

Juvenile Law and Raise the Age

NORTH CAROLINA MAGISTRATES' SPRING CONFERENCE 2022
MARCH 18, 2022

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Topics

1. Minors and jails
2. Posting bond from juvenile detention
3. Jurisdiction and practical issues immediately following transfer
4. Raise the age and enforcement of DVPOs
5. Dual jurisdiction cases
6. Transportation responsibility
7. Minors as victims

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Minors and Jails

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S.L. 2020-83

Minors with criminal cases who would have been held in jail must be held in juvenile detention as of August 1, 2020

1 Aug. 2020

- New:
- Offenses committed
 - Sentences imposed
 - Orders of imprisonment issued

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What Changed?



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What Didn't Change?

Criminal cases

Youth held pursuant to conditions of pretrial release

No role for juvenile court

No secure custody orders

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Diagram illustrating categories of Covered Youth – Under 18 &:

- Held pretrial pursuant to criminal charges (must be moved to jail at 18)
- Criminal sentence on misdemeanor offense (including DWI)
- Sanctions imposed as part of adult probation, at sentencing or in response to a violation
- Held in contempt of court or for nonpayment of a fine

Covered Youth – Under 18 &

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Probation Sanctions

- Split sentences (mix of incarceration and probation)
 - Up to 1/4 the maximum sentence of youth's suspended term of imprisonment
- Quick dips
 - 2- or 3-day period of confinement
 - Can be court-imposed or imposed by probation
- Confinement in response to violation (CRV)
 - Period of imprisonment up to 90 days for DWI probation technical violations

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Resources

No More Minors in Jails

Many people assumed that the implementation of raise the age on December 1, 2019 meant the end of confinement of anyone under 18 in a jail. That was not the case. Even under our new legal framework for juvenile jurisdiction, some youth under 18 still have cases that are handled in criminal court from the very beginning. There is currently no legal mechanism to house these youth in a juvenile detention facility instead of a jail. This change on August 1, 2020, when [S.B. 2023-01](#) takes effect.

Which youth are impacted by this change?

There are four categories of people under 18 with matters that never fall under juvenile jurisdiction. They are:

- Youth who are charged with committing a motor vehicle offense under Chapter 20 of the General Statutes at age 16 or 17. ([S. 20-2001/20](#))
- Youth who are alleged to have committed a new offense following a previous conviction in criminal court other than a previous conviction for a misdemeanor motor vehicle law offense that did not involve impaired driving. ([S. 20-2003](#))
- Youth who are legally emancipated. ([S. 20-2004](#))
- Youth charged as an adult for commission of an offense that occurred prior to December 1, 2019 and at age 16 or 17. The changes to juvenile jurisdiction contained in the juvenile

H 593 Training video (made for juvenile detention staff)

<https://www.sog.unc.edu/resources/microsites/juvenile-law/resources-and-links-raise-age>

Blog:

- No More Minors in Adult Jails <https://nccriminallaw.sog.unc.edu/no-more-minors-in-jails/>

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Juvenile Detention and Posting Bond

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Posting Bond from Juvenile Detention

Under 18 and case transferred from juvenile to superior court


Under 18 and being held pretrial pending criminal charges

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Why it's so Complicated

- Capacity
- Geography
- Minors and custody following release
- Federal law requiring sight and sound separation in jails

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The Magistrate May be Part of the Solution

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Resource

Blog: [vōwri|lgj#rçqqlrçv#ç:#
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Ghwhqwrçq](https://civil.sog.unc.edu/satisfying-conditions-of-pretrial-release-when-in-juvenile-detention/)

<https://civil.sog.unc.edu/satisfying-conditions-of-pretrial-release-when-in-juvenile-detention/>

On the Civil Side
A UNC School of Government Blog
https://civil.sog.unc.edu

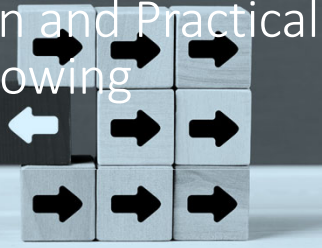
Satisfying Conditions of Pretrial Release When in Juvenile Detention

Two changes in the law have led to a new phenomenon—the need for youth under the age of 18 to satisfy conditions of pretrial release while being held in a juvenile detention facility. First, the Juvenile Justice Reformation Act (JJRA) raised the age of juvenile court jurisdiction for offenses committed on or after 7/1 or on or after December 1, 2017. The JJRA requires a formal mandatory transfer procedure, requiring that many felony matters shift from juvenile to superior court jurisdiction. (G.S. 7B-202(b)(2)(a)) When that happens, the rules of criminal procedure (including those governing pretrial release) apply rather than the rules for juvenile cases. Second, Rule 6(a) (Dispositive Motions) requires that the law enforcement continue to be governed by adults in the criminal justice system as a result of the JJRA. Thus, the rules of juvenile detention do not apply. The result of these changes is a situation where juvenile jurisdiction is governed by the usual criminal process for setting pretrial conditions for pretrial release. These conditions sometimes require posting a bond. But juvenile detention facilities are not equipped to process bonds. So how does this work? This post will review the circumstances in which a youth without a juvenile detention facility may need to post bond, the implications to doing so, and potential ways to address these problems.


