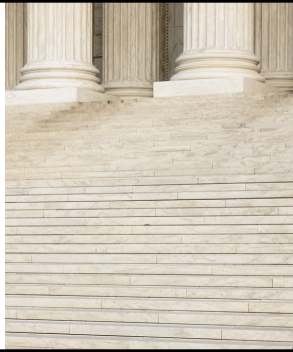


CHANGES TO RAISE THE AGE

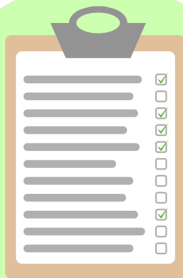
2025 Public Defender Spring Conference
May 8, 2025



1

- Tom is your 17-year-old client
- Charged with burglary in the first degree (Class D felony) and larceny pursuant to burglary (Class H felony)
- Law enforcement posted Tom's photo to their website, Facebook. And Instagram in an effort to bring him into custody after he was identified as a suspect in the case
- He was located based on a tip that was received after the public posting of his identity
- His photo and fingerprints were taken after he was in custody
- Conditions of pretrial release were set, and he was not able to post bond
- He is being held in a juvenile detention facility that is two hours from the county where the charges are pending
- The DA tells you that they have new evidence that no one was home at the time of the offense, and they are reducing the charges to burglary in the second degree (Class G felony)

2



AGENDA

- New age/offense jurisdictional boundaries
- Removal
- Indictment return appearances
- Capacity in mandatory transfer
- Implications for investigations

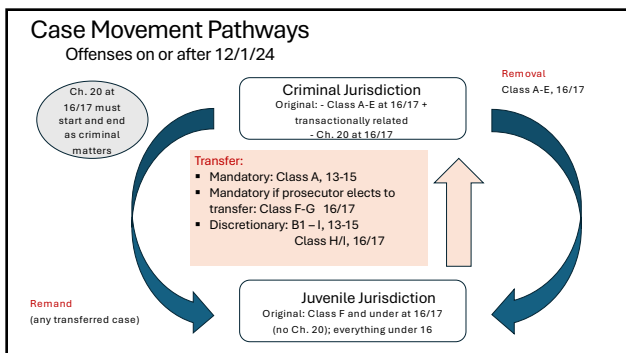
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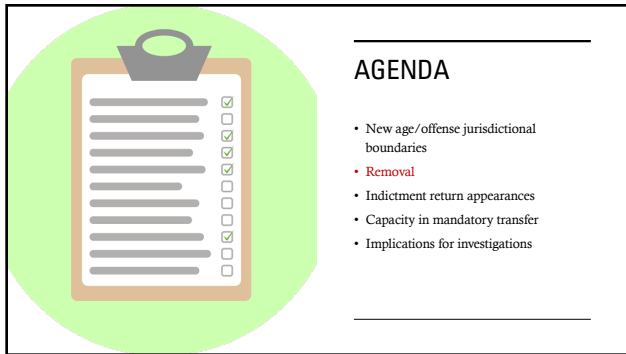
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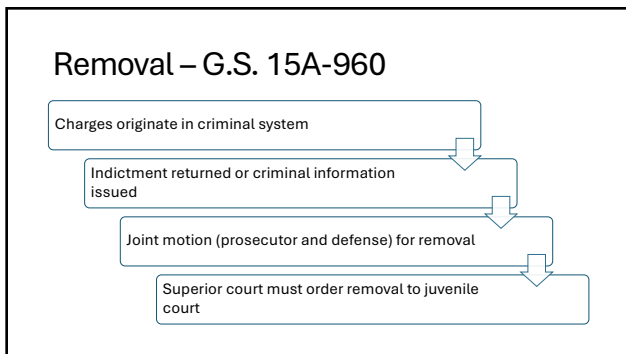
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AGENDA

- New age/offense jurisdictional boundaries
- **Removal**
- Indictment return appearances
- Capacity in mandatory transfer
- Implications for investigations

7



8

When Removal is Ordered

Order must be in writing and require DJJ to file a juvenile petition within 10 calendar days

Superior court record must be expunged (per G.S. 15A-145.8)

Superior court may issue a secure custody order if criteria in G.S. 7B-1903 are met

9

Pending Legislation (H483)

7B-1803(b)

- Prosecutor must prepare petition and sign it as the complainant.
- Warrant for arrest, magistrate's order, or indictment serves as the verified allegation to support the complaint and must be in juvenile record

10

Expunction

Required for criminal charges and superior court record at the time of removal

G.S. 15A-145.8

All removed charges

Any related DNA records

Any records related to the juvenile adjudication must be maintained as confidential records pursuant to Article 30 of Chapter 7B

11

Pending Legislation (H483)

15A-906(a)

- Indictment shall accompany the order of removal to juvenile court or
- Criminal information and the warrant for arrest or magistrate's order shall accompany the order of removal to juvenile court

Adds these documents to definition of juvenile court records for purpose of confidentiality (7B-3000(a))

12

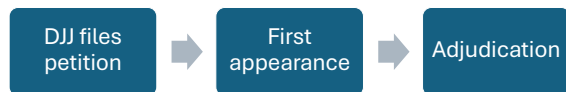
Secure Custody Order at Removal

- Issued by superior court if criteria in G.S. 7B-1903 are met
 - Prosecutor must provide a copy to the chief court counselor or his or her designee, as soon as possible and no more than 24 hours after the order is issued
- A hearing to determine the need for continued secure custody must be held no more than 10 calendar days following issuance of secure custody order
 - Cannot be continued or waived.
- Subsequent secure custody hearings must be held according to usual schedule for other delinquency cases.

G.S. 15A-960(b); 7B-1906(b2)

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Juvenile Procedure Following Removal



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AGENDA

- New age/offense jurisdictional boundaries
- Removal
- Indictment return appearances
- Capacity in mandatory transfer
- Implications for investigations

15

Indictment
Return
Appearance

(Mandatory
Transfer
Cases)

- Prosecutor must give immediate notice of return of true bill of indictment to district court
- District court must calendar for an appearance within 5 business days of date indictment is returned

16

Indictment
Return
Appearance

(Mandatory
Transfer
Cases)

- Court determines if notice was provided on returned indictment for mandatory transfer offense
- If notice was provided, court must order transfer to superior court

17



AGENDA

- New age/offense jurisdictional boundaries
- Removal
- Indictment return appearances
- **Capacity in mandatory transfer**
- Implications for investigations

18

G.S. 7B-2401(c)

Capacity cannot be raised in
mandatory transfer cases until
AFTER transfer



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AGENDA

- New age/offense jurisdictional boundaries
- Removal
- Indictment return appearances
- Capacity in mandatory transfer
- Implications for investigations

20

ISSUES IN TOM'S
CASE



Original subject
matter
jurisdiction ?

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ISSUES IN TOM'S
CASE



Public Release of
Identifying
Information

22

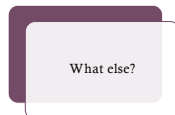
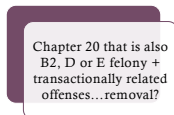
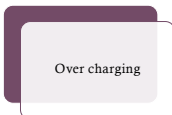
ISSUES IN TOM'S
CASE



Fingerprints and
Photograph

23

OTHER POTENTIAL ISSUES



24



CONTACT INFO

Jacqui Greene
green@unc.edu
(919) 966-4327
