

Dispelling Transfer Confusion: 10-Day Appeal Window, Orders for Arrest

My email continues to stay busy with confusion about juvenile cases, including questions about the status of a case during the time for appeal of an order transferring the case to superior court and the use of an indictment to trigger transfer of a juvenile matter to superior court. This blog will address three frequently asked questions (FAQs): (1) which court has jurisdiction over the case during the 10-day period for giving notice of an appeal, (2) what are the restrictions on recordkeeping during that 10-day period or while the superior court considers any appeal, and (3) may an order for arrest be generated when an indictment is returned in a matter that is under juvenile jurisdiction?

1. Which court, district or superior, has jurisdiction over the case during the 10-day period for giving notice of an appeal?

The short answer is that the case is a criminal matter that is under the jurisdiction of the superior court during this 10-day period.

Every juvenile has a right to appeal any order transferring jurisdiction of their juvenile matter to the superior court pursuant to [G.S. 7B-2603\(a\)](#). The juvenile has 10 days from entry of the order of transfer in district court to give notice of appeal. G.S. 7B-2603(a). If notice is not given with 10 days, the case proceeds as a superior court matter. If notice is given, the clerk must place the matter on the superior court docket and the superior court must review the record of the transfer hearing within a reasonable time, applying an abuse of discretion standard to the issuance of the transfer order by the district court. G.S. 7B-2603(a).

Because it is possible that the superior court will remand the case to juvenile court for adjudication on a finding of an abuse of discretion, Rules of Recordkeeping 12.8.1 and 12.8.2 instruct clerks to include any appeal of a transferred case on the superior court calendar as an add-on hearing/case using "In the Matter of" and the JB file number (the file number assigned in the juvenile matter). The title of the case is to be listed only as "Appeal of Transfer." The rules prohibit the clerk from entering the juvenile's name or charges on the calendar. This process protects the juvenile's confidentiality, if the case returns to district court as a juvenile matter.

While the clerk must be careful to protect juvenile confidentiality during this period, the case is a criminal matter under the jurisdiction of the superior court as soon as the district court enters the order of transfer to superior court. [G.S. 7B-2203\(c\)](#) states: "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.” The statute does not provide any lag time in superior court jurisdiction.

In addition, G.S. 7B-2204 states that “[o]nce the order of transfer has been entered, the juvenile has the right to pretrial release as provided in G.S. 15A-533 and G.S. 15A-534.” This provision indicates that the criminal procedure related to pretrial release applies once the order of transfer is entered by the district court. The transfer order shifts the case out of the juvenile jurisdiction of the district court and into the criminal jurisdiction of the superior court.

There are several practical implications that stem from criminal, superior court jurisdiction over cases during the appeal period. For example, if conditions of pretrial release need to be revisited during this time, that issue should be heard by the superior court. If the youth violates a condition of pretrial release and needs to be apprehended by law enforcement during this time, criminal procedure provides the appropriate process (although the place of confinement for any youth under age 18 remains juvenile detention, as discussed below). If there is a change of attorney during this timeframe, the rules related to appointment of counsel in criminal matters apply.

2. What are the restrictions on recordkeeping during the 10-day period for giving notice of an appeal or while the court considers any appeal?

Rules of Recordkeeping 12.8.1 and 12.8.2 instruct clerks not to enter the case into the ACIS system before resolution of the appeal of a transferred case. This is another safeguard built into the Rules of Recordkeeping to maintain the confidentiality of a juvenile matter should the case be remanded to district court.