Under what circumstances might a youth be eligible to post bond to be released from a juvenile detention facility?

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Jurisdiction and Practical Issues Following Transfer



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Criminal Matter Following Transfer...Even During Appeal Period

Superior Court Jurisdiction

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Practical Implications

- Condition of pretrial release can be modified and revoked by superior court
- May be arrested without a warrant if violate conditions of pretrial release
- A CRS number must be generated manually for use on criminal forms

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Resource

Blog: [Dispelling Transfer Confusion: 10-Day Appeal Window, Orders for Arrest](https://civil.sog.unc.edu/dispelling-transfer-confusion-10-day-appeal-window-orders-for-arrest/)

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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 going notice of an appeal, (2) what are the restrictions on re-arresting 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 going notice of an appeal?

The short answer is that the case is a criminal matter that is under the jurisdiction of the superior

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SAME

Raise the Age had No Impact on Initial Issuance of a DVPO (16 and older)

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Enforcement of a Violation at Age 16/17 Got Complicated

Knowing violation is a Class A1 misdemeanor

Mandatory arrest provision (G.S. 50B-4.1)

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Violation of DVPO at 16/17

- Juvenile jurisdiction (unless once an adult, always an adult applies)
- Juveniles are taken into temporary custody for maximum of 12 hours, then must have a court order for secure or non secure custody
- Secure or non secure custody criteria for a misdemeanor: The juvenile has demonstrated that the juvenile is a danger to persons and is charged with either (i) a misdemeanor at least one element of which is assault on a person or (ii) a misdemeanor in which the juvenile used, threatened to use, or displayed a firearm or other deadly weapon.

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Resource

Blog: Raise the Age and Enforcement of Domestic Violence Protective Orders and Civil No-Contact Orders

<https://civil.sog.unc.edu/raise-the-age-and-enforcement-of-domestic-violence-protective-orders-and-civil-no-contact-orders/>

The Juvenile Justice Reform Act and its subsequent corresponding legislation raised the age of juvenile jurisdiction to 18 for most offenses committed at ages 16 or 17 that would otherwise be crimes. G.S. 2022-02, 16, 18.2, 18.3, 18.4, 18.5, 18.6, 18.7, 18.8, 18.9, and 18.10. Last summer, the legislature enacted changes to the criminal law to ensure that minors who fall outside of raise the age and continue to be tried as adults are not housed in adult jails. G.S. 2022-03, 43, 44, 45, 46. While it may feel like these changes must mean that the age of 18 is now consistently the legal demarcation for being treated as an adult, the law continues to use the age of 16 as a defining line in some instances. For example, Chapter 50B (Domestic Violence) and Chapter 50C (Civil No-Contact Orders) continue to provide that domestic violence protective orders (DVPOs) and Civil No-Contact Orders can be obtained against youth once they reach the age of 16. This blog addresses how enforcement of these orders against youth who are ages 16 and 17 is affected by raise the age and by the removal of minors from jails.

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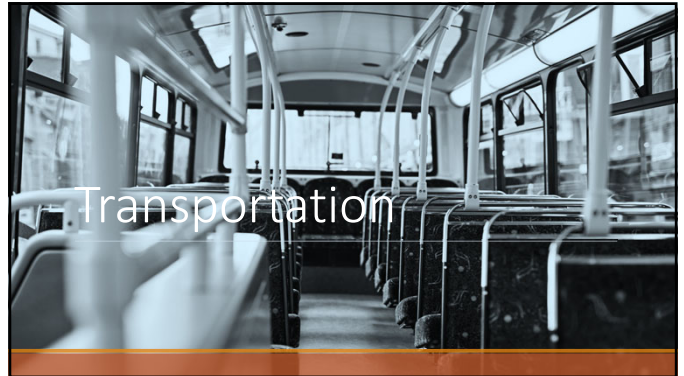
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Chapter 20 and Non-Chapter 20 at age 16/17

Chapter 20 = criminal

Non-Chapter 20 = juvenile

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DJJ Transportation Requirement

1. To and from any State or local juvenile facility for anyone under juvenile jurisdiction for any purpose under Chapter 7B or as a result of a court order (G.S. 143B-806)(b)(20))
2. After transfer, between juvenile detention and court (while under 18) and to the custody of the sheriff where the charges arose when 18 (G.S. 7B-2204(a),(c))

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Minors as Victims

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Minors as victims

Is there a connection between the age of juvenile jurisdiction and the ability of a teen to provide facts that form the basis of criminal charges?

NO

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No Fixed Age Limit for Competency to Testify

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Evidence from a
minor may be
sufficient to establish
probable cause for an
offense

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