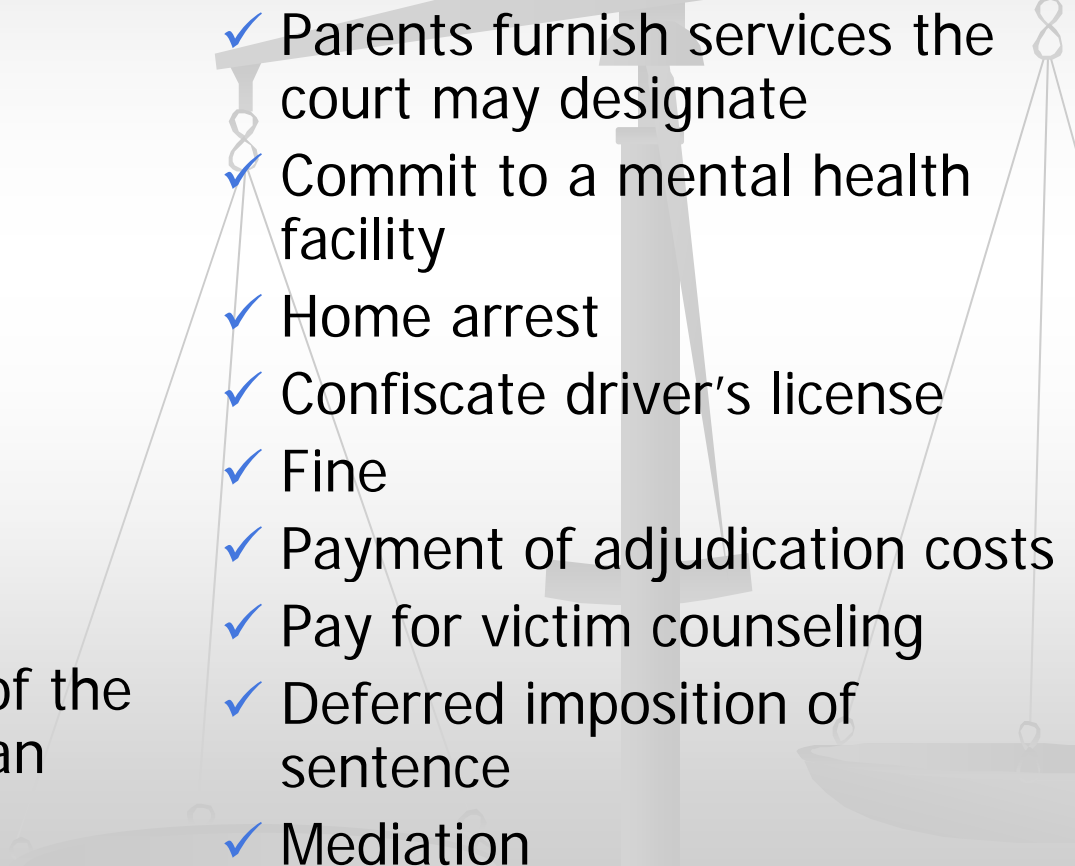
The Dispositional Hearing

- The dispositional hearing is **bifurcated** from the adjudication hearings. It is different in purpose and process from adjudication.
- **Purpose**: The dispositional hearing is **individualized** and **rehabilitative**, pursuing the **least restrictive option**.
- **Process**: The dispositional hearing is not a fact-finding, adversarial process; rather, it has limited due process rights. Virtually any information which bears on the disposition may be included.

Dispositional Hearing Procedures

- **41-5-1511 Dispositional hearing.** . . . The court shall hear all evidence relevant to a proper disposition of the case best serving the interests of the youth, the victim, and the public. The evidence must include but is not limited to the youth assessment and predisposition report provided for in subsection (2) of this section....
- **Rules of evidence** are not strictly followed: witnesses are not always sworn, limited opportunity to cross-examine witnesses and contest evidence, hearsay evidence is sometimes allowed, and non-legal factors are definitely considered.
- **Constitutional rights** are limited, such as the right against **self incrimination** and right to **counsel**.
- **Roles of prosecutor** and **defense** are obscured.

41-5-1512. Disposition of youth in need of intervention or youth who violate consent adjustments. (1) If a youth is found to be a youth in need of intervention or to have violated a consent adjustment, the youth court may enter its judgment making **one or more of the following dispositions.**

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- ✓ Probation
 - ✓ Foster or group home placement
 - ✓ Placement in residential treatment facility
 - ✓ Restitution
 - ✓ Community service
 - ✓ Counseling
 - ✓ Further medical or psychological evaluation of the youth, parents, or guardian
 - ✓ Parents furnish services the court may designate
 - ✓ Commit to a mental health facility
 - ✓ Home arrest
 - ✓ Confiscate driver's license
 - ✓ Fine
 - ✓ Payment of adjudication costs
 - ✓ Pay for victim counseling
 - ✓ Deferred imposition of sentence
 - ✓ Mediation

