

FREQUENTLY ASKED QUESTIONS
 JUVENILE DELINQUENCY TRANSFER POLICIES
 APPOINTMENT OF COUNSEL/ BILLING/ RECOUPMENT

This FAQ is intended to answer questions about assignment of counsel and billing procedures for public defenders and private assigned counsel (contract and roster defenders) in juvenile delinquency proceedings that at some point in the life of the proceeding are or may be transferred to the adult criminal division. It does not supplant existing applicable IDS rules or local appointment plans and it is intended as guidance only. These FAQs do not address cases that cannot be transferred to the adult criminal division.

APPOINTMENT OF COUNSEL	
Q:	When should counsel be appointed?
A:	Qualified counsel should be appointed at the time a petition (including motions for review) is filed against a juvenile <u>and</u> at the time an order of transfer is entered. In the event the attorney appointed in the juvenile division will not continue to represent the juvenile in adult criminal court, an attorney qualified to do so should be appointed immediately after the court enters an order of transfer.
Q:	Who should I appoint when a petition subject to transfer is filed?
A:	You should follow your local appointment plan.
Counties or Districts with a Public Defender Office and Roster Attorneys	
Counties: New Hanover, Cumberland, Robeson, Hoke/Scotland, Guilford (Greensboro), Gaston, Buncombe Districts: 1, 2, 3A, 29A, 29B	
1.	If the Public Defender Office covers the juvenile division, then it should retain case and assign an APD to represent the child.
2.	If the Public Defender Office does not cover the juvenile division, then it should appoint an attorney who is (1) on the juvenile list and (2) is qualified to represent an adult in the criminal division for the class of case which corresponds to the highest charge in the petition.
Counties or Districts with a Public Defender Office and Adult Criminal Contracts	
Counties: Chatham, Durham, Pitt, Orange, Wake	
1.	If the Public Defender Office has a conflict, then it should appoint an attorney who is (1) on juvenile list and (2) has a contract for adult criminal defense for the case type corresponding to the highest charge in the petition or if the Public Defender Office and if all attorneys who meet this criteria have a conflict, then the Public Defender should appoint an attorney who is (1) on the juvenile list and (2) qualified to represent an adult in the criminal division for the class of case which corresponds to the highest charge in the petition.
Counties or Districts with a Public Defender Office and Juvenile Defense Contracts	
Counties: Forsyth, Guilford (High Point), Mecklenburg,	
1.	If the Public Defender Office covers the juvenile division, then it should retain case and assign an APD to represent the child.
2.	If the Public Defender does not cover the juvenile division, then it should appoint an attorney who (1) has a contract to provide juvenile defense or if all attorneys who meet this criteria have a conflict, should appoint attorney who is 1) on the juvenile list and (2) qualified to represent an adult in the criminal division for the class of case which corresponds to the highest charge in the petition.
3.	If the Public Defender Office has a conflict, then it should appoint an attorney who (1) has a contract to provide juvenile defense and (2) is qualified to represent an adult in the criminal division for the class of case which corresponds to the highest charge in the petition or, if all attorneys who meet this criteria have a conflict, should appoint attorney who is 1) on the juvenile list and (2) qualified to represent an adult in the criminal division for the class of case which corresponds to the highest charge in the petition.

<p>Counties or Districts with Juvenile Defense Contracts Only Counties: Alexander, Avery, Davie, Iredell, Rowan, Watauga, Yadkin, Yancey</p>
<p>1. The clerk should appoint an attorney who (1) has a contract to provide juvenile defense and (2) is qualified to represent an adult in the criminal division for the class of case which corresponds to the highest charge in the petition or, if all attorneys who meet this criteria have a conflict, should appoint attorney who is 1) on the juvenile list and (2) qualified to represent an adult in the criminal division for the class of case which corresponds to the highest charge in the petition.</p>
<p>Counties or Districts with Adult Defense Contracts Only Counties: Alamance, Caswell, Franklin, Granville, Greene, Lee, Lenoir, Person, Vance, Warren</p>
<p>1. The clerk should appoint an attorney who is (1) on juvenile list and (2) has a contract for adult criminal defense for the case type corresponding to the highest charge in the petition or if all attorneys who meet this criteria have a conflict, then the clerk should appoint an attorney who is (1) on the juvenile list and (2) qualified to represent an adult in the criminal division for the class of case which corresponds to the highest charge in the petition.</p>
<p>Counties or Districts with Adult and Juvenile Defense Contracts Counties: Harnett, Johnston, Wayne</p>
<p>1. The clerk should appoint an attorney who (1) has a contract to provide juvenile defense and (2) has a contract for adult criminal defense for the class of case which corresponds to the highest charge in the petition.</p> <p>2. If all attorneys described in paragraph 1 have conflicts, then the clerk should appoint an attorney who is (1) on the juvenile list and (2) qualified to represent an adult in the criminal division for the class of case which corresponds to the highest charge in the petition.</p>
<p>Counties or Districts with Roster Attorneys Only Counties: Alleghany, Anson , Ashe, Bertie, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Catawba, Cherokee, Clay, Cleveland, Columbus, Davidson, Duplin, Edgecombe, Graham, Halifax, Haywood, Hertford, Jackson, Jones, Lincoln, Macon, Madison, Mitchell, Montgomery, Moore, Nash, Northampton, Onslow, Pender, Randolph, Richmond, Rockingham, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Union, Wilkes, Wilson</p>
<p>1. The clerk should appoint an attorney who is (1) on juvenile list and (2) qualified to represent an adult in the criminal division for the class of case which corresponds to the highest charge in the petition.</p> <p>2. If there are no attorneys who meet the qualification in paragraph 1 or all attorneys who do have conflicts, then the clerk should (1) appoint an attorney who is on the juvenile list and (2) subsequently appoint an attorney qualified to represent an adult in the criminal division for the class of case which corresponds to the highest charge in the petition. If the case is returned to the juvenile court, the juvenile attorney should be reappointed.</p>

FEE APPLICATIONS

Q: When do I submit my fee application?