At the same time, as discussed above, the case is a criminal matter following entry of the transfer order. This means that any forms used in the case after the transfer order is entered must be criminal forms. Those forms use a CRS number. For example, [G.S. 7B-2204\(a\)](#) states that the youth has a right to pretrial release once the order of transfer has been entered. Because this right attaches immediately after the transfer order is entered and it is nested in the Juvenile Code, the district court should determine any needed conditions of pretrial release after the district court orders the case transferred. Form AOC-CR-922, “[Release Order For Juvenile Transferred To Superior Court For Trial](#),” should be used to issue that order. As a criminal form, that form should use a CRS number and not the JB number assigned to the juvenile matter. The CRS number can, and should, be manually generated for use in the case once transfer is ordered. If an indictment is used to trigger transfer of the case (allowed for Class A – G felonies alleged to have been committed at ages 16 and 17 per [G.S. 7B-2200.5\(a\)\(1\)](#)), the CRS number may be needed for the indictment process. Again, that number can, and should, be manually generated.

It is also important to note that any criminal paperwork that is generated following transfer to superior court should be held in a secure location, such as a locked cabinet, during the 10-day period to give notice of appeal and during the pendency of any appeal. Keeping the paper file that

is created during this time out of public view is another protection of confidentiality, should the case be remanded to district court as a juvenile matter.

3. Should an order for arrest be generated when an indictment is returned in a matter that is under juvenile jurisdiction?

The short answer is no.

In some jurisdictions it is standard practice to generate an order for arrest when an indictment is returned. However, this should not be the practice in cases that are under juvenile jurisdiction at the time of indictment. While the return of an indictment alleging a Class A – G felony committed at age 16 or 17 provides the basis for an automatic transfer of the case to superior court pursuant to G.S. 7B-2200.5(a)(1), the matter does not actually fall under superior court jurisdiction until the district court enters an order to transfer the case. The case is still a juvenile matter at the time that the indictment is returned.

The sequence of events is: (1) the indictment is returned, (2) the district court finds that an indictment that meets the criteria in G.S. 7B-2200.5(a)(1) has been returned, (3) the district court orders the case transferred to superior court, and (4) any needed conditions of pretrial release are ordered. If an order for arrest is issued upon indictment and before transfer, it cannot be executed because the case is still a juvenile matter. The issue of pretrial release is initially determined by the district court once the district court finds the indictment is an appropriate basis for transfer to superior court.

Form [AOC-CR-215, "Notice Of Return Of Bill Of Indictment"](#) was updated in 2019 to reflect this legal reality. The following note was added to the certificate of notice section on the form

NOTE TO COURT: An Order for Arrest shall not be issued for an indicted juvenile whose case began in juvenile court and for which the district court has not yet entered an order for transfer to superior court pursuant to G.S. 7B-2200 or G.S. 7B-2200.5(a)(1).

An Order for Arrest may be issued for a juvenile indicted and subject to adult criminal court jurisdiction:

? pursuant to G.S. 7B-1501(7)b. (indicted for Chapter 20 motor vehicle offense).

? pursuant to G.S. 7B-1604(b) (i.e., the 'once an adult, always an adult' rule), based on a prior criminal conviction as an adult for

(i) any felony or

(ii) any non-motor vehicle misdemeanor or

(iii) any misdemeanor or infraction involving impaired driving as defined in G.S. 20-4.01(24a).

This note affirms that if a case is under juvenile jurisdiction at the time an indictment is returned, an order for arrest should not be issued.

It is possible that the need for an order for arrest will arise in a case after it is transferred to superior court and initial conditions of pretrial release have been established by the district court. If, for example, the youth (who is now a defendant in a criminal matter) violates conditions of pretrial release, an order for arrest may be the appropriate vehicle for authorizing law enforcement to pick the youth up. Once the case is transferred, the usual criminal procedures apply. However, the place of confinement pending trial remains juvenile detention until the youth turns 18. [G.S. 15A-521\(a\)](#). You can find more information on the law that moved minors with criminal cases out of jails in my [blog](#) from last July.

In a Nutshell

The main theme running through each of these FAQs is that the Juvenile Code applies before the district court orders the case transferred and criminal law applies after the case is transferred, even during the period for giving notice of and litigating any appeal. While CRS numbers should be manually generated for any criminal forms necessary following transfer of the case, the Rules of Recordkeeping provide confidentiality protections by prohibiting entry of the case into ACIS until any appeal of the transfer order is resolved.

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