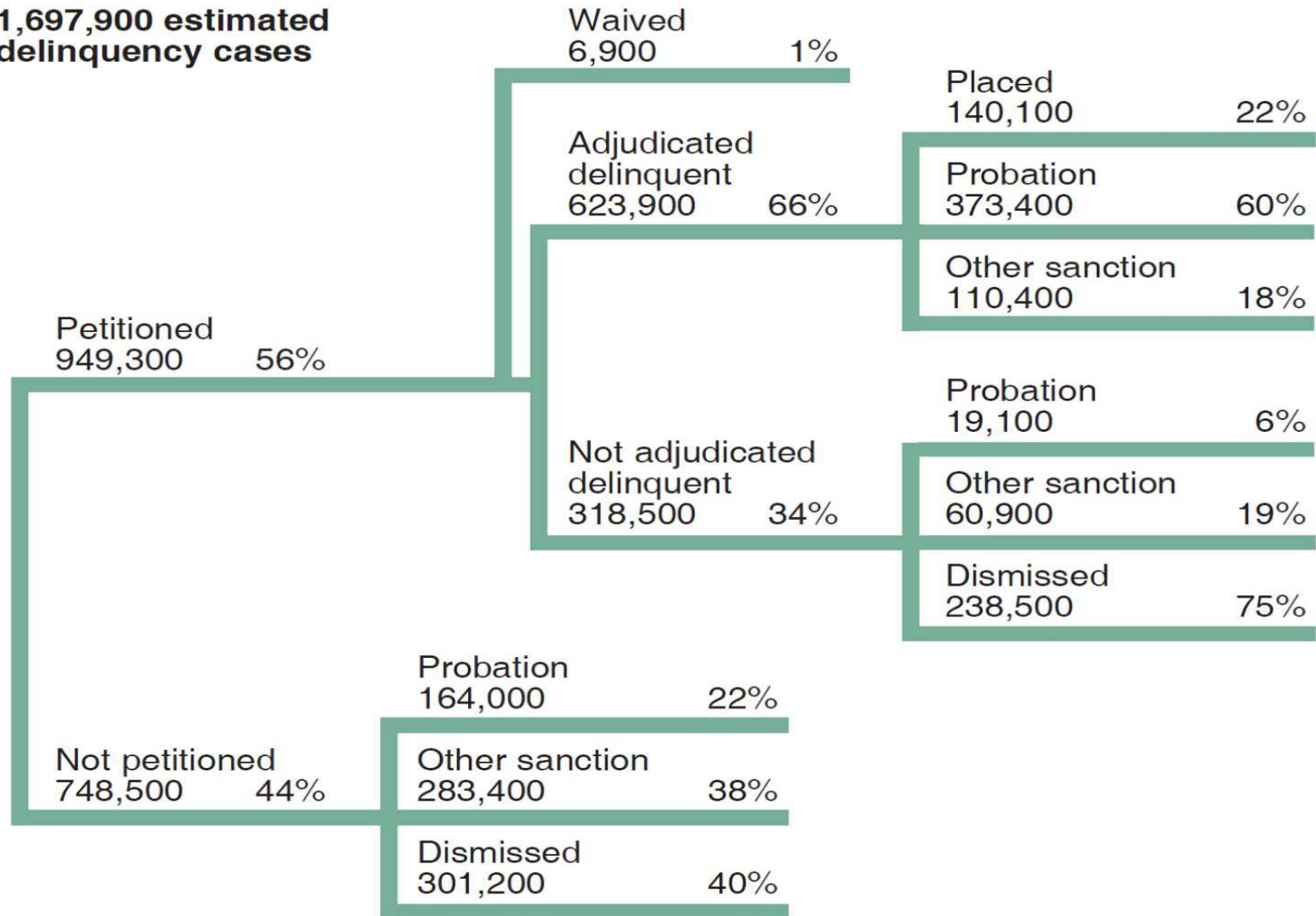
41-5-1513: “Delinquent Youth”

- ❑ **41-5-1513. Disposition -- delinquent youth -- restrictions.** (1) If a youth is found to be a delinquent youth, the youth court may enter its judgment making one or more of the following dispositions: (a) any one or more of the dispositions provided in [41-5-1512](#);
- ❑ If adjudicated a “***delinquent youth***,” “the court may **commit the youth to the department for placement in a state youth correctional facility**, and recommend to the department that the youth not be released until the youth reaches 18 years of age” (but not for a misdemeanor offense). ***Commitment*** means to transfer **legal custody** from the parent to the state.

41-5-1513: “Delinquent Youth”

- ❑ When the youth is adjudicated a “***delinquent youth***,” having committed a violent sexual offense, the judge may order the youth to **register as a sex offender**. The judge may also order the youth to complete **sex offender treatment** and the court may **retain jurisdiction**.
- ❑ For “***serious juvenile offenders***,” “the judge may specify that the youth be placed in a state youth correctional facility” and order the department to provide notification before release.
- ❑ Some states allow for **placement in secure facility** – juvenile prisons.
- ❑ **Death penalty for juveniles** is unconstitutional: *Roper v. Simmons* (2005).

1,697,900 estimated delinquency cases



Notes: Cases are categorized by their most severe or restrictive sanction. Detail may not add to totals because of rounding. Annual case processing flow diagrams for 1985 through 2005 are available online at www.ojjdp.ncjrs.gov/ojstatbb/court/faqs.asp.

Juveniles and the Death Penalty: The 8th and 14th Amendments

- *Furman v. Georgia* (1972) and *Gregg v. Georgia* (1976)
- *Eddings v. Oklahoma* (1982)
- *Thompson v. Oklahoma* (1988) and *Stanford v. Kentucky* (1989)
- *Roper v. Simmons* (2005)