Roster Defenders

<p>If your client's case was transferred to and disposed of in the superior court, then</p>	<p>you decide when to submit your fee application. You may submit fee applications in both divisions. Submit fee application in the juvenile division <u>after</u> the transfer is affirmed or time to appeal has run and subsequently submit a fee application in the criminal division at time of final disposition. If you elect to file a fee application in the juvenile division, the time claimed there cannot also be claimed in the superior court. Alternatively, you may submit a single fee application in criminal division at time of final disposition. The superior court judge may request input from the district court judge on the appropriateness of fees requested.</p>
<p>If your client's case was initiated by indictment and remanded to juvenile division, then</p>	<p>you should submit a single fee application in the juvenile division. The district court judge may request input from the superior court judge on appropriateness of fees requested.</p>

Contract Defenders (criminal division only)

<p>If your client's case was transferred to and disposed of in the superior court and you represented the client in both the juvenile and adult divisions, then</p>	<p>You should (1) submit a fee application in the juvenile division and (2) enter CrS case number in contractor database under appropriate case type after the transfer is affirmed. See "Recoupment" below. If you only have a HLF contract but the transferred case is a LLF, then you will receive ½ credit in your HLF contract.</p>
<p>If your client's case was initiated by indictment and remanded to the juvenile division, then</p>	<p>You should submit a single fee application in the juvenile division. The district court judge may request input from superior court judge on the appropriateness of requested fees. Do not enter case in adult contractor database or, if entered, remove it.</p>

Contract Defenders (juvenile division only)

<p>If your client's case was transferred to and disposed of in the superior court, then</p>	<p>You should submit a single fee application in the criminal division for time spent on case in the superior court. (Time in juvenile division was compensated pursuant to contract and should not be included on the fee application.)</p>
<p>If your client's case was initiated by indictment and remanded to the juvenile division, then</p>	<p>You should submit recoupment form (if recoupment is ordered) in the juvenile division. Extraordinary pay may be requested. The district court judge may request input from superior court judge on appropriateness of extraordinary pay. Enter case in juvenile contractor database.</p>

Contract Defenders (juvenile and criminal divisions)	
If your client's case was transferred to and disposed of in the superior court, then	you should close case in juvenile contractor database and submit recoupment form (if recoupment is ordered) in juvenile division for work performed in juvenile division. Enter CrS case in contractor database under appropriate case type. Print and submit recoupment form in Superior Court at final disposition of case. Extraordinary pay may be requested. The superior court judge may request input from the district court judge on appropriateness of extraordinary pay. If you only have a HLF contract but the transferred case is a LLF, then you will receive ½ credit in your HLF contract.
If your client's case was initiated by indictment and remanded to the juvenile division, then	you should submit a single recoupment form (if recoupment is ordered) in the juvenile division. Extraordinary pay may be requested. The district court judge may request input from superior court judge on appropriateness of extraordinary pay. Enter case in juvenile contractor database. Do not enter case in adult contractor database or, if entered, remove it.
Uniform Fee Counties	
If your client's case was transferred to superior court, then	the fee schedule applies to the work you do in the district court. If the case is transferred to superior court, you should bill at the hourly rate for work done in superior court.
If your client's case is adjudicated in a pilot county but transferred to a non-pilot county for disposition, then	the fee schedule applies to the portion of the proceeding that takes place in the pilot county, but the hourly rate applies to the portion of the proceeding that takes place in the non-pilot county. Example: If your client is adjudicated delinquent in a pilot county, then you should submit a fee application for applicable adjudication and disposition rate. If you also represent the juvenile in the disposition proceeding in the non-pilot county, you should submit a fee application in that county for hourly compensation. The same is true in the reverse.

RECOUPMENT

Q: Is my client's case eligible for recoupment?

If your client's case was transferred to and disposed of in the superior court, then

the portion of the proceeding that took place in the juvenile division—e.g., all work provided prior to transfer—is not recoupment eligible. A roster attorney who is not continuing representation in the adult criminal division should submit a fee application for purposes of payment only. A roster or contract attorney who is continuing representation should not file a recoupment form or a fee application in the juvenile division.

The roster or contract attorney who is appointed to the case at the time of disposition in the adult criminal division should submit a fee application in that court.

If you have questions about attorney appointment, please feel free to contact Eric J. Zogry at Eric.J.Zogry@nccourts.org.

If you have questions about when to file a fee application or recoupment, please feel free to contact Elisa Wolper at Elisa.Wolper@nccourts.org or Whitney B. Fairbanks at Whitney.B.Fairbanks@nccourts.org.

Safeguarding individual liberty and the Constitution by equipping the North Carolina public defense community with the resources it needs to achieve fair and just outcomes for clients