

All Related Charges Are Transferred When One Felony in a Delinquency Case Is Transferred

I continue to receive questions about transferring from juvenile to criminal superior court cases involving allegations that 16-and 17-year-olds have engaged in certain criminal conduct. Recently I've been asked about the transfer process for offenses committed at ages 16 and 17 in cases that involve a series of charges that include Class A – G felonies, Class H and I felonies, and misdemeanors. Because the Juvenile Code prescribes differing procedures for transferring various classes of felonies and there is no transfer process for misdemeanor offenses, confusion is understandable. The key to understanding how to handle these cases is this: Once one felony is transferred, all other related charges, regardless of offense class, are automatically brought under the jurisdiction of the superior court. Why?

G.S. 7B-2203(c) Shifts Jurisdiction for the Entire Case to Superior Court on Transfer of a Felony

Pursuant to [G.S. 7B-2203\(c\)](#)

When the case is transferred to superior court, the superior court has jurisdiction over that felony, any offense based on the same act or transaction or on a series of acts or transactions connected together or constituting parts of a single scheme or plan of that felony, and any greater or lesser included offense of that felony.

This language was added to the Juvenile Code through [S.L. 1983-532, Sec. 1](#). The language remains in the same form that it took at its origination in 1983. Raise the age legislative changes did not alter this provision. Thus, once one felony in a case is transferred to superior court (meaning the case is now a criminal and not a juvenile matter), superior court also gains jurisdiction over all the charges related to the same transaction or single scheme.

For example, assume a 16-year-old shatters a window to break into an occupied home and steal valuables from inside the home. The juvenile is charged with first degree burglary (Class D felony), larceny pursuant to burglary (Class H felony), and injury to real property (Class 1 misdemeanor). Pursuant to [G.S. 7B-2200.5\(a\)](#), the Class D felony must be transferred to superior court following either the return of an indictment or a finding of probable cause. Once the Class D burglary charge is transferred to superior court, superior court gains jurisdiction over the remaining offenses associated with the burglary. No further juvenile process is necessary to transfer the felony larceny and misdemeanor property injury charges to superior court. In fact, the misdemeanor offense moves with the rest of the case to superior court despite the fact that misdemeanor offenses that are not associated with a felony offense cannot be transferred to superior court. This also means that once the Class D felony is transferred there is no further juvenile jurisdiction over the

remaining offenses associated with this event.

North Carolina's appellate courts have acknowledged that all charges related to an offense or single scheme allegedly committed or carried out by a juvenile fall under the jurisdiction of the superior court when one felony is transferred. The court of appeals in [State v. Jackson, 165 N.C. App. 763 \(2004\)](#), relied on G.S. 7B-2203(c) to hold that the defendant could be convicted of conspiracy to commit armed robbery following transfer of two juvenile petitions—one alleging murder and the other alleging attempted armed robbery. The defendant was indicted and found guilty in superior court of charges of first-degree murder, attempted armed robbery, and conspiracy to commit armed robbery. The court of appeals held that indictment and conviction on the conspiracy charge was permissible, despite the lack of a juvenile petition on the conspiracy charge because the conspiracy was part of the same transaction as the attempted armed robbery. Not only was there no need to separately transfer the conspiracy offense, but it also was not necessary that the conspiracy charge originate as a juvenile petition.

What constitutes a single scheme or plan?

The transactional test set forth in G.S. 7B-2203(c) is stated in terms identical to the standard for determining whether criminal offenses may be joined for trial. See [G.S. 15A-926](#) (“[t]wo or more offenses may be joined in one pleading or for trial when the offenses, whether felonies or misdemeanors or both, are based on the same act or transaction or on a series of acts or transactions connected together or constituting parts of a single scheme or plan.”)

In analyzing this standard for purposes of joinder, courts have focused on whether the offenses have a transactional connection, meaning that they have a commonality of facts, not simply that they are the same offenses.

In deciding whether offenses have a sufficient factual nexus to be joined for trial, courts have considered factors such as:

- Temporal proximity;
- Geographic proximity;
- Similarities among victims;
- Whether the same evidence or witnesses will be used to prove both offenses;
- Whether the offenses are similar in type or circumstance;
- Whether the defendant had similar motive to commit both offenses; and
- Whether a similar modus operandi was used in committing both offenses.

See [NC Prosecutors' Resource Online, 132.1 Joinder: Offense and Defendants](#).

Cases from the North Carolina Supreme Court upholding joinder of offenses include *State v. Bracey*, 303 N.C. 112, 118 (1981) (three robberies over ten days where the robberies included

“similar modus operandi and similar circumstance in victims, location, time and motive”), *State v. Greene*, 294 N.C. 418 (1978) (two sexual assaults in the span of three hours), and *State v. Moses*, 350 N.C. 741 (1999) (two murders occurring two months apart involving victims who the defendant knew through the drug trade and who were shot in the same town under similar circumstances).

Practice Implications

The movement of an entire case to superior court jurisdiction based on the transfer of one felony has a number of practical implications.

First, the movement of the entire case is governed by the transfer law that applies to the most serious charge. Assuming that the case involves only charges that are based on the same act or transaction or on a single scheme or plan, the following rules apply:

- If the case involves offenses allegedly committed at age 16 or 17 and the most serious charge is a Class A – G felony, then the entire case will move to superior court jurisdiction once the district court judge signs a transfer order on the A – G felony. This transfer order can be based on either a finding of probable cause or the return of a true bill of indictment. [S. 7B-2200.5\(a\)](#).
- If the case involves offenses allegedly committed at age 16 or 17 and the most serious charge is a Class H or Class I felony, the entire case falls under the jurisdiction of the superior court on transfer of the Class H or Class I felony. This transfer may be ordered only following a finding of probable cause and a judicial determination to transfer the matter at a transfer hearing. [S. 7B-2200.5\(b\)](#), [-2203](#).
- If the case involves offenses allegedly committed at ages 13 – 15 and the most serious charge is a Class A felony, the entire case must be transferred following a finding of probable cause on the Class A felony. [S. 7B-2200](#).
- If the case involves offenses allegedly committed at ages 13 – 15 and the most serious charge is any felony other than a Class A felony, the entire case falls under the jurisdiction of the superior court following a finding of probable cause on a felony and a judicial determination to transfer the matter at a transfer hearing. [G.S. 7B-2200](#), [-2203](#).
- If the most serious charge is a misdemeanor, the case cannot be transferred to superior court under any circumstance.

Second, the use of indictment to trigger the transfer of a case in which the most serious charge is a Class A – G felony allegedly committed at age 16 or 17 ties the indictment process to these juvenile proceedings. The returned indictment only has legal significance in a juvenile matter when the charge is a Class A – G felony allegedly committed at age 16 or 17. However, as a practical matter prosecutors may bring all the charges in a case to the grand jury at the time they bring the A – G felony charge or charges to the grand jury. Therefore, district courts may receive indictments that include true bills for all the charged offenses, even those that are not A – G felonies. The true bills returned on offenses other than A – G felonies do not have legal significance in the juvenile

matter. At the same time, a true bill of indictment on any one A – G felony allegedly committed at age 16 or 17 shifts all the related charges to the jurisdiction of the superior court.

It is possible that several charges arising out of one transaction will be presented to a grand jury and the grand jury may return a true bill on an A – G felony and a no true bill on other related offenses. If a no true bill is returned on any of the petitions, that means that the grand jury did not find probable cause on that charge. That petition should therefore be dismissed. The case will nonetheless be transferred to superior court based on the return of a true bill on an A – G felony. Jeopardy has not attached at this point in the proceeding, so the prosecutor retains the discretion after the case is transferred to again seek an indictment on any charges on which a no true bill was returned.

While the law on juvenile transfer varies depending on the age of the youth at the time of the offense and the class of the offense, multiple transfer mechanisms are not needed for different charges arising out of the same transaction or series of transactions constituting a single scheme or plan. Instead, the transfer of one felony in the case shifts the entire case out of juvenile jurisdiction and into the jurisdiction of the superior court